

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB 2327

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

2. Patron: Collins

3. Committee: Senate Courts of Justice

4. Title: Driving under the influence

5. Summary:

Under current law, a person who operates a motor vehicle upon a highway in the Commonwealth or a watercraft on the waters of the Commonwealth is deemed to have consented to having samples of his blood or breath taken to determine the alcohol or drug content of his blood upon arrest for a DUI-related offense. The unreasonable refusal of a person to submit to blood or breath tests is punished (i) for a first offense, as a civil offense with a one-year driver's license suspension; (ii) for an offense committed within 10 years of a prior offense of refusal or of other DUI-related offenses, as a Class 2 misdemeanor with a three-year driver's license suspension; and (iii) for an offense committed within 10 years of two prior offenses of refusal or of other DUI-related offenses, as a Class 1 misdemeanor with a three-year driver's license suspension.

The proposed legislation makes extensive changes in the current statutes dealing with driving under the influence, as follows:

- Eliminates the criminal penalties for refusing to submit to a blood test to determine the alcohol or drug content of a defendant's blood upon arrest for a DUI-related offense under the law on implied consent;
- Increases to a Class 1 misdemeanor the criminal penalty for refusing to submit to a breath test under the law on implied consent for an offense committed within 10 years of a prior offense of refusal or of another DUI-related offense;
- Extends to blood tests performed by the Department of Forensic Science pursuant to a search warrant the rebuttable presumption that a person is intoxicated based on the person's blood alcohol level demonstrated by such tests;
- Provides that an application for a search warrant to perform a blood test on a person suspected of committing a DUI-related offense shall be given priority over any other matters pending before the judge or magistrate; and
- Authorizes the Attorney General to participate in appeals of civil offenses for unreasonably refusing to submit to testing under the implied consent law.

6. Budget Amendment Necessary: None.

7. Fiscal Impact Estimates: Indeterminate. See Item 8 below.

8. Fiscal Implications:

The proposed legislation increases the unreasonable refusal to submit to a breath test within 10 years of a prior offense of refusal or of other DUI-related offenses from a Class 2 misdemeanor to a Class 1 misdemeanor. For a conviction of a Class 2 misdemeanor, the court may sentence the offender up to 6 months in jail; for a Class 1 misdemeanor, the possible sentence is up to 12 months in jail. Therefore, this proposal could result in an increase in the number of persons sentenced to jail.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, 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 and \$12.00 a day for each state responsible inmate. It also funds a considerable portion 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 2016), the estimated total state support for local jails averaged \$32.82 per inmate, per day in FY 2015.

9. Specific Agency or Political Subdivisions Affected:

Local and regional jails
Department of Forensic Science
Department of Motor Vehicles
Department of State Police

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/13/2017