

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: HB1258

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

2. Patron: Miller

3. Committee: Courts of Justice

4. Title: Ignition interlock permit replaces restricted license post-DUI.

5. Summary: This bill replaces the restricted license issued following a conviction of driving under the influence (DUI) with mandatory ignition interlock on every vehicle driven by the offender. The offender would be issued an 'ignition interlock permit.' The bill contains technical amendments.

6. Budget Amendment Necessary: Yes, Item 389 and Item 447.

7. Fiscal Impact Estimates: Preliminary. See #8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013	\$128,350	-	Nongeneral Fund
2013	\$50,000	-	General Fund

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013	(\$7,500,000)	Nongeneral Fund
2014	(\$7,500,000)	Nongeneral Fund
2015	(\$15,000,000)	Nongeneral Fund
2016	(\$15,000,000)	Nongeneral Fund
2017	(\$15,000,000)	Nongeneral Fund
2018	(\$15,000,000)	Nongeneral Fund

8. Fiscal Implications: There are federal regulations (23 CFR Part 1275) that specify the steps a state must take regarding repeat DUI offenses in order to avoid the transfer of certain federal aid highway funds for noncompliance. Under 23 CFR § 1275.4, a state must enact and enforce a law that repeat intoxicated drivers be subject to the installation of an ignition interlock device “on each of the driver’s motor vehicles.” A “driver’s motor vehicle” is defined as a “motor vehicle with a title or registration on which the repeat intoxicated driver’s name appears.” (23 CFR § 1275.3).

Therefore, only requiring that the ignition interlock be installed on a vehicle operated by the offender would be a relaxation of this federal requirement and might result in the loss of federal highway funds apportioned to the state under 23 USC 104(b)(1), (b)(3), and (b)(4).

This action could result in the loss of \$7.5 million in federal highway funds during the first two years, growing to \$15 million per year after that.

The Department of Motor Vehicles will also incur one-time expenses in the first year relating to system changes at the agency and at the driver's license vendor which will be absorbed within existing resources.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. Therefore, by expanding the number of people subject to misdemeanor and felony offenses, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 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 Jail Cost Report (November 2011), the estimated total state support for local jails averaged \$29.98 per inmate, per day in FY 2010.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 890 of the 2011 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Motor Vehicles, Virginia Department of Transportation, Virginia Alcohol Safety Action Program, Department of Corrections.

10. Technical Amendment Necessary: No.

- 11. Other Comments:** The bill provides that the Virginia Alcohol Safety Action Program (VASAP) shall develop regulations that also provide for the establishment in the state treasury of a special non-reverting fund to be known as the Ignition Interlock Assistance Fund (the Fund). On and after July 1, 2012, a court shall order any person convicted of a violation of § 18.2-266 or 18.2-266.1 to pay \$30 into the Fund. The language provides that any costs incurred by the Department of Motor Vehicles (DMV) in administering the Fund shall be drawn from the Fund. The bill is unclear as to how DMV would administer a fund that does not yet exist on July 1, 2012 or how its administration would be paid for if the Fund has insufficient funds for administration.

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c: Secretary of Transportation