



<b>WRITTEN DIRECTIVE</b>	No.	FO16-0811	Page:	1 of 5
	Subject:	Effective	01-13-16	
	DRIVER'S LICENSE VIOLATIONS	Date:		
		Supersedes/Amends:	FO11-0811	
	Reference:			



## I. Purpose

The purpose of this directive is to establish guidelines for handling driver's license violations involving a suspended or revoked driver's license and no license in possession.

## II. Policy

It shall be the policy of the Field Operations Bureau that all officers take appropriate and timely measures in dealing with driver's license violations.

## III. Procedure

61.1.5

### A. SUSPENDED/REVOKED VIRGINIA DRIVER'S LICENSE

1. On prima facie evidence that a driver's privilege to operate a motor vehicle has been suspended or revoked, the officer will effect the arrest of the person presenting such driver's license:
  - a. by issuing a *Virginia Uniform Summons* (state form), or
  - b. by physical arrest as appropriate.
2. If the violator has a Virginia Driver's license in possession, the officer will confiscate the suspended or revoked driver's license at the scene.
  - a. Such confiscation will be documented by means of an IBR
  - b. The confiscated driver's license will be entered into the property and evidence system by the seizing officer and forwarded to the Division of Motor Vehicles (DMV).

### B. FORFEITED VIRGINIA DRIVER'S LICENSE

1. On prima facie evidence that a violator's license has been forfeited in accordance with Virginia Code Section 18.2-272, the officer will proceed as if the violator's license is suspended or revoked.

- a. Those violators that have their license forfeited due to a DUI conviction can receive a restricted license from the courts to operate a motor vehicle within certain limits.
  - b. Drivers may operate within those limits, unless the violator is operating with a blood alcohol content (BAC) of 0.02% or more.
2. If the driver is operating a vehicle with a BAC of 0.02% or more the officer will;
- a. administer field sobriety tests in accordance with *DUI Countermeasures, FO-0815*
  - b. the officer is required to offer a preliminary breath test (PBT) prior to placing a charge of violating Virginia Code Section 18.2-272, Driving After License Forfeiture. The use of the PBT will be in accordance with DUI Countermeasures, FO-0815
  - c. once the officer has determined the operator is in violation of this license restriction the driver is subject to the Implied Consent Law (18.2-268.2) and the officer will proceed with testing to determine BAC in accordance with *DUI Countermeasures, FO-0815*.

**C. DEPARTMENT OF MOTOR VEHICLES SUSPENSION/REVOCATION NOTICE**

1. In cases where the Department of Motor Vehicles files do not indicate that a notice of suspension or revocation has been received by the violator, the officer will complete, and have the violator sign a *Division of Motor Vehicles Suspension/Revocation/Disqualification Notice* (state form).
  - a. The violator will receive a copy of the form.
  - b. The DMV copy will be attached to the seized driver's license and turned into the property and evidence system.
  - c. The agency copy will be submitted with the officer's paperwork to the Report Review Office.
  - d. The seized driver's license and the DMV copy of the notice will be forwarded to the DMV by the Evidence Clerk, in accordance with form instructions.
  - e. If the violator has no driver's license in possession, the officer will indicate this in the appropriate block on the DMV form and will submit the DMV copy with the agency copy.

**D. RELEASE OF VIOLATOR ON SUMMONS FOR SUSPENDED/REVOKED VIRGINIA DRIVER'S LICENSE**

1. Indicate on the summons an advisement date and explain the reason for the advisement date to the violator.

2. Advise the violator that he/she cannot legally operate a motor vehicle on the highways until his driving privilege is restored through appropriate procedures
3. Depending upon the time and circumstances, assist the violator in getting transportation.

**E. HANDLING THE VIOLATOR'S VEHICLE**

1. The violator may leave a legally parked vehicle on a public highway or on private property with the property owner's consent, or
2. The violator may turn control of the vehicle over to a person of his choice, who:
  - a. possesses a valid driver's license, and
  - b. is not intoxicated, or
3. The violator may request that the vehicle be towed by a garage or wrecker service of his choice at his expense.
4. If the vehicle is not legally parked and the driver does not consent to any option specified above, the officer may order the vehicle towed for safekeeping at the owner's expense (Code of Virginia 19.2-80.1).
5. If the violator's license is suspended or revoked for a violation described in Code of Virginia 46.2-301 (alcohol related offenses), the vehicle operated by the violator shall be impounded (whether the violator is the owner or not).
  - a. The officer will issue the violator a *Notice of Impoundment/Immobilization* and advise the violator of the right to petition the court for release of the vehicle.
  - b. The officer will also ensure that complaint desk personnel receive a copy of the impoundment form for VCIN entry.

**F. HABITUAL OFFENDER**

1. A violator is to be charged with a misdemeanor and may be released upon issuance of a summons if:
  - a. it is his/her first offense and,
  - b. such driving does not endanger life, limb, or property.
2. A violator is to be physically arrested and charged with felony habitual offender if:
  - a. such driving endangers life, limb, or property, or

- b. takes place while such person is in violation of Code of Virginia 18.2-266 (DUI) and one of his underlying convictions is for violation of Code of Virginia 18.2-36.1 (Involuntary manslaughter), 18.2-266 (DUI) or parallel local ordinance, or
- c. driving while habitual offender is a second or subsequent offense.

**G. SUBSEQUENT DETERMINATION OF DRIVER'S LICENSE STATUS**

- 1. Should a driver's license be identified as suspended or revoked after the violator has left the scene, the officer will obtain a court summons or warrant for the violator through the Magistrate.
- 2. The officer will also complete a Virginia Uniform Summons, as documentation of the charge and related circumstances.
  - a. The officer will write "Summoned by Magistrate" on the space provided for the violator's signature.
  - b. The officer will also indicate the advisement date set by the Magistrate on the summons.

**H. SUSPENDED/REVOKED OUT OF STATE DRIVER'S LICENSE**

- 1. On prima facie evidence that a violator holds a suspended/revoked license from another jurisdiction, the officer:
  - a. may not charge the violator with driving suspended/revoked and may not seize the driver's license, but
  - b. may charge the violator with operating a motor vehicle without a valid Virginia driver's license (Code of Virginia 46.2-300) should he not possess any other valid driver's license.
- 2. When dealing with out of state motorists, officers should always check through the Department of Motor Vehicles to determine if his privilege to operate a motor vehicle in Virginia has been suspended or revoked.

**I. NO OPERATOR'S LICENSE IN POSSESSION**

- 1. On issuing a summons for no driver's license in possession, the officer will advise the violator that he may avoid a court appearance by presenting his copy of the issued summons and his driver's license (valid on the date of offense) to designated court officials prior to the court date.
  - a. Such proof of compliance may be presented during business hours to:
    - 1) the General District Court Clerk (for adult violators), or

- 2) the Juvenile and Domestic Relations District Court Clerk (for juvenile violators).
- b. This action must be taken at least two days prior to the scheduled court date.

*Original Signed*

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Major K.T. Swisher, Deputy Chief  
Field Operations Bureau

January 13, 2016

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Date