

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB2439

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: Freitas

3. Committee: General Laws

4. Title: General Assembly; regulatory penalty statement.

5. Summary: General Assembly; regulatory penalty statement. Requires, beginning January 1, 2018, the inclusion of a regulatory penalty statement in any legislation that imposes a requirement on a business or entity engaged in a regulated activity where, under the basic law of the agency responsible for regulating the activity, the agency has the authority by regulation to establish a graduated scale of monetary or civil penalties in accordance with mandatory maximum or minimum penalties set forth in its basic law for enumerated violations. The regulatory penalty statement shall be printed on the face of each bill, but shall not be codified, and shall indicate that the legislation authorizes the (Name of Agency) to establish a graduated scale of monetary or civil penalties for violations. The bill provides that (i) prior to submission to the Registrar of Regulations, an agency affected by legislation shall, by September 1, provide a written report to the standing committee to which matters relating to the content of the planned regulation are most properly referable describing the subject matter and intent of the planned regulation; (ii) the standing committee shall meet on the planned regulation and shall file with the agency and the Governor any objection to the planned regulation by November 1; (iii) if an objection is filed, the promulgation of the planned regulation shall be suspended, with the concurrence of the Governor, until the end of the next regular legislative session; and (iv) if no objection is filed or the Governor does not concur, the agency may promulgate the regulation in accordance with the Administrative Process Act. The bill also requires general notice of the provisions of this requirement to be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations by the Joint Commission on Administrative Rules to advise agencies of their obligations under the bill.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary; see Item 8.

8. Fiscal Implications: The bill has the potential for fiscal impact to the Commonwealth. However, there are many unknown factors that make the determination of the fiscal impact difficult. It is not known how many pieces of legislation will be submitted that impose requirements on a business or entity engaged in a regulated activity. It is not known how many agencies have regulated activities where the agency has the authority by regulation to establish a graduated scale of monetary or civil penalties. The cost of reporting is believed to

be minimal, but could vary by agencies and the number of affected regulations. The imposition of dates by which a report is to be submitted to a standing committee, the consideration for that committee's objection, and the Governor's review of those objections, could have a fiscal impact on the timing of a regulation and delays could be fiscally negative.

The Division of Legislative Services, who provides staffing and legal support to the Joint Commission on Administrative Rules and many other legislative bodies, recognizes the bill has a process impact. For every bill request that imposes a requirement on a business or entity engaged in a regulated activity, the Division or the standing committee to which the bill is referred will have to make a determination if the regulatory penalty statement is applicable. Because the bill covers every agency of the Commonwealth that has the power to issue regulations or make case decisions, the turnaround time for drafting bills may be impacted by the need to make the determination of whether the basic law of the agency authorizes the agency to establish a graduated scale of penalties relating to the subject matter of the bill.

9. Specific Agency or Political Subdivisions Affected: The Joint Commission on Administrative Rules; The Division of Legislative Services; State agencies who submit regulations.

10. Technical Amendment Necessary: No.

11. Other Comments: None.