

Index

ABSENCE OR PRESENCE

Inferior courts, § 13:6

ADMINISTRATIVE LICENSE SUSPENSION

Generally, § 10:1 to 10:7

Constitutional challenges, § 10:5

Defenses to suspension, § 10:3, 10:4

Double jeopardy, § 10:5

Fourth Amendment, § 10:5

Grounds for, § 10:1

History of DUI in Virginia, § 1:10

Implied consent advisements, § 10:6

Overview, § 10:2

Probable cause, defenses to suspension, § 10:3

Procedures, § 10:1

Refusal, defenses to suspension, § 10:4

Review, right to, § 10:7

ADMISSIONS

Confessions and Admissions, this index

ADVISEMENTS

Implied consent, § 4:5

AGGRAVATION AND MITIGATION

Involuntary manslaughter, § 2:5

Sentences and sentencing, § 16:8, 16:9

ALLOCUTION

Sentences and sentencing, § 16:11

ALPHABET TEST

Field sobriety evaluations, § 6:5

ANONYMOUS TIPS

Search and seizure, § 7:5

ANXIETY

Field sobriety evaluations, § 6:21

APPEAL AND REVIEW

Administrative license suspension, § 10:7

Circuit court, absolute right of appeal to, § 13:8

Court of Appeals of Virginia, § 13:4

Sentences, generally, § 16:18

ARRAIGNMENT

Procedural formalities and motions practice, § 14:3

ARREST

Implied consent, § 4:4, 4:7

Search and seizure, § 4:7, 7:11

ASSUMPTIONS

Presumptions and Assumptions, this index

ATTORNEY-CLIENT RELATIONSHIP

Generally, § 9:1 to 9:7

Acquiring skills and tools to win, § 9:2

Advising client what to expect, § 9:6

Client relations, § 9:3

Fee agreements, § 9:4

Gathering information, § 9:5

Initial considerations, § 9:1

Skills and tools to win, acquiring of, § 9:2

Treatment/safety net, getting client into, § 9:7

ATTORNEYS' FEES

Agreements for, § 9:4

BALANCE AND COORDINATION

Field sobriety evaluations, § 6:20

BLOOD AND BREATH TESTS, UNDERSTANDING SCIENCE OF

Generally, § 5:1 to 5:29

**BLOOD AND BREATH TESTS,
UNDERSTANDING SCIENCE
OF—Cont'd**

Assumptions and presumptions,
§ 5:13, 5:20, 5A:4
Availability of Intox EC/IR II
machine to Virginia lawyers,
§ 5:2
Blood-breath assumption, § 5:13
Blood tests, generally, § 5:26 to 5:29,
5A:1 to 5A:30
Blowing technique makes a differ-
ence, § 5:17
Calibration of the fuel cell, § 5:8
Certificates and certification, § 5:24
Challenging validity of breath test
results, § 5:11 to 5:19
Confrontation, crime lab crimes and
confrontation, § 5A:1
Crime lab crimes and confrontation,
§ 5A:1
Decision to compel a blood test
instead of a breath test, § 5A:3
Drinking after driving, § 5:21
Electrochemical fuel cell technology,
§ 5:6, 5:8
Forensic science
blood tests, § 5A:1 to 5A:30
breath tests, § 5:1
Fuel cell drift, § 5:19
GERD/acid reflux issue, § 5:15
Implied Consent, this index
Independent testing, § 5:25
Interaction between EC and IR detec-
tors, § 5:7
Interpreting the result, § 5:10
Machine malfunction, § 5:12
Malfunction of machine, § 5:12
Melendex-Diaz and certificate of
analysis, § 5:24
Mouth alcohol and the slope detector,
§ 5:5
Partition ratio, § 5:13
Plasma and serum
generally, § 5A:25 to 5A:30
BAC, converting the serum alcohol
to BAC, § 5A:29
business records exception,
§ 5A:26

**BLOOD AND BREATH TESTS,
UNDERSTANDING SCIENCE
OF—Cont'd**

Plasma and serum—Cont'd
enzyme assay, § 5A:28, 5A:30
hospital testing, § 5A:25
whole blood, turning into plasma,
§ 5A:27
Preliminary breath test (PBT), § 5:22
Presumptions and assumptions,
§ 5:13, 5:20, 5A:4
Qualification procedures for blood
tests, § 5:27
Radio frequency interference, § 5:18
Rebuttable presumptions from test-
ing, § 5:20
Retrograde extrapolation, § 5:16
Sampling procedures for blood tests,
§ 5:27
Slope detector, mouth alcohol and,
§ 5:5
Specificity for ethanol and interfering
substances, § 5:9
Spectroscopy, § 5:4, 5A:21, 5A:22
Statutory requirements for breath
testing, § 5:23
Temperature defense, § 5:14
Time, drinking after driving, § 5:21
Transmission and testing of blood,
§ 5:28, 5:29
The two blood tests, generally,
§ 5A:2
Warrant, blood by, § 5A:23
Whole blood
generally, § 5A:4 to 5A:21
checking the results through
internal standard, § 5A:14
chromatograms, § 5A:19, 5A:20
collection of blood, § 5A:7
flame ionization detectors (FID),
measuring by, § 5A:18
hardware of gas chromatography,
§ 5A:10
hospital to lab, § 5A:8
independent analysis, § 5A:24
loading the carousel, § 5A:16
mass spectroscopy theory and
practice, § 5A:21, 5A:22
penalties, § 5A:4

INDEX

BLOOD AND BREATH TESTS, UNDERSTANDING SCIENCE OF—Cont'd

- Whole blood—Cont'd
 - plasma, turning whole blood into plasma, § 5A:27
 - presumptions, § 5A:4
 - reviewing the chromatograms, § 5A:20
 - running banks, § 5A:13
 - running the sample, § 5A:17
 - substantial compliance, overcoming, § 5A:5
 - teaching the machine by calibration, § 5A:11
 - theory of gas chromatography, § 5A:9
 - verifying the calibration, § 5A:12
 - warrant, blood by, § 5A:23
 - wet lab preparation, § 5A:15
 - who can draw the blood, § 5A:6

BLOOD-BREATH ASSUMPTION Generally, § 5:13

BLOWING TECHNIQUE

- Blood and breath tests, understanding science of, § 5:17

BOOKING EXCEPTION

- Confessions and admissions, § 8:8

BRADY DOCTRINE

- Discovery tools and access to state's evidence, § 11:11

BREATH TESTS

- Blood and Breath Tests, Understanding Science of, this index

CALIBRATION OF THE FUEL CELL

- Blood and breath tests, understanding science of, § 5:8

CERTIFICATES AND CERTIFICATION

- Blood and breath tests, understanding science of, § 5:24
- Implied Consent and Certificates of Analysis, this index

CHALLENGES AND CHALLENGING

- Blood and breath tests, understanding science of, § 5:11 to 5:19
- Confessions and Admissions, this index
- Implied consent, § 4:15
- Trial, this index

CHANGE OF VENUE

- Jurisdiction and venue, § 12:9

CHARGING DOCUMENT

- Procedural formalities and motions practice, § 14:1

CHECKPOINTS

- Search and seizure, sobriety checkpoints, § 7:10

CHEMICAL TESTS

- Tests and Testing, this index

CHILDREN AND MINORS

- Serious offenses related to DUI, § 2:7 to 2:9

CIRCUIT COURTS

- Jurisdiction and venue, § 12:4
- Overview, § 13:3

CLOSING ARGUMENTS

- Generally, § 15:14, 15:15

COMBINED INFLUENCE OF ALCOHOL AND DRUGS

- Elements of DUI in Virginia, § 1A:6

COMMERCIAL VEHICLES

- Elements of DUI in Virginia, § 1A:9

COMMON LAW

- Serious offenses related to DUI, § 2:3

CONFESSIONS AND ADMISSIONS

- Generally, § 8:1 to 8:15
- Booking exception, § 8:8
- Challenging the statements, generally, § 8:3 to 8:13
- Constitutional protection, § 8:1
- Cruel trilemma test, § 8:2
- Due process, § 8:12
- Illegally obtained confessions, remedy for, § 8:14

CONFESSIONS AND ADMISSIONS

—Cont’d

“In custody” meaning of, § 8:5, 8:6
“Interrogation” meaning of, § 8:7
Invocation of right to counsel, § 8:10
Miranda, generally, § 8:4 to 8:11
Right to counsel, § 8:10, 8:13
Routine traffic stops, § 8:6
Silence, § 8:11, 8:15
Testimonial statements, limitation to, § 8:2
Totality of circumstances test, § 8:6
Traffic stops, § 8:6
Waiver of Miranda, § 8:9

CONFRONTATION

Crime lab crimes and confrontation, § 5A:1

CONSENT

Implied Consent, this index
Search and seizure, § 7:2

CONSTITUTIONAL LAW

Administrative license suspension, § 10:5
Confessions and admissions, § 8:1
Discovery tools and access to state’s evidence, § 11:10, 11:11
Exigent circumstances, § 4:7, 4:8
Implied consent, § 4:6 to 4:9
Non-serious offenses related to DUI, § 3:1
Search and seizure, § 7:1
Trial, § 15:1, 15:5

COORDINATION AND BALANCE

Field sobriety evaluations, § 6:20

COUNTDOWN TEST

Field sobriety evaluations, § 6:7

COURT OF APPEALS OF VIRGINIA

Overview, § 13:4

CROSS-EXAMINATION

Generally, § 15:12

CRUEL TRILEMMA TEST

Confessions and admissions, § 8:2

CRUELTY TO CHILDREN

Serious offenses related to DUI, § 2:9

DEFECTIVE EQUIPMENT

Non-serious offenses related to DUI, § 3:9

DEFENSE ACCESS TO EVIDENCE

Discovery tools and access to state’s evidence, § 11:12

DEFENSES

Administrative license suspension, § 10:3, 10:4

DEFINITION OF HIGHWAY

Implied consent, § 4:3

DISCOVERY TOOLS AND ACCESS TO STATE’S EVIDENCE

Generally, § 11:1 to 11:12
Brady doctrine, § 11:11
Categories of discoverable evidence, § 11:5
Constitutional considerations, § 11:10, 11:11
Defense access to evidence, § 11:12
Due process, § 11:12
DUI cases, discovery in, generally, § 11:1
Freedom of Information Act, § 11:7, 11:8
Procedure for obtaining records under Freedom of Information Act, § 11:8
Rules of discovery, § 11:2 to 11:6
Subpoena duces tecum, § 11:9
Violation of rules of discovery, remedy for, § 11:3, 11:6

DISTRICT COURTS

Domestic relations district court, § 12:6
Jurisdiction and venue, § 12:5
Overview, § 13:2

DOMESTIC RELATIONS COURT

Jurisdiction and venue, § 12:6

DOUBLE JEOPARDY

Administrative license suspension, § 10:5

INDEX

“DRIVE OR OPERATE” REQUIREMENT

Implied consent, § 4:2

DRIVERS’ LICENSES

Administrative License Suspension,
this index

History of DUI in Virginia, § 1:10

Sentences and sentencing, § 16:17

Serious offenses related to DUI,
§ 2:11

DRIVING TOO FAST FOR CONDITIONS

Non-serious offenses related to DUI,
§ 3:7

DUE PROCESS

Confessions and admissions, § 8:12

Discovery tools and access to state’s
evidence, § 11:12

ELECTROCHEMICAL FUEL CELL TECHNOLOGY

Blood and breath tests, understanding
science of, § 5:6, 5:8

ELEMENTS OF DUI IN VIRGINIA

Generally, § 1A:1 to 1A:12

Combined influence of alcohol and
drugs, § 1A:6

Commercial vehicles and DUI,
§ 1A:9

“Drive” defined and construed,
§ 1A:7

Elevated blood alcohol concentra-
tions, § 1A:10

Excluding prior DUI convictions,
§ 1A:12

Means to commit a misdemeanor
DUI, § 1A:1

Misdemeanor DUI, means to commit,
§ 1A:1

Motor vehicle defined, § 1A:8

“Operate” defined and construed,
§ 1A:7

Per se alcohol violation, § 1A:2

Per se drug violation, § 1A:3

Second or subsequent DUIs, § 1A:11

“Under the influence,” § 1A:4 to
1A:6

ELEVATED BLOOD ALCOHOL CONCENTRATIONS

Elements of DUI in Virginia, gener-
ally, § 1A:10

ENTRY OF PLEA

Procedural formalities and motions
practice, § 14:5

ENZYME ASSAY

Forensic science and blood tests,
§ 5A:28, 5A:30

EQUIPMENT

Non-serious offenses related to DUI,
§ 3:9

EVIDENCE

Generally, § 15:2, 15:11

Discovery Tools and Access to
State’s Evidence, this index

Implied consent, § 4:14

Prior DUI convictions, excluding,
§ 1A:12

EXCLUSION OF EVIDENCE

Prior DUI convictions, excluding,
§ 1A:12

FAILURE TO TESTIFY

Generally, § 15:15

FEE AGREEMENTS

Attorney-client relationship, § 9:4

FELONY CHILD

ABUSE/NEGLECT

Serious offenses related to DUI, § 2:8

FELONY MURDER

Serious offenses related to DUI, § 2:1

FIELD SOBRIETY EVALUATIONS

Generally, § 6:1 to 6:23

Alphabet test, § 6:5

Anxiety, effect of, § 6:21

Balance and coordination, § 6:20

Closer look at the “tests,” § 6:3 to
6:10

Coordination and balance, § 6:20

Countdown test, § 6:7

Driver, field observations, § 6:19

Driving, field observations, § 6:18

FIELD SOBRIETY EVALUATIONS
—Cont'd

Field observations, § 6:17 to 6:19
Finger-count test, § 6:8
Finger-to-nose test, § 6:6
Historic perspective, § 6:2
Horizontal gaze nystagmus test, § 6:15
Impairment, standardized field sobriety tests (SFSTs) as measurement of, § 6:22
Nerves, effect of, § 6:21
One-leg stand, § 6:14
Perfection requirement, § 6:13
Picking-up-coins test, § 6:10
Refusal to take PSTs, § 6:23
Romberg test, § 6:4
SPSTs do not measure impairment, § 6:22
Standardized field sobriety tests (SFSTs), generally, § 6:11 to 6:16, 6:22
Standing balance test, § 6:4
Tests and testing, generally, § 6:1 to 6:23
Tracing test, § 6:9
US v Horn, § 6:12
Walk-and-turn test, § 6:15

FIFTH AMENDMENT

Implied consent, § 4:9

FINES

Sentences and sentencing, § 16:14

FINGER-COUNT TEST

Field sobriety evaluations, § 6:8

FINGER-TO-NOSE TEST

Field sobriety evaluations, § 6:6

**FLAME IONIZATION
DETECTORS (FID)**

Forensic science and blood tests, § 5A:18

FLIGHT

Search and seizure, § 7:7

FOLLOWING TOO CLOSELY

Non-serious offenses related to DUI, § 3:6

FORENSIC SCIENCE

Blood and Breath Tests, Understanding Science of, this index

**FORMULATION OF RULES OF
DISTRICT COURT**

Inferior courts, § 13:7

FOURTH AMENDMENT

Administrative license suspension, § 10:5
Exigent circumstances, § 4:7
Implied consent, § 4:7
Search incident to arrest, § 4:7

**FREEDOM OF INFORMATION
ACT**

Discovery tools and access to state's evidence, § 11:7, 11:8

FUEL CELL DRIFT

Blood and breath tests, understanding science of, § 5:19

GATHERING INFORMATION

Attorney-client relationship, § 9:5

GENERAL DISTRICT COURT

Jurisdiction and venue, § 12:5

GERD/ACID REFLUX ISSUE

Blood and breath tests, understanding science of, § 5:15

HABITUAL OFFENDERS

Sentences and sentencing, § 16:6
Serious offenses related to DUI, § 2:12

HEADLIGHTS

Non-serious offenses related to DUI, § 3:10

HIGH-CRIME AREAS

Search and seizure, § 7:6

HIGHWAY DEFINED

Implied consent, § 4:3

HISTORY OF DUI IN VIRGINIA

Generally, § 1:1 to 1:10
Administrative license suspension, § 1:10
Chemical tests and testing, § 1:5, 1:6

INDEX

HISTORY OF DUI IN VIRGINIA

—Cont'd

- Driver's license suspension, § 1:10
- Early history of alcohol and stumbles, § 1:1
- Field sobriety evaluations, § 6:2
- First DUI laws in Virginia, § 1:3
- Implied consent, § 1:6
- Legislation for chemical testing in Virginia, § 1:6
- License suspension, § 1:10
- Loss of right in contrast to penalties, § 1:4
- Penalties, loss of right in contrast to, § 1:4
- Per se laws in Virginia, § 1:8
- Presumptions of intoxication, § 1:7
- Prohibition in Virginia, § 1:2
- Roadblocks, § 1:9
- Suspension of license, § 1:10

HORIZONTAL GAZE

NYSTAGMUS TEST

- Field sobriety evaluations, § 6:15

HOSPITAL TESTING

- Forensic science and blood tests, § 5A:8, 5A:25

ILLEGALLY OBTAINED

CONFESSIONS

- Confessions and admissions, § 8:14

IMPAIRMENT

- Field sobriety evaluations, § 6:22

IMPLIED CONSENT

- Administrative license suspension, § 10:6
- Advisements of implied consent, § 10:6
- Certificates of analysis. Implied Consent and Certificates of Analysis, this index
- History of DUI in Virginia, § 1:6

IMPLIED CONSENT AND CERTIFICATES OF ANALYSIS

- Generally, § 4:1 to 4:17
- Advisements of implied consent, § 4:5
- Arrests, § 4:4, 4:7

IMPLIED CONSENT AND CERTIFICATES OF ANALYSIS

—Cont'd

- Blood tests, generally, § 4:12
 - Breath tests, generally, § 4:11
 - Certificate of analysis of breath and blood tests, admissibility of, § 4:14
 - Challenge to admissibility of evidence of refusal, § 4:15
 - Civil/criminal nature of refusal, § 4:17
 - Constitutional law, generally, § 4:6 to 4:9
 - Definition of highway, § 4:3
 - “Drive or operate” requirement, § 4:2
 - Evidence, admissibility of, § 4:14
 - Exigent circumstances, § 4:7, 4:8
 - Fifth Amendment privilege against self-incrimination, effect of, § 4:9
 - Fourth Amendment, § 4:7
 - Highway defined, § 4:3
 - Lawful arrest within 3 hours, requirement of, § 4:4
 - Meaning of implied consent, § 4:1 to 4:4
 - Presumption applicable to breath and blood tests, § 4:13
 - Privilege against self-incrimination, effect of, § 4:9
 - Refusal, § 4:15 to 4:17
 - Search incident to arrest, § 4:7
 - Self-incrimination privilege, effect of, § 4:9
 - State administered tests, generally, § 4:10 to 4:14
 - Statutory requirements, § 4:1 to 4:4
 - Tests and testing, generally, § 4:10 to 4:14
 - Warrantless arrest, § 4:4
- “IN CUSTODY”**
- Confessions and admissions, § 8:5, 8:6
- INCARCERATION**
- Sentences and sentencing, § 16:12

INDEPENDENT TESTING

Blood and breath tests, understanding science of, § 5:25

INFERIOR COURTS

Generally, § 13:1 to 13:8

Absence of juries in district court, § 13:6

Appeal to circuit court, absolute right of, § 13:8

Circuit courts, overview, § 13:3

Court of Appeals of Virginia, overview, § 13:4

District courts, overview, § 13:2

Formulation of rules of district court, § 13:7

Juries in district court, absence of, § 13:6

Overview of judicial structure, § 13:1 to 13:5

Rules of district court, formulation of, § 13:7

Supreme Court of Virginia, overview, § 13:5

INSTRUCTIONS TO JURY

Generally, § 15:16

INTERACTION BETWEEN EC AND IR DETECTORS

Blood and breath tests, understanding science of, § 5:7

“INTERROGATION”

Confessions and admissions, § 8:7

INTOX EC/IR II

Blood and breath tests, understanding science of, § 5:2, 5:3

INVESTIGATIVE STOPS

Search and Seizure, this index

INVOCATION OF RIGHT TO COUNSEL

Confessions and admissions, § 8:10

INVOLUNTARY MANSLAUGHTER

Sentences and sentencing, § 16:5

Serious offenses related to DUI, § 2:2 to 2:5

JURISDICTION AND VENUE

Generally, § 12:1 to 12:10

Change of venue, § 12:9

Circuit courts, subject matter jurisdiction, § 12:4

District court, subject matter jurisdiction, § 12:5

Domestic relations district court, subject matter jurisdiction, § 12:6

General district court, subject matter jurisdiction, § 12:5

Jurisdiction, generally, § 12:2 to 12:7

Juvenile district court, subject matter jurisdiction, § 12:6

Limitation of actions, § 12:10

Statute of limitations, § 12:10

Subject matter jurisdiction, § 12:3 to 12:6

Territorial jurisdiction, § 12:7

Venue, generally, § 12:8

JURY AND JURORS

Inferior courts, § 13:6

Sentences and sentencing, § 16:1

Trial, this index

JUVENILE DISTRICT COURT

Jurisdiction and venue, § 12:6

LANE, FAILURE TO MAINTAIN

Non-serious offenses related to DUI, § 3:4

LEGISLATION FOR CHEMICAL TESTING IN VIRGINIA

History of DUI in Virginia, § 1:6

LICENSES

Drivers' Licenses, this index

LIMITATION OF ACTIONS

Jurisdiction and venue, § 12:10

MACHINE MALFUNCTION

Blood and breath tests, understanding science of, § 5:12

MAIMING

Serious offenses related to DUI, § 2:6

INDEX

MALFUNCTION OF MACHINE

Blood and breath tests, understanding science of, § 5:12

MANSLAUGHTER

Sentences and sentencing, § 16:5

MAXIMUM AND MINIMUM SPEED LIMITS

Non-serious offenses related to DUI, § 3:2

MAXIMUM PUNISHMENT

Sentences and sentencing, § 16:13

MELENDEZ-DIAZ AND CERTIFICATE OF ANALYSIS

Blood and breath tests, understanding science of, § 5:24

MERGER

Sentences and Sentencing, this index

MINIMUM SPEED LIMITS

Non-serious offenses related to DUI, § 3:2

MINORS

Serious offenses related to DUI, § 2:7 to 2:9

MIRANDA WARNINGS

Confessions and Admissions, this index

MISDEMEANOR DUI

Elements of DUI in Virginia, § 1A:1
Sentences and sentencing, § 16:2, 16:3

MISTRIAL

Generally, § 15:17

MITIGATION

Aggravation and Mitigation, this index

MOTIONS PRACTICE

Procedural Formalities and Motions Practice, this index

MOUTH ALCOHOL AND THE SLOPE DETECTOR

Blood and breath tests, understanding science of, § 5:5

MOVE OVER LAWS

Non-serious offenses related to DUI, § 3:14

NERVES

Field sobriety evaluations, § 6:21

NON-SERIOUS OFFENSES RELATED TO DUI

Generally, § 3:1 to 3:14

Constitutional basis for stops, § 3:1

Dangling object, § 3:12

Defective equipment, § 3:9

Driving too fast for conditions, § 3:7

Equipment defective, § 3:9

Following too closely, § 3:6

Headlights off, § 3:10

Illegal turns, § 3:5, 3:13

Lane, failure to maintain, § 3:4

Maximum and minimum speed ,limits, § 3:2

Minimum speed ,limits, § 3:2

Move over Laws, § 3:14

Open container violation, § 3:8

Speed detection devices, rules governing, § 3:3

Speed ,limits, § 3:2

Speeding, § 3:7

Stops, constitutional basis for, § 3:1

U-turns, § 3:5

Wide turns, § 3:11

ONE-LEG STAND

Field sobriety evaluations, § 6:14

OPEN CONTAINER VIOLATION

Non-serious offenses related to DUI, § 3:8

OPENING STATEMENTS

Generally, § 15:10

PAROLE AND PROBATION

Sentences and sentencing, § 16:15, 16:16

PARTITION RATIO

Blood and breath tests, understanding science of, § 5:13

PENALTIES

Forensic science and blood tests,
§ 5A:4
History of DUI in Virginia, § 1:4

PER SE ALCOHOL VIOLATION

Elements of DUI in Virginia, § 1A:2

PER SE DRUG VIOLATION

Elements of DUI in Virginia, § 1A:3

PER SE LAWS IN VIRGINIA

History of DUI in Virginia, § 1:8

PEREMPTORY CHALLENGES

Generally, § 15:8

PERFECTION REQUIREMENT

Field sobriety evaluations, § 6:13

PICKING-UP-COINS TEST

Field sobriety evaluations, § 6:10

PLASMA AND SERUM

Blood and Breath Tests, Understanding Science of, this index

PLEA BARGAINING

Procedural formalities and motions
practice, § 14:4

PLEAS

Procedural formalities and motions
practice, § 14:5

POST-TRIAL MOTIONS

Generally, § 15:18

**PRELIMINARY BREATH TEST
(PBT)**

Blood and breath tests, understanding
science of, § 5:22

PRESENTENCE REPORT

Generally, § 16:8, 16:9

**PRESUMPTIONS AND
ASSUMPTIONS**

Blood and breath tests, science of,
§ 5:13, 5:20, 5A:4
History of DUI in Virginia, § 1:7
Implied consent, § 4:13

PRETRIAL CONFERENCES

Procedural formalities and motions
practice, § 14:4

PRETRIAL MOTIONS

Procedural formalities and motions
practice, § 14:6

**PRIVILEGE AGAINST
SELF-INCRIMINATION**

Implied consent, § 4:9

PROBABLE CAUSE

Administrative license suspension,
§ 10:3
Search and seizure, § 7:11

PROBATION AND PAROLE

Sentences and sentencing, § 16:15,
16:16

**PROCEDURAL FORMALITIES
AND MOTIONS PRACTICE**

Generally, § 14:1 to 14:6
Arraignment, § 14:3
Charging document, § 14:1
Entry of plea, § 14:5
Motions, § 14:6, 15:13, 15:18
Plea, entry of, § 14:5
Plea bargaining, § 14:4
Post-trial motions, § 15:18
Pretrial conferences, § 14:4
Pretrial motions, § 14:6
Speedy trial, § 14:2
Strike motions, § 15:13
Trial, generally, § 15:13, 15:18

PROHIBITION IN VIRGINIA

History of DUI in Virginia, § 1:2

PROOF

Evidence, this index

PUNISHMENT

Sentences and Sentencing, this index

QUALIFICATION PROCEDURES

Blood and breath tests, understanding
science of, § 5:27

QUALIFICATIONS OF JURORS

Trial, § 15:4

INDEX

RADIO FREQUENCY INTERFERENCE

Blood and breath tests, understanding
science of, § 5:18

REASONABLE DOUBT

Trial, § 15:2

REBUTTABLE PRESUMPTIONS

Blood and breath tests, understanding
science of, § 5:20

RECKLESS DRIVING

Sentences and sentencing, § 16:7
Speed, serious offenses related to
DUI, § 2:13

RECORDS

Discovery tools and access to state's
evidence, § 11:8
Forensic science and blood tests,
business records exception,
§ 5A:26

REFUSAL

Administrative license suspension,
§ 10:4
Field sobriety evaluations, § 6:23
Implied consent, § 4:15 to 4:17

RELATED OFFENSES

Non-Serious Offenses Related to
DUI, this index
Serious Offenses Related to DUI, this
index

RETROGRADE EXTRAPOLATION

Blood and breath tests, understanding
science of, § 5:16

REVIEW

Appeal and Review, this index

REVOCAION

Sentences and sentencing, § 16:16

RIGHT TO COUNSEL

Confessions and admissions, § 8:10,
8:13

ROADBLOCKS

History of DUI in Virginia, § 1:9
Search and seizure, § 7:10

ROMBERG TEST

Field sobriety evaluations, § 6:4

ROUTINE TRAFFIC STOPS

Confessions and admissions, § 8:6

RULES

Discovery, rules of, § 11:2 to 11:6
District court rules, § 13:7

SAMPLING PROCEDURES

Blood and breath tests, understanding
science of, § 5:27

SCIENCE

Blood and Breath Tests, Understand-
ing Science of, this index

SEARCH AND SEIZURE

Generally, § 7:1 to 7:12
Anonymous tips, § 7:5
Arrests, § 4:7, 7:11
Automobile searches, generally,
§ 7:12
Consensual encounters, § 7:2
Constitutional standard, § 7:1
Flight, § 7:7
High-crime areas, § 7:6
Investigative stops, generally, § 7:3
to 7:9
Probable cause, § 7:11
Roadblocks, § 7:10
Sobriety checkpoints, § 7:10
Statutory suppression, § 7:9
Terry stops, § 7:3
Traffic offenses, § 7:8

SEIZURE

Search and Seizure, this index

SELF-INCRIMINATION PRIVILEGE

Implied consent, § 4:9

SENTENCES AND SENTENCING

Generally, § 16:1 to 16:18
Aggravation and mitigation, presen-
tence report evidence in, § 16:8,
16:9
Allocution, § 16:11
Appeal and Review, this index
Fines, § 16:14

**SENTENCES AND SENTENCING
—Cont’d**

Habitual offender driving and DUI,
merger not barred, § 16:6
Incarceration, § 16:12
Involuntary manslaughter and DUI,
merger not barred, § 16:5
Jury sentencing, generally, § 16:1
License suspension, § 16:17
Maximum punishment, § 16:13
Merger
 habitual offender driving and DUI
 not barred, § 16:6
 involuntary manslaughter and DUI
 not barred, § 16:5
 reckless driving and DUI barred,
 § 16:7
Misdemeanor DUI, § 16:2, 16:3
Mitigation and aggravation, presen-
tence report evidence in, § 16:8,
16:9
Parole and probation, § 16:15, 16:16
Presentence report, § 16:8, 16:9
Probation and parole, § 16:15, 16:16
Reckless driving and DUI, merger
barred, § 16:7
Revocation of probation or parole,
§ 16:16
Suspension of license, § 16:17
Victim impact statement, § 16:10

**SERIOUS OFFENSES RELATED
TO DUI**

Generally, § 2:1 to 2:13
Aggravated involuntary manslaugh-
ter, § 2:5
Children and DUI, § 2:7 to 2:9
Common law involuntary manslaugh-
ter codified by Virginia, § 2:3
Cruelty to children, § 2:9
Driver’s license, disregarding signal
of law enforcement officer as
affecting, § 2:11
Felony child abuse/neglect, § 2:8
Felony murder, § 2:1
Habitual offenders, § 2:12
Involuntary manslaughter offenses,
types of, § 2:2 to 2:5
Maiming as result of DUI, § 2:6

**SERIOUS OFFENSES RELATED
TO DUI—Cont’d**

Minors and DUI, § 2:7 to 2:9
Reckless driving by speed, § 2:13
Signal of law enforcement officer,
disregarding, § 2:10, 2:11
Statutory involuntary manslaughter,
§ 2:4

**SIGNAL OF LAW ENFORCEMENT
OFFICER**

Serious offenses related to DUI,
§ 2:10, 2:11

SILENCE

Confessions and admissions, § 8:11,
8:15

SKILLS AND TOOLS TO WIN

Attorney-client relationship, § 9:2

SLOPE DETECTOR

Blood and breath tests, understanding
science of, § 5:5

SOBRIETY CHECKPOINTS

Search and seizure, § 7:10

**SPECIFICITY FOR ETHANOL
AND INTERFERING
SUBSTANCES**

Blood and breath tests, understanding
science of, § 5:9

SPECTROSCOPY

Blood and breath tests, understanding
science of, § 5:4, 5A:21, 5A:22

SPEED DETECTION DEVICES

Non-serious offenses related to DUI,
§ 3:3

SPEED LIMITS

Non-serious offenses related to DUI,
§ 3:2

SPEEDING

Non-serious offenses related to DUI,
§ 3:7

SPEEDY TRIAL

Procedural formalities and motions
practice, § 14:2

INDEX

STANDARDIZED FIELD SOBRIETY TESTS (SFSTs)

Generally, § 6:11 to 6:16, 6:22

STANDING BALANCE TEST

Field sobriety evaluations, § 6:4

STATE ADMINISTERED TESTS

Implied consent, § 4:10 to 4:14

STATUTE OF LIMITATIONS

Jurisdiction and venue, § 12:10

STATUTES AND STATUTORY PROVISIONS

Blood and breath tests, understanding
science of, § 5:23

Implied consent, § 4:1 to 4:4

Limitations. Statute of, § 12:10

Serious offenses related to DUI, § 2:4
Trial, § 15:6

STOPS

Non-serious offenses related to DUI,
§ 3:1

STRIKE MOTIONS

Trial, § 15:13

SUBJECT MATTER JURISDICTION

Jurisdiction and venue, § 12:3 to
12:6

SUBPOENA DUCES TECUM

Discovery tools and access to state's
evidence, § 11:9

SUBSEQUENT OFFENDERS

Generally, § 1A:11

SUPREME COURT OF VIRGINIA

Overview, § 13:5

SUSPENSION

Administrative License Suspension,
this index

History of DUI in Virginia, § 1:10

Sentences and sentencing, § 16:17

TEMPERATURE DEFENSE

Blood and breath tests, understanding
science of, § 5:14

TERRITORIAL JURISDICTION

Jurisdiction and venue, § 12:7

TESTIMONIAL STATEMENTS

Confessions and admissions, § 8:2

TESTS AND TESTING

Blood and Breath Test, Understand-
ing Science of, this index

Field Sobriety Evaluations, this index

History of DUI in Virginia, § 1:5, 1:6

Implied Consent, this index

Totality of circumstances test, confes-
sions and admissions, § 8:6

TOTALITY OF CIRCUMSTANCES TEST

Confessions and admissions, § 8:6

TRACING TEST

Field sobriety evaluations, § 6:9

TRAFFIC STOPS

Confessions and admissions, § 8:6

TREATMENT/SAFETY NET, GETTING CLIENT INTO

Attorney-client relationship, § 9:7

TRIAL

Generally, § 15:1 to 15:18

Challenges to jury selection process
constitutional challenges to jury
selection process, § 15:5

individual venire members. chal-
lenges to, § 15:7 to 15:9

peremptory challenges, § 15:8

statutory challenges to jury selec-
tion process, § 15:6

voir dire and DUI, § 15:9

Closing arguments, § 15:14, 15:15

Constitutional law, § 15:1, 15:5

Cross-examination, § 15:12

Evidence, § 15:2, 15:11

Failure to testify, closing arguments,
§ 15:15

Instructions to jury, § 15:16

Jury and jurors

challenges to jury selection pro-
cess, above

instructions to jury, § 15:16

qualifications of jurors, § 15:4

TRIAL—Cont'd

Mistrial, § 15:17
Motions and motion practice,
§ 15:13, 15:18
Opening statements, § 15:10
Peremptory challenges, § 15:8
Post-trial motions, § 15:18
Proof, § 15:2, 15:11
Qualifications of jurors, § 15:4
Reasonable doubt, proof beyond,
§ 15:2
Statutory challenges to jury selection
process, § 15:6
Strike motions, § 15:13
Voir dire, § 15:3, 15:9

U-TURNS

Non-serious offenses related to DUI,
§ 3:5

“UNDER THE INFLUENCE”

Elements of DUI in Virginia, § 1A:4
to 1A:6

U.S. v HORN

Field sobriety evaluations, § 6:12

VENUE

Jurisdiction and Venue, this index

VICTIM IMPACT STATEMENT

Sentences and sentencing, § 16:10

VIOLATION

Rules of discovery, remedy for viola-
tion of, § 11:3, 11:6

VOIR DIRE

Generally, § 15:3, 15:9

WAIVER

Miranda warnings, § 8:9

WALK-AND-TURN TEST

Field sobriety evaluations, § 6:15

WARRANT

Blood tests, § 5A:23

WARRANTLESS ARREST

Implied consent, § 4:4

WHOLE BLOOD

Blood and Breath Tests, Understand-
ing Science of, this index

WIDE TURNS

Non-serious offenses related to DUI,
§ 3:11