



## Virginia DMV Point System For Traffic Law

Riley & Wells Attorneys-At-Law | (804) 673-7111 | [www.rileywellslaw.com](http://www.rileywellslaw.com) | [info@rileywells.com](mailto:info@rileywells.com)

### Introduction To Traffic Point System For Offense Convictions

Riley & Wells Attorneys-At-Law is a Virginia law firm located in the Richmond VA Metropolitan Area that focuses a significant portion of its law practice to defending clients accused of traffic violations. Traffic violation convictions can negatively affect driving privileges, the driving record and an automobile insurance policy. We consult with clients daily about how their case will be treated by the Courts, the Virginia Department of Motor Vehicles (DMV) and ultimately an automobile insurance company. The purpose of this guide is to explain how traffic violations can affect the driving record and driving privileges in the Commonwealth of Virginia.

### Overview Reckless Driving Moving Violations

Any Virginia traffic violation that results in a conviction, even offenses that do not carry demerit points, is posted to the Virginia driving record. In Virginia, the Virginia court notifies the DMV if a motorist is convicted of a traffic violation. An allegation or the mere issuance of a Virginia Uniform Summons (the ticket) does not post to the Virginia driving record.

EXAMPLE: A Virginia State Trooper issues a Virginia Uniform Summons to a motorist for reckless driving. The motorist retains a Virginia Traffic Lawyer to defend the reckless driving allegation. The attorney successfully defends the case and the allegation is eventually dismissed. The Court does not notify the DMV about the reckless driving. Thus, no reckless driving case is posted to the driving record and the automobile insurance company never finds out about the reckless driving case.

In the event of a conviction, the Virginia DMV will receive the conviction information from the Court and do the following:

- ! Post the conviction to the driving record (a Virginia DMV record is created for out-of-state drivers) Assign demerit points according to the severity of the offense
- ! Issue an order of suspension, if applicable
- ! Issue an order requiring the successful completion of a driver improvement clinic, if applicable
- ! Notify the automobile insurance company upon request
- ! For out-of-state drivers, the home state licensing authority is notified of the conviction by the Virginia DMV
- ! NOTE: Demerit points will also be assigned to the Virginia driving record for traffic convictions incurred by Virginia drivers while driving in other states

### Demerit Points For Moving Violation Convictions

Demerit points are assigned when the motorist is convicted of a traffic violation and will remain valid for two years from the date the offense was committed. In Virginia, there are 3 categories

of demerit point offenses: [6 point violations](#), [4 point violations](#) & [3 point violations](#). Different violations carry different demerit point values, depending on the seriousness of the offense. The demerit point violations found below in this guide are grouped by demerit point category.

### **Safe Points**

Safe driving points are assigned for each full calendar year that one holds a valid Virginia driver's license and drives without any violations or suspensions. In some cases, a driver may also earn safe driving points by completing a driver improvement clinic. Annual safe driving points are awarded in early April of each year for the previous calendar year. A maximum of 5 safe driving points may be accumulated. These safe points will offset demerit points whenever a driver is convicted of a traffic violation and receives demerit points.

### **How long do the demerit points and conviction stay on my driving record?**

The dates that demerit points are removed from the driving record are not related to the dates that convictions are removed from the record. DMV demerit points remain on the record for two years from the offense date. The length of time that a conviction stays on your record depends on the severity of the violation. The number of years that the conviction stays on the Virginia DMV record can be found [below](#) in parentheses beside each violation.

### **Insurance Company Points**

The automobile insurance company may also assign points to the insurance record; however, DMV demerit points are not related to insurance company points. Insurance company points are developed by individual companies.

### **Can assessment of demerit points be avoided for a traffic violation demerit point offense?**

In Virginia, the Court has no control over the assessment of demerit points. Demerit points are assessed only by the Virginia DMV upon receiving conviction information from the Virginia Court. Thus, the only way to avoid the demerit points from being assessed by the Virginia DMV is to avoid being convicted of the demerit point offense by the Virginia Court. See above [EXAMPLE](#).

### **How does a Virginia traffic violation affect an out-of-state driving record?**

Virginia DMV points DO NOT transfer to another state; however, the traffic violation conviction will be reported to the home state of the out-of-state licensed driver. It is up to the home state licensing authority on whether to docket the Virginia traffic violation conviction to the home state driving record. It is up to the home state licensing authority to determine whether to assign demerit points and how many for an out-of-state traffic violation conviction. Virginia DMV points become relevant to an out-of-state driver if the out-of-state driver later decides to switch to a Virginia driver's license.

### **Why Are DMV Demerit Points Important?**

In Virginia, the DMV demerit points technically only matter to the DMV. Demerit points can lead to suspension of driving privileges by the DMV.

### **Drivers Under Age 18**

- ! If you are convicted of a demerit-point traffic violation (or a safety belt or child restraint violation) committed when you were under age 18, you will be required to satisfactorily complete a driver improvement clinic. If you do not satisfactorily complete the clinic within 90 days, DMV will suspend your permit or license until the clinic is completed.
- ! After your second demerit point (or a safety belt or child restraint violation) conviction for a violation committed when you were under age 18, DMV will suspend your permit or

license for 90 days. If you have no other means of transportation, you may petition the Juvenile and Domestic Relations Court in your jurisdiction for restricted driving privileges to drive between home and work.

- ! After a third demerit point (or a safety belt or child restraint violation) conviction for a violation committed when you were under age 18, DMV will revoke your permit or license for one year or until you reach age 18, whichever is longer.

### **Drivers Age 18 and over**

- ! If you are convicted of a demerit-point violation (or safety belt and child restraint violation) committed **when you were age 18 or 19**, you will be required to complete a driver improvement clinic.
- ! If you are 18 or older and you accumulate 8 demerit points in 12 months (or 12 points in 24 months), you will receive an advisory letter that cautions you about the consequences of violating the law.
- ! If you accumulate 12 demerit points in 12 months (or 18 points in 24 months), you will be required to complete a driver improvement clinic. You must enroll in and satisfactorily complete the clinic within 90 days.
- ! If you accumulate 18 demerit points in 12 months (or 24 points in 24 months), your driving privilege will be suspended for 90 days. Additionally, you must complete a driver improvement clinic before your privilege will be restored. Once your privilege is restored, you will be placed on a six-month probation period. A conviction for a demerit point while on probation will lead to additional loss of driving privileges depending on the severity of the offense.

### **What if there is a conviction for a traffic violation while on DMV probation?**

Conviction of a demerit point offense that was committed while on probation will result in suspension of driving privileges by the DMV. The suspension period depends on the number of demerit points assigned for the violation.

- ! 3 point violation = 45 day suspension
- ! 4 point violation = 60 day suspension
- ! 6 point violation = 90 day suspension

Once the suspension period is complete, the driver will be placed on probation for another six months.

If the driver is convicted of a demerit point offense that occurred while on probation for the first time, the DMV may grant restricted driving privileges. If there is a second or subsequent probation violation, then the DMV will grant restricted driving privileges only if the probationary period during which the violation occurred was immediately preceded by a control period (an 18-month time period during which the driving record is monitored).

Restricted driving privileges granted by the DMV are valid only in Virginia and allow the following driving:

- ! to and from place of employment,
- ! during employment hours only if driving is a required part of the job,
- ! to and from school if enrolled as a student,
- ! to and from a religious place of worship one day per week,
- ! for health care services, including medically necessary transportation of an elderly parent or of a person residing in the driver's household with a serious medical problem,
- ! to transport a minor child to and from school, day care or for medical treatment,
- ! to and from a court-ordered visitation with a child,

- ! to and from court appearances when subpoenaed as a witness or a party,
- ! to and from an intensive case monitoring program for child support ordered by juvenile and domestic relations district court for non-custodial parents,
- ! to and from appointments with a probation officer; or
- ! to and from any programs required by the court or as a condition of probation.

Proper documentation must be provided to support any restrictions being requesting, such as a court order or letter from an employer, school, place of religious worship, or healthcare professional. Any letter presented in support of a restriction must be on the letterhead of its source. Restricted driving privileges are not available to operate a commercial motor vehicle.

## **SIX POINT VIOLATIONS Reckless Driving DUI Moving Violations**

**NOTE: The number of years that the conviction stays on the Virginia DMV record can be found below in parentheses beside each violation An asterisk (\*) indicates that the conviction remains on the driving record permanently**

### **Reckless Driving (Felony or Misdemeanor)**

- ! Reckless driving—speeding in excess of 80 mph (11 years)
- ! Reckless driving—speeding 20 mph or more above the posted speed limit (11 years)
- ! Reckless driving—racing (11 years)
- ! Reckless driving—passing or overtaking an emergency vehicle (11 years)
- ! Reckless driving—passing a school bus (11 years)
- ! Reckless driving—passing on the crest of a hill (11 years)
- ! Reckless driving—passing at a railroad crossing (11 years)
- ! Reckless driving—passing two vehicles abreast (11 years)
- ! Reckless driving—driving two vehicles abreast (11 years)
- ! Reckless driving—driving too fast for conditions (11 years)
- ! Reckless driving—failing to give a proper signal (11 years)
- ! Reckless driving—faulty brakes/improper control (11 years)
- ! Reckless driving—on parking lots, etc. (11 years)
- ! Reckless driving—with an obstructed view (11 years)
- ! Reckless driving—generally (11 years)

### **Driving Under the Influence**

- ! Possess or consume alcoholic beverage while operating a school bus transporting children (\*)
- ! Driving while intoxicated (11 years)
- ! Driving while intoxicated felony (11 years)
- ! Driving under the influence of alcohol or drugs (11 years)
- ! Driving under the influence of drugs (11 years)
- ! Driving after illegally consuming alcohol (persons under age 21) (3 years)
- ! Driving while intoxicated—maiming (11 years)
- ! Involuntary manslaughter/alcohol (11 years)
- ! Refusing blood/breath test (11 years)
- ! Driving while your license is suspended or revoked for driving while intoxicated (11 years)
- ! Driving while your license is revoked for driving while intoxicated—maiming (11 years)
- ! Operating without ignition interlock—DMV requirement (11 years)

### **Manslaughter**

- ! Manslaughter (11 years)
- ! Involuntary manslaughter (11 years)
- ! Involuntary manslaughter/aggravated (11 years)

### **Habitual Offenders**

- ! Driving after being declared a habitual offender (11 years)

- ! Allowing a person to drive when suspended for habitual offender and/or driving while intoxicated (3 years)

### **Licenses/Permits**

- ! Driving on suspended license (11 years)
- ! Driving while your license is suspended or revoked (11 years)
- ! Driving while your license is suspended or revoked for non-payment of court fines and costs (11 years)
- ! Driving under suspension or revocation before giving proof of financial responsibility (11 years)

### **Commercial Motor Vehicles**

- ! Driving commercial motor vehicle while disqualified (\*)
- ! Driving commercial motor vehicle with blood alcohol .04 percent or more (\*)
- ! Driving commercial motor vehicle with blood alcohol .08 percent or more (\*)
- ! Driving commercial motor vehicle under influence of drugs (\*)
- ! Driving commercial motor vehicle under influence of drugs/alcohol (\*)
- ! Refusing blood/breath test while operating commercial motor vehicle (\*)
- ! Violating out of service order (15 years)

### **Other Moving Violations**

- ! Speeding 20 mph or more above the posted speed limit (5 years)
- ! Injuring person while racing—felony (11 years)
- ! Causing death of a person while racing (11 years)
- ! Failure to stop at the scene of a crash—injury (11 years)
- ! Failure to stop at the scene of a crash—death (11 years)
- ! Failure to stop at the scene of a crash—property damage of \$1,000 or more (11 years)
- ! Fail to change lanes/slow down for vehicle displaying flashing lights – death (11 years)
- ! Vehicular assault or willful stopping, impeding or damaging vehicle (11 years)
- ! Blocking access to service facility (11 years)
- ! Attempting to elude police – felony (11 years) – misdemeanor (3 years)
- ! Operating unsafe vehicle (3 years)

## **FOUR POINT VIOLATIONS**

**NOTE: The number of years that the conviction stays on the Virginia DMV record can be found below in parentheses beside each violation An asterisk (\*) indicates that the conviction remains on the driving record permanently**

### **Reckless Driving/Speeding**

- ! Reckless driving—failure to stop before entering a highway (11 years)
- ! Speeding (5 years)
- ! Speeding 10-14 mph above the posted speed limit (5 years)
- ! Speeding 15-19 mph above the posted speed limit (5 years)
- ! Speeding 10-19 mph above the posted speed limit (5 years)

### **Passing**

- ! Passing when unsafe (3 years)
- ! Passing to the left of approaching vehicle (3 years)

### **Stopping/Yielding**

- ! Failure to drive to the right and stop for police/fire/emergency vehicle (3 years)
- ! Failure to stop for pedestrian with white cane (3 years)
- ! Failure to stop and yield right-of-way (3 years)
- ! Failure to yield right-of-way (3 years)

- ! Failure to yield when turning left (3 years)
- ! Failure to yield to funeral procession (3 years)

### **Keeping to the Right**

- ! Failure to drive on right half of highway or street (3 years)
- ! Failure to keep to the right when crossing an intersection (3 years)
- ! Driving to the left of rotary traffic island (3 years)

### **Following/Signaling**

- ! Following too closely (3 years)
- ! Failure to signal before moving from curb (3 years)
- ! Improper signal (3 years)

### **Railroad Crossings**

- ! Failure to obey railroad crossing signal (3 years)
- ! Failure to stop at railroad grade crossing (3 years)
- ! Failure to keep to the right at a railroad crossing (3 years)
- ! Failure to stop passenger-carrying vehicle at railroad grade crossing (3 years)
- ! Railroad crossing/stopping (3 years)
- ! Improper operation of crawler-type tractor over railroad crossing (3 years)

### **Railroad Crossings in Commercial Motor Vehicle**

- ! Failure to slow down/stop at a railroad crossing (\*)
- ! Failure to have sufficient space to drive through a railroad crossing (\*)
- ! Failure to have sufficient undercarriage clearance at a railroad crossing (\*)
- ! Failure to obey traffic control device or enforcement official at a railroad crossing (\*)

### **Other Violations**

- ! Operating a motor vehicle while suspended/revoked/restricted with a blood alcohol content of .02% or more (11 years)
- ! Failure to stop at the scene of a crash, unattended property, damage in excess of \$500 (11 years)
- ! Passing stopped school bus (non-reckless) (3 years)
- ! Failure to stop at the scene of a crash, property damage (3 years)
- ! Emergency vehicle violation - property damage (5 years)
- ! Emergency vehicle violation - injury (5 years)
- ! Aggressive driving (5 years)
- ! Failure to obey traffic signal (3 years)
- ! Failure to obey lane directional signal (3 years)
- ! Failure to obey highway lane markings (3 years)
- ! Improper backing, stopping or turning (3 years)
- ! Driving the wrong way on one-way highway or street (3 years)
- ! Impeding/disrupting funeral procession (3 years)
- ! Disregarding police officer's signal to stop (3 years)
- ! Disregarding crossing guard/officer's signal (3 years)

## **THREE POINT VIOLATIONS**

**NOTE: The number of years that the conviction stays on the Virginia DMV record can be found below in parentheses beside each violation An asterisk (\*) indicates that the conviction remains on the driving record permanently**

### **Speeding**

- ! Speeding 1-9 mph above the posted speed limit (5 years)

- ! Impeding traffic, slow speed (5 years)

### **Passing/Driving**

- ! Improper passing (3 years)
- ! Improper passing on the right (3 years)
- ! Improper driving (3 years)
- ! Improper stopping on highway (3 years)
- ! Changing course after signaling (3 years)
- ! Coasting with gears in neutral (3 years)
- ! Failure to give way in favor of overtaking vehicle (3 years)
- ! Failure to give way when abreast of another car (3 years)
- ! Driving through safety zone (3 years)
- ! Driving over fire hose (3 years)
- ! Unauthorized use of crossover on controlled highway (3 years)
- ! Driving/riding on sidewalk (3 years)

### **Turning/Backing**

- ! Improper turn (3 years)
- ! Improper U-turn (3 years)
- ! Violation of right turn on red (3 years)
- ! Violation of left turn on red (3 years)

### **Signs/Signals**

- ! Failure to obey highway sign (3 years)
- ! Evading traffic control device (3 years)

### **Lights**

- ! Driving without lights/excessive lights (3 years)
- ! Failure to dim headlights (3 years)
- ! Parking without proper lights displayed (3 years)
- ! Inadequate hazard lights (3 years)

### **Licenses/Permits**

- ! No Virginia driver's license or failure to obtain a driver's license (3 years)
- ! No Virginia license plate (3 years)
- ! No driver's license - vehicle/motorcycle (3 years)
- ! Failure to have license revalidated (3 years)
- ! Learner's permit violation (3 years)
- ! Permitting unlicensed person to drive (3 years)
- ! Driving in violation of restricted license (restrictions related to physical limitation, such as mechanical control device) (3 years)

### **Commercial Motor Vehicles**

- ! Driving commercial motor vehicle with alcohol in blood (\*)
- ! Driving commercial motor vehicle without license or without endorsement(s) (3 years)
- ! Driving commercial motor vehicle with more than 1 driver's license (3 years)
- ! Driving commercial motor vehicle without license in possession (3 years)
- ! Commercial driver's license/commercial learner's permit violation (3 years)
- ! Driving commercial motor vehicle in left lane of interstate (3 years)
- ! Driving in excess of 13 hours in a 24-hour period (3 years)
- ! Driving public passenger-carrying vehicle under age (3 years)
- ! Driving bus transporting school children without a safety belt (3 years)
- ! Driving school bus without license or under age (3 years)
- ! Vehicle height exceeds limit for tunnels (3 years)

### **Other Violations**

- ! Failure to stop at the scene of a crash, unattended property (3 years)

- ! Failure to leave the scene of a crash at the direction of officer (3 years)
- ! Failure to report a crash, unattended property, less than \$250 damage (3 years)
- ! Following/parking within 500 feet of fire apparatus (3 years)
- ! Emergency vehicle violation (3 years)
- ! Drinking *while* driving (3 years)
- ! Improper driving/riding motorcycle (3 years)
- ! Driving with TV screen visible to driver (3 years)
- ! Driving while using earphones (3 years)
- ! Passenger restriction violation (3 years)
- ! Curfew violation (3 years)
- ! HOV violation, second or subsequent offense - Northern Virginia planning district 8 (5 years)

By Mitch Wells 5/6/2016