

The purpose of this information is to inform the general public of the procedure for filing a petition of restoration of driving privileges after one has been determined to be a Habitual Offender. This procedure is for filing in the City of Suffolk only. Other jurisdictions may have different procedures.

## **WHO CAN PETITION FOR RESTORATION?**

You may petition for restoration in the Circuit Court in the city where you were determined to be a habitual offender or the Circuit Court in the city or county in which you reside, if:

- You were determined to be a habitual offender on the basis of one or more convictions for operating a motor vehicle while under the influence of alcohol or other drugs, and at least five years have passed, and you are no longer addicted to or psychologically dependent on the use of alcohol or other drugs; or
- You were determined to be a habitual offender partly on the basis of one or more convictions for operating a motor vehicle with a suspended or revoked driver's license due to failure to pay costs, fines or judgments, and at least three years have passed, and those amounts are now paid; or
- You were determined to be a habitual offender solely on the basis of convictions for operating a motor vehicle with a suspended or revoked driver's license due to failure to pay costs, fines or judgments, and those amounts are now paid; or
- You were determined to be a habitual offender on the basis of a finding of "not innocent" as a juvenile and you are now at least 18 years of age; or
- You were determined to be a habitual offender for any other reason by a court or by the Commissioner of the Virginia Department of Motor Vehicles and at least five years have passed.

Regardless of the basis for your petition, you must also indicate to the Court that you do not constitute a threat to the safety and welfare of yourself or others with respect to the operation of a motor vehicle.

If your driving record includes one or more convictions for operating a motor vehicle while under the influence of alcohol or other drugs, the Virginia Code Sections 46.2-360 and 46.2-391 require that the court "...prior to acting on the petition, shall order that an evaluation of the person be conducted by a Virginia Alcohol Safety Action Program and recommendations there from be submitted to the court." A reference manual, which explains the evaluation process, can be found at this website: <http://www.vattrafficlaw.com/habitual.html>.

The current cost for this evaluation is \$150.00.

You are not required to hire an attorney to file the petition for you, nor are you required to have an attorney present with you at the hearing. However, should you desire to talk to an attorney, you may call this toll free number for referral to a qualified local attorney: 1-800-552-7977.

## **RESTRICTED LICENSE**

You may petition the Court in which you were determined to be a habitual offender, or you may petition the Circuit Court in the city or county in which you reside, for a restricted license to allow you to drive to and from work if you were determined to be a habitual offender on the basis of one or more convictions for operating a motor vehicle while under the influence of alcohol or other drugs, and at least three years have passed, and you are no longer addicted to or psychologically dependent on the use of alcohol or other drugs.

## **BEFORE YOU FILE**

- Obtain a Compliance Summary and a copy of your driving record from DMV. Both of these may be obtained from DMV's website at: <https://www.dmv.state.va.us/dmvnet/online.asp>.
- Check to see if there are any suspensions still outstanding for failure to pay fines and costs or for unsatisfied judgments. These suspensions must be cleared with DMV prior to filing the petition for restoration. Check with the court(s) where the suspensions occurred to request a payment plan or to obtain copies of the receipts if the fines and costs have already been paid. If the Court agrees to a payment plan, take a copy of the plan to DMV. If the Court refuses a payment plan, then make payments until all monies owed the court are paid and then take the receipts to DMV. NOTE: Payment plans are made at the discretion of the courts.
- If you have a suspension for failing to complete a Driver Improvement Program, you must complete the program and take the completion certificate to DMV so the suspension can be cleared from your record. For more information on Driver Improvement Programs, please follow this link to the DMV's website: <https://www.dmv.state.va.us/webdoc/citizen/drivers/backonroad.asp>

## **HOW DO I FILE A PETITION FOR RESTORATION?**

In order to facilitate the restoration process, the Commonwealth's Attorney has assigned a legal assistant to help individuals and defense attorneys through this process. You may contact Mrs. Kitchen via [e-mail](#) or by phone at (757) 514-4380. Mrs. Kitchen works under the supervision of Senior Assistant Commonwealth's Attorney Matthew A. Glassman. Any legal questions and/or issues are referred to Mr. Glassman.

The habitual offender petition form - Form CC-1465(B) - can be found at the following websites:

<http://www.winfredclerk.com/forms.htm> or

<http://www.courts.state.va.us/forms/circuit/civil.html> and click on "Petition for Restoration of Driving Privilege – Habitual Offender."

If you choose to file the petition yourself, please contact Mrs. Kitchen for a hearing date. The hearing date will be set approximately 30 days after the filing date. However, if an ASAP evaluation is required, the hearing date will be set approximately 90 days after the filing date.

The filing fee is currently \$108.00, which includes the service fees. Our Circuit Court Clerk's office will accept petitions from 8:30 a.m. to 4:00 p.m., Monday through Friday. They will accept money orders or cashier's checks, but usually will not accept personal checks. If you pay with a personal check, your petition will not be filed until your check clears the bank, which could result in a delay of your hearing. A certified Habitual Offender Transcript must be filed with your petition. This transcript can be obtained from DMV. Upon receipt of your petition, the clerk's office will have a copy of the petition served on the Commonwealth's Attorney and on the Department of Motor Vehicles. Upon receipt of their notification, DMV advises the Commonwealth's Attorney and the petitioner (or the petitioner's attorney) if the petitioner is eligible or ineligible for restoration. If the petitioner appears to be ineligible, the Attorney General's Office is notified by DMV.

## **THE HEARING**

Hearings for habitual offender restorations are usually set on the second Tuesday of each month at 9:30 a.m. You must be present on the date scheduled or your petition could be dismissed and you would have to start the procedure all over again. Senior Assistant Commonwealth's Attorney Matthew A. Glassman is assigned to these cases.

## **HOW DO I FILE A PETITION IF I DO NOT LIVE IN VIRGINIA?**

If the Department of Motor Vehicles determined you to be a habitual offender, then you can file in any Circuit Court in Virginia. If you were adjudicated to be a habitual offender by a court, then you must file in the court where you were adjudicated.

If you are not sure where you should file, please feel free to contact Mrs. Kitchen and she will assist you. Mrs. Kitchen cannot screen individuals over the telephone. If you wish to have Mrs. Kitchen screen your records, then you must come to our office to meet with her in person.

**For additional information on Habitual Offenders, please visit the DMV's website at:**

<https://www.dmv.state.va.us/webdoc/citizen/drivers/habitual.asp>

