

## Department of Planning and Budget 2008 Fiscal Impact Statement

**1. Bill Number:** HB719-ER

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

**2. Patron:**        Janis

**3. Committee:** Passed Both Houses

**4. Title:**        **Punishment for underage drinking and driving; penalty.**

**5. Summary:** Provides that “zero tolerance” (0.02% BAC) underage drinking and driving is punishable as a Class 1 misdemeanor and mandates punishment for violations shall be forfeiture of such person's license to operate a motor vehicle for a period of one year from the date of conviction and a mandatory minimum fine of \$500 or performance of a mandatory minimum of 50 hours of community service. Currently, the punishment is loss of license for six months and a fine of no more than \$500. The proposal includes an enactment clause with the provision that the act shall expire on July 1, 2010. Another enactment clause mandates the Department of Criminal Justice Services to submit reports on the number of detentions pursuant to § 18.2-266.1 of the Code of Virginia that are in violation of the federal Juvenile Justice and Delinquency Prevention Act. These enactments are needed in case violators are penalized with a period of confinement (juvenile bed or local jail bed).

**6. Fiscal Impact Estimates:** FINAL.

**7. Budget Amendment Necessary:** No.

**8. Fiscal Implications:** The proposed legislation is not expected to have a fiscal impact. The proposal states what the punishment shall be without mentioning a sentence to incarceration. Punishment is mandated to be the loss of the violator’s driver’s license and a minimum fine of \$500 or performance of a mandatory minimum of 50 hours of community service.

However, since the proposed legislation identifies violations as a Class 1 misdemeanor (up to 12 months in jail and/or up to a \$2,500 fine), confusion could exist as to whether or not violators could also be sentenced to a period of confinement. If confinement was ordered, then the proposed legislation would have a fiscal impact.

Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails’ operating costs, e.g. correctional officers. The state’s share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board’s most recent FY2006 Jail Cost Report (November 1, 2007), the estimated total state support for local jails averaged \$28.42 per inmate, per day in FY 2006.

Additional revenues could also be generated due to the proposed penalties. Any additional revenues produced by fines would go into the Literary Fund.

**9. Specific Agency or Political Subdivisions Affected:** Law enforcement agencies statewide, Department of Criminal Justice Services.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** Proposal should be clarified by either including a notwithstanding clause (to keep typical Class 1 misdemeanor penalties from being imposed) or by removing the Class 1 misdemeanor label altogether.

**Date:** 3/10/2008 dpb/jgc

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