

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB402 S1

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

2. Patron: McDougale

3. Committee: Courts of Justice

4. Title: Driving under the influence; secure transdermal alcohol monitoring.

5. Summary: The substitute bill provides that the court may, upon request of an offender convicted for DUI, order that the offender (i) wear a secure transdermal alcohol-monitoring device that continuously monitors the person's blood alcohol level and (ii) refrain from alcohol consumption. The substitute bill allows the court to issue a restricted license to operate a motor vehicle for any purpose when the offender is ordered to wear a secure transdermal alcohol-monitoring device and when the vehicle is equipped with a functioning, certified ignition interlock system installed. The bill establishes that tampering with or in any way attempting to circumvent the operation of a secure transdermal alcohol-monitoring device is punishable as a Class 1 misdemeanor. The bill also requires the Executive Director of the Commission on Virginia Alcohol Safety Action Program (VASAP) or his designee, pursuant to approval by the Commission, to certify secure transdermal alcohol monitoring devices and to adopt regulations and forms for the installation, maintenance, and certification of such devices.

6. Budget Amendment Necessary: Yes. Item 391.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	\$50,000	General
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	
2024	\$0	
2025	\$0	

8. Fiscal Implications: According to the Department of Motor Vehicles (DMV), courts would have to electronically notify DMV that a person has been ordered to wear the transdermal alcohol-monitoring device. The proposal would require system programming modifications

to (i) capture the information from the court and add it to the customer's record as a requirement to obtain a restricted license, (ii) allow local VASAP representatives to update customer records to reflect that the person is now wearing the device as well as that the person has completed the requirement, (iii) display the device requirement on driver transcripts and VCIN inquiries by law enforcement, and (iv) display a notation for the court-ordered requirement on the driver's license. The System Support Group within DMV has estimated that these changes would cost approximately \$80,000 to implement but has indicated that the changes could be absorbed by existing operating resources.

According to the Commission on Virginia Alcohol Safety Action Program (VASAP), the certification requirements proposed by this bill are similar to ones already in place for ignition interlock systems. Therefore, adding certification requirements for transdermal alcohol-monitoring devices, as required by the proposed legislation, is not expected to impact the agency.

Anyone convicted of a Class 1 misdemeanor for violating the provisions of the bill is subject to a sentence of up to 12 months in jail. Further, current law provides that anyone convicted of a third or subsequent violation of driving after forfeiture of a license within a ten-year period is guilty of a class 6 Felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or one to five years in prison.

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. It also funds a large 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 836 of the 2017 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Department of Motor Vehicles, Courts, Virginia Alcohol Safety Action Program, the Department of Corrections, and Local and Regional jails.

10. Technical Amendment Necessary: None

11. Other Comments: None