

Department of Planning and Budget

2001 Fiscal Impact Statement

1. Bill Number SB904

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron Mims

3. Committee Passed Both Houses

4. Title Forfeiture of driver's license for driving while intoxicated/Appeals from order suspending or revoking license or registration.

5. Summary/Purpose:

The enrolled bill, which has been amended, provides that any person aggrieved by any order of the Commissioner of the Department of Motor Vehicles (DMV) requiring suspension of a driver's license is entitled, in cases of manifest injustice, to petition the circuit court to review DMV's order. Manifest injustice is defined as those instances where the Commissioner's order was the result of an error or was issued without authority or jurisdiction, or actually conflicts with a final order of a court. If the court finds that the Commissioner's order is manifestly unjust, then the court may modify the order or issue the person a restricted license. In addition, if the court, as a condition of license restoration or as a condition of a restricted license, fails to prohibit an offender from operating a motor vehicle that is not equipped with a interlock system and does not state in writing why the interlock is not required, then the DMV Commissioner shall enforce the requirements related to the installation of such systems.

The bill also modifies existing statutes pertaining to DUI convictions to provide for the imposition of driver's license suspensions and revocations based upon the courts' enumeration of DUI convictions, as opposed to the number of DUI convictions appearing on the driving record. Language is also reinstated that affirms that a court trying a second-offense DUI shall order the surrender of their license and notify such person that his license has been revoked for a period of three years.

The provision does not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by the Commissioner.

6. Fiscal Impact: Final, see #8 below.

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill could have a fiscal impact on the court system, the Department of Motor Vehicles, on federal funds received related to TEA-21 (the Department of Transportation), and upon fees collected for the Virginia Alcohol Safety Action Program (VASAP) and the Commonwealth Neurotrauma Initiative Trust Fund. The Department of Motor Vehicles estimates that approximately 100,000 suspensions or revocations based on convictions and administrative actions could now become subject to judicial review. Because a judicial appeal could be viewed as another option for the person having their license suspended or revoked, it is anticipated that many people will appeal as a way of possibly overturning the

finding. The definition of manifest injustice will, ultimately, rest with the court. There is no way to determine the exact number of appeals. However, if 5 to 60 percent of those who are eligible to “appeal” this administrative revocation or suspension chose to do so, then there could be 5,000 to 60,000 new judicial cases per year in the circuit courts.

According to the Office of the Executive Secretary of the Supreme Court, each person who chooses to contest the administrative suspension or revocation of his license may require a hearing that could last 15 minutes (1,250 to 15,000 hours of judges’ time). Also, setting up the case file, and closing the case, may also take 15 minutes of a clerk’s time, in addition to the 15 minutes spent in the hearing (2,500 to 30,000 hours of clerks’ time). Currently, the cost of each additional judgeship added in a circuit court is estimated to be \$277,797, including two security positions and one clerk position. Anytime there is an increase in the caseload of the courts, there could be an impact on court efficiency. If the workload increases to an unacceptable level, then additional positions may have to be added.

If the court finds that the Commissioner’s order is manifestly unjust, then the court may modify the order or issue the person a restricted license. Depending on the finding by the court, reinstatement fees may not be collected. In fiscal year 2000, over \$5 million total in reinstatement fees were paid to DMV, VASAP, and the Commonwealth Neurotrauma Initiative Trust Fund (CNITF). Any reduction in reinstatement fees could reduce the funds received by DMV, VASAP, and the Commonwealth Neurotrauma Initiative Trust Fund (CNITF).

DMV also estimates that a new major reprogramming overhaul may be required. Accordingly, the costs associated with these changes are estimated to be \$467,110 in nongeneral funds (NGF).

The legislation could also require an increase of DMV staffing in order to note appeals and final dispositions on records bearing original suspension and revocation information. It is estimated that appeal of all impacted orders and imposition of new suspension/revocation periods and/or restricted licenses would require additional staff positions in order to accommodate the increase in workload. For planning purposes only, DMV estimates that 10 percent of impacted orders would be appealed, which may require the addition of five clerical positions and one manager at an estimated cost of \$191,000 (NGF) per year.

According to the Department of Motor Vehicles, this legislation could render the Commonwealth non-compliant with repeat offender requirements mandated by TEA-21, which may result in less federal highway funds for highway construction projects. If the Commonwealth is unable to certify that it enforces a repeat offender law that complies with federal requirements, then 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 from highway construction to alcohol highway safety and/or hazard elimination programs. At this time, a prediction cannot be made as to how federal authorities will interrupt the legislation or how the courts will decide these cases.

The bill notes that judicial review of revocation or suspension by the commissioner does not apply to any commercial driver’s license disqualification and revocation for non-driving drug offenses. Given this, the bill is not expected to impact on Virginia’s compliance with federal CDL laws and drug offender regulations.

9. Specific agency or political subdivisions affected: The court system, the Department of Transportation, the Compensation Board, DMV, VASAP, and the Department of Health.

10. Technical amendment necessary: No.

11. Other comments: HB 1617 has identical provisions related to §46.2-410.1.

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

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