

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB34ER

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

2. Patron: Lindsey

3. Committee: Passed both houses

4. Title: Refusal of tests; restricted license.

5. Summary: Currently, it is unlawful for a person who is arrested for driving a vehicle while intoxicated, or who is under 21 year was arrested for driving illegally consuming alcohol, or driving after forfeiture of driver's license to refuse to have samples of his or her breath taken for chemical tests to determine the alcohol or drug content of his or her blood. First offense is a civil offense with a suspended license for a period of one year in addition to other penalties imposed pursuant to 46.2-391.2.

The proposed legislation provides that a defendant who is found guilty of a first offense and whose and whose license is suspended may petition the court 30 days after the date of conviction for a restricted license and the court may, for good cause shown, provide that the defendant with a restricted license during the remaining period of suspension, or any portion thereof, for probation, education, rehabilitation and other purposes as set out in subsection E of §18.2-271.1.

However, if the court grants the defendant's petition and issues a restricted license, the court must order (i) that reinstatement of the defendant's license to drive be conditioned upon (a) the installation of an ignition interlock system on each motor vehicle, for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements and (b) the require the defendant not operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect and (ii) that, as a condition of probation, the defendant enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court deems appropriate.

However, the court may decline to order the defendant to participate in the alcohol safety action program if the assessment conducted by the alcohol safety action program indicates that intervention is not appropriate for such person. Additionally, the defendant is not permitted to enter into any such program that is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP). However, if the court orders the defendant to participate in such program, the person is required to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed

10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

The bill provides a certain process of notification to the Department of Motor Vehicle (DMV) including the time period the person is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final (see Item 8 below).

8. Fiscal Implications: The Virginia Criminal Sentencing Commission reports that though there are several components to the proposed legislation that relate to criminal violations, the net effect of these is unlikely to result in an increase in the state-responsible prison and jail population. The Commission on the Virginia Alcohol Safety Action Program (VASAP) does not anticipate a fiscal impact as a result of the proposed legislation.

DMV reports that implementation of the proposed legislation will result in a fiscal impact because it will require updates to information systems at the DMV, costing \$33,050 and entailing 855 staff hours. The DMV reports that the hours required to implement the bill can be accomplished during the normal work schedules of DMV employees. Therefore, the agency reports it will be able to absorb this cost within its existing resources.

9. Specific Agency or Political Subdivisions Affected: State Treasurer; Department of Motor Vehicles; Commission on the Virginia Alcohol Safety Action Program; Commonwealth's Attorneys; Courts; local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.