



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1153 (Patron – Wilt)

LD#: 18103153

Date: 01/12/2018

Topic: Issuance of a restricted commercial driver's license

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends several sections of the *Code* and adds new subsections relating to issuance of a restricted commercial driver's license under certain circumstances. The proposal would:

- Modify §§ 46.2-320.1, 46.2-320.2, and 46.2-395 to indicate that if a person's driving license is suspended due to violation of these sections (e.g., a failure to pay child support, nonpayment of fees owed to local correctional facilities/regional jails, or failure/refusal to pay fines and court costs) and if driving a motor vehicle is a necessary part of such person's employment, the court could order a restricted commercial driver's license which would only be valid for an operation of motor vehicle during the hours of employment.
- Modify §§ 46.2-324.1 and 46.2-341.9 to permit a person to be eligible to apply for a commercial driver's license if such person is granted a restricted commercial driver's license which restores a suspended, cancelled, or revoked driving privilege under subsection B of § 46.2-341.9.
- Modify § 46.2-341.12 (relating to application for commercial driver's license or permit) to specify that a person having a valid and unexpired restricted commercial license shall not be considered to be subject to any disqualification, suspension, revocation or cancellation of driving privilege.
- Permits a driver with military commercial motor vehicle experience to waive the driving skills test for issuing a commercial driver's license by specifying that such person's previous record of a restricted commercial driver's license shall not be considered to have been subject to any disqualification or suspension of driving privilege under § 46.2-341.14:01.

- Adds § 46.2-341.15:1 requiring the Department of Motor Vehicles, upon receipt of a court order, to issue a restricted commercial driver's license to the person named in the court order.

According to the proposal, section 18.2-272 of the *Code* establishes base penalties for violating any regulations imposed pursuant to the subsections associated with a restricted commercial driver's license. It is a Class 1 misdemeanor to drive or operate a motor vehicle, engine or train in violation of a revoked or restricted license under § 18.2-272(A). Under subsection B, it is a Class 1 misdemeanor for an individual whose driver's license was revoked or restricted as the result of a DWI conviction to operate a motor vehicle with a blood alcohol content of .02 percent or more. Driving without an ignition interlock system that is administratively required (by § 46.2-391.01) because a court failed to impose the prohibition is also punishable as a Class 1 misdemeanor under § 18.2-272(C). A third or subsequent violation of § 18.2-272 within 10 years is a Class 6 felony.

Analysis:

According to fiscal year (FY) 2016 and FY2017 General District (Traffic) Court Case Management System (CMS) data, 56% of offenders convicted of a Class 1 misdemeanor under § 18.2-272(A) for driving on a revoked or restricted license (as the primary, or most serious, offense) were given a local-responsible (jail) term. The median sentence in these cases was 20 days. The remaining offenders did not receive an active term of incarceration to serve after sentencing. For offenders whose primary offense was a misdemeanor violation of § 18.2-272(B) for driving on a revoked or restricted license with a blood alcohol content greater than .02 percent, most (77%) were given a jail term with a median sentence of one month. Of the 50 offenders who were convicted of an interlock violation under § 18.2-272(C), 54% were sentenced to a jail term. The median sentence length for these offenders was also one month.

Sentencing Guidelines data for FY2016 and FY2017 indicate that 107 offenders were convicted of a felony for a third or subsequent violation of § 18.2-272. This was the primary, or most serious, offense in 80 of the cases. Of these, 46.3% were sentenced to a local-responsible (jail) term with a median sentence length of seven months. Another 45.0% were sentenced to state-responsible (prison) terms for which the median sentence was 1.2 years. The remaining 8.8% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the number of individuals who may be granted a commercial driver's license, the proposal may result in an increase in the number of felony convictions under § 18.2-272. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may impact the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia's sentencing guidelines. Felony convictions under § 18.2-272 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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