

Department of Planning and Budget - REVISED 02/13/01

2001 Fiscal Impact Statement

1. Bill Number HB1812

House of Origin ☐ Introduced ☐ Substitute ☒ Engrossed
Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron Cranwell

3. Committee S. Transportation

4. Title Judicial approval for DMV revocation or suspension.

5. Summary/Purpose:

Provides that when a defendant is convicted of a traffic or criminal offense that triggers the administrative revocation or suspension of his driver's license or automobile registration by the Department of Motor Vehicles, then DMV shall not suspend or revoke the license or registration without the prior approval of the court, unless the court has already authorized the administrative revocation or suspension in its order of adjudication.

6. Fiscal Impact Estimates are: Yes, tentative - see #8 below.

7. Budget amendment necessary: Not determined at this time.

8. Fiscal implications:

This bill could have a significant fiscal impact on the court system, the Department of Motor Vehicles, the Office of the Attorney General, the Department of Transportation, and upon fees collected for DMV, VASAP, and the Commonwealth Neurotrauma Initiative Trust Fund.

If the court authorizes the administrative suspension or revocation in its order of adjudication and then conveys that authorization to DMV via the automated interface, then the impact on the court system may be relatively limited. The more significant impact occurs when the court does not authorize the administrative suspension or revocation and DMV must petition the court for such authorization, creating a new case in each instance. These instances occur when the judicial sanctions associated with the conviction and the administrative sanctions do not "match" and the court is unaware that the more stringent administrative revocation or suspension will be applicable.

According to the Office of the Executive Secretary of the Supreme Court, there are at least two relatively common scenarios where a court will not know to give prior approval to the otherwise applicable specific DMV administrative suspension or revocation. First, if a defendant with prior DUI convictions is charged only with first-offense DUI and not second-offense DUI or third-offense DUI, then he can only be convicted of first-offense DUI and the court will not necessarily know that this is actually a second, third, or subsequent conviction. The court may not have access to a recent or complete driving record of the defendant. Effective July 1, 2000, DMV imposed an administrative revocation for second and subsequent offenses of DUI in appropriate cases, even if the defendant was convicted of first offense DUI, as opposed to second or subsequent offense DUI. During the first 6

months of this new provision, there were 664 defendants who received an administrative revocation for second or subsequent DUI convictions, even though their second or subsequent offense had been a first-offense conviction for DUI. Therefore, under this scenario, it is reasonable to suppose that this legislation could generate 1,300 new cases annually for the court system, as DMV would be required to petition the court for approval of the imposition of the applicable administrative sanction.

The second foreseeable scenario where this legislation could generate additional cases for the court system is in the case of administrative license suspensions for drug convictions. These suspensions must run consecutively with court-imposed suspensions and with other administrative suspensions for similar convictions. If the convicting court does not have access to a very recent, complete, and accurate driving record of the defendant, then the court may not be able to tell what administrative suspensions are applicable and, therefore, not know what pattern of administrative suspensions it would have the discretion to approve in its order of conviction. Annually, there have been approximately 19,000 administrative license suspensions by DMV for drug violations. It is not possible to tell what percentage of those cases could result in petitions by DMV for approval, but if one assumed that 25 percent of those suspensions required DMV to petition the court for approval, then that could add 4,750 new cases to the state caseload.

The Office of the Executive Secretary of the Supreme Court's analysis is based on the assumption that each petition filed by DMV for approval of the administrative suspension or revocation of a license will require a hearing of 15 minutes. Also, setting up the case file and closing the case will take 15 minutes of a clerk's time, in addition to the 15 minutes spent in the hearing. Therefore, each case will have an impact on judicial resources and an impact on the resources of the clerk's office. If this legislation resulted in 6,050 new proceedings in court, then it could impact upon the courts' efficiency. If the workload increases to an unacceptable level, then additional judgeship and clerk positions may have to be added.

The Department of Motor Vehicles estimates that, potentially, 54,000 orders could be affected by this legislation. Using the court's estimate, 6,050 cases could be impacted by this bill, and a percentage of these may not be approved by the courts. According to DMV, additional staff may be needed in order to implement and administer the pre-approval requirement and to assist the Office of the Attorney General in petitioning the court for approval of DMV suspensions or revocations. For planning purposes, DMV notes that four positions may be needed, which is estimated to cost \$165,560 annually.

DMV also estimates that a new major reprogramming overhaul may be required. According to DMV, the costs associated with these changes are \$603,700.

Revenue collection may also be impacted. However, the number of DMV suspensions that would not be approved by the court cannot be determined. However, any that are not approved by the court could result in less revenue to DMV, VASAP, and to the Commonwealth Neurotrauma Initiative Trust Fund (CNITF).

If enacted, then the legislation could also render the Commonwealth non-compliant with federal repeat DUI offender requirements and Commercial Driver Licensing requirements. At this time, it is unclear how the court system will decide these cases, and how the federal government will view the handling of the cases. If the Commonwealth is unable to certify compliance or is determined to be non-compliant with repeat offender requirements mandated by TEA-21, then the Commonwealth could experience a transfer of federal highway construction funds to alcohol highway safety and/or hazard elimination

programs. It is estimated that as of October 1, 2001, \$5.8 million and as of October 2, 2002, \$11.6 million in federal funds could be subject to transfer.

The legislation could also render the Commonwealth non-compliant with federal requirements pertaining to driver's license suspensions for drug offenders. Non-compliance with these federal requirements in a particular year could result in the forfeiture of 10 percent of federal highway construction funds apportioned to the Commonwealth for that year. It is estimated that as of October 1, 2001, \$39 million in federal funds could be subject to forfeiture.

In addition, the proposed legislation could render Virginia non-compliant with federal CDL laws and regulations, which could result in the loss of federal Motor Carrier Safety Assistance Program (MCSAP) funds in unknown amounts. In addition, 5 percent of funds allocated to the Commonwealth for the National Highway System Program, the Surface Transportation Program, and the Interstate Maintenance Program, totaling approximately \$19 million, could also be effected during the first year of non-compliance. In the second year of non-compliance, the percentage of these federal funds increases to 10 percent.

Non-compliance with CDL requirements could also result in Virginia's decertification to issue CDL's which may result in a loss to the DMV Special Fund of an estimated \$1.7 million in the first year.

The Office of the Attorney General would be responsible for petitioning the court for approval of suspensions or revocations for those cases in which pre-approval has not been provided. There could be an impact on their office resulting from this bill. However, DMV is a nongeneral fund agency, and their agency reimburses the Attorney General's office for the costs of providing legal services. At this time, no additional information is available to determine a fiscal impact.

10. Specific agency or political subdivisions affected: The court system, the Compensation Board, DMV, Office for the Attorney General, Department of Transportation, VASAP, and the Department of Health.

11. Technical amendment necessary: No.

12. Other comments: None.

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cc: Secretary of Transportation
Secretary of Administration
Secretary of Health and Human Resources