

## **Department of Planning and Budget 2017 Fiscal Impact Statement**

**1. Bill Number: HB 1906**

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

**2. Patron: Heretick**

**3. Committee: House Courts of Justice**

**4. Title: Marijuana**

**5. Summary:**

Under current law, possession of marijuana is a misdemeanor, punishable by a jail sentence of not more than 30 days and a fine of not more than \$500.

The proposed legislation would make anyone convicted of possession of marijuana subject to a civil penalty, rather than a criminal sentence. The penalty would be a fine of not more than \$250 for the first offense and not more than \$1,000 for a second or subsequent offense. Revenue from the penalty would be paid into the Literary Fund.

For distribution of not more than one-half ounce of marijuana, a Class 1 misdemeanor, the legislation would create a rebuttable presumption that such possession was for personal use, rather than distribution.

Finally, the legislation would make the following changes related to making possession of marijuana a civil, rather than criminal, offense:

- a. A county, city, or town attorney, in addition to the attorney for the Commonwealth, would be authorized to prosecute such cases.
- b. Drug testing and education—Under current law, as a condition of a suspended sentence of a conviction of possession of marijuana, a court shall order the offender to undergo substance abuse screening and to participate in a treatment or education program. The proposed legislation would eliminate that requirement for adults convicted of possessing marijuana, but would continue to require it for the suspension for a minor assessed a civil penalty for marijuana possession.
- c. Driver's license suspension—Under current law, upon conviction, or placement on probation following deferral of sentence, of possession of marijuana, an offender's driver's license would be suspended for six months. The proposed legislation would eliminate the driver's license suspension for adults convicted of the civil offense of possession of marijuana, but would continue to require it for a minor assessed a civil penalty for marijuana possession.

**6. Budget Amendment Necessary: Yes.**

**7. Fiscal Impact Estimates:** Preliminary. See Item 8.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	(\$75,000)	General
2019	(\$75,000)	General
2020	(\$75,000)	General
2021	(\$75,000)	General
2022	(\$75,000)	General
2023	(\$75,000)	General

**8. Fiscal Implications:**

The legislation's impact on expenditures would occur in the form of a reduction in the amount of per diem payments made by the Compensation Board to the local and regional jails for housing local responsible offenders. For each jail inmate convicted of a misdemeanor, the state reimburses the local or regional jail \$4.00 per day the offender is housed in the jail. According to the Virginia Criminal Sentencing Commission, in FY 2015 and FY 2016, there were 22,318 convictions for simple possession of marijuana, an average of 11,159 per year. Of those convictions, 16.8 percent received a jail sentence, with a median sentence of 10 days. Based on that data, 1,875 offenders spent a total of 18,750 days in jail. At \$4.00 per day, the per diem payments would have been \$75,000.

There would also be a revenue impact, resulting from a reduction in the fees collected for reinstatement of driver's licenses automatically suspended after a conviction for possession of marijuana. For the reinstatement of his or her suspended driver's license, a person must pay a fee of \$145, of which \$45 goes to the Department of Motor Vehicles (DMV) to support its operations and \$100 is deposited to the Trauma Center Fund, created to help defray the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol or drug use and administered by the Department of Health.

According to DMV, there were 11,780 license reinstatements in FY 2016 resulting from convictions for possession of marijuana. Assuming that this rate of convictions would continue into future years, the proposed legislation would result in annual loss of revenue from reinstatement fees of \$530,100 for DMV and \$1,178,000 for the Trauma Center Fund. In the first year of the legislation's implementation, the impact would be half of the annual impact, because any persons convicted in the second half of the year could not have their licenses reinstated until six months later, in the ensuing fiscal year.

**9. Specific Agency or Political Subdivisions Affected:**

Compensation Board  
Department of Motor Vehicles  
Department of Health  
General district courts

Local and regional jails

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

**Date:** 1/25/2017