



## Impact Analysis on Proposed Legislation

*Virginia Criminal Sentencing Commission*

### Senate Bill No. 329

*Amendment in the Nature of a Substitute (H1)  
(Patrons Prior to Substitute – Stolle and Mims)*

**Date Submitted:** 3/5/04

**LD #:** 04-0050820

**Topic:** Drive on suspended license after consuming alcohol

#### **Proposed Change:**

The proposal amends §§ 18.2-267, 18.2-268.2, 18.2-268.3, 18.2-268.8, 18.2-268.9, 18.2-268.10 and 18.2-272 to expand the restrictions placed on a person after a license forfeiture. If the offender has forfeited their license under § 18.2-272, regardless of compliance with any other restriction placed on a person's privilege to drive, the proposal makes it a Class 1 misdemeanor for a person to operate a motor vehicle with a blood alcohol concentration (BAC) of 0.02 or more. Currently, § 18.2-272 makes it a Class 1 misdemeanor to operate a motor vehicle after being deprived of the right to do so. The proposal also adds reference to § 18.2-272 in several statutes relating to breath testing of a driver for alcohol.

#### **Data Analysis:**

Based on fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, which contains information on offenders held pre- or post-trial in jail, 1478 offenders were convicted of driving on a suspended license under § 18.2-272. Of these, 1% was not sentenced to any additional term of incarceration, while 95% were sentenced to local-responsible (jail) terms with a median sentence of 15 days. The remaining 4%, convicted of additional charges, received state-responsible (prison) terms.

The Division of Forensic Sciences of the Department of Criminal Justice Services reported performing 29,499 tests for BAC in 2001; nearly all (29,438) were 0.02 or more. Of the total, approximately 9% (2,753) were 0.02 or more but less than 0.08; these individuals could be subject to the new misdemeanor penalty as an adult, without meeting the requirements for a driving while intoxicated conviction.

#### **Impact of Proposed Legislation:**

The proposed legislation expands an existing misdemeanor offense to include drivers who have forfeited their license under § 18.2-272, are complying with all other restrictions on their privilege to drive, but whose BAC level exceeds .02. The proposal is not expected to increase state-responsible (prison) bed space needs, but may increase the need for local-responsible (jail) bed space. However, the number of offenders that would be affected by the proposal cannot be determined.

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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.