

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB1091

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

2. Patron: Ebbin

3. Committee: Courts of Justice

4. Title: Driver's license; marijuana possession.

5. Summary: This bill revises the existing provision that a person loses his driver's license for six months when convicted of or placed on deferred disposition for a drug offense to provide that the provision does not apply to deferred disposition of simple possession of marijuana. The exception applies only to adults; juveniles will still be subject to license suspension. The provisions of the bill are contingent upon written assurance from the U.S. Department of Transportation that Virginia will not lose any federal funds as a result of implementation of the bill.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: To implement the legislation, the Department of Motor Vehicles (DMV) would need to modify its existing programs to no longer automatically suspend persons upon receiving a deferral of prosecution on a possession of marijuana charge. Instead, such persons would only be suspended if the judge specifically ordered driver's license suspension as a term of probation. DMV estimates that programming will cost \$18,733 and require 295 personnel hours, which the agency can absorb.

DMV anticipates that passage of this bill would lead to a loss of reinstatement fee revenue. Whenever a person's license is suspended, they must pay a \$145 reinstatement fee to reinstate their license of which \$100 goes to the Trauma Center Fund and \$45 goes to DMV. When a person has multiple outstanding suspensions, they pay the \$145 fee for the first suspension satisfied and a \$5 multiple order fee for each remaining suspensions, which goes to DMV. If a person avoids having his license suspended, then he will not owe the reinstatement fee.

DMV received 5,759 deferral orders for possession of marijuana in FY 2015 and 5,762 deferral orders in FY 2016. DMV cannot estimate the number of people who will avoid suspension after receiving a deferral of prosecution for possession of marijuana in the future, which will depend upon the number of persons arrested for possessing marijuana and the willingness of prosecutors, defense attorneys, and judges to authorize deferral of prosecution without suspension. If deferral orders would continue to be issued at the rate they were in

FY 2016 and no person were to have driver's license suspension imposed as a term of probation, then the Trauma Center Fund could lose up to \$576,200 per year, and DMV could lose up to \$259,290 per year. The amount lost each year would likely be less, however, because some people whose prosecutions are deferred will be suspended for other reasons, in which case DMV would only lose the \$5 multiple order fee. Additionally, DMV expects that some individuals will have their licenses suspended as a term of probation, in which case the reinstatement fee would continue to be owed. DMV's fiscal outlook does not contain sufficient funding to accommodate this loss without an impact to current services or programs.

The fiscal impact of this bill is contingent upon receiving the written assurance from the USDOT that Virginia will not lose any federal funds as a result of the implementation of this act. However, states can opt out at no cost and without penalty. To opt out, a state legislature and governor must approve an opt-out resolution. The resolution is sent to the Federal Highway Administration. The USDOT certifies that a state has properly opted out.

9. Specific Agency or Political Subdivisions Affected: Department of Motor Vehicles, Virginia Department of Health.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to HB 2051 and similar to SB 784.

Date: 1/16/2017

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cc: Secretary of Transportation