

**Department of Planning and Budget**  
**2020 Special Session I - Fiscal Impact Statement**

**1. Bill Number:** HB5058E

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

**2. Patron:** Hope

**3. Committee:** Courts of Justice

**4. Title:** Issuing citations; possession of marijuana and certain traffic offenses.

**5. Summary:** Provides that no citation for a violation of any of the following offenses shall be issued unless the officer issuing such citation has cause to stop or arrest the driver/offender for the violation of some other provision in the Code or a local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.

(i) § 15.2-919 (regulation of motorcycle, moped, or motorized skateboard or scooter noise; (ii) § 46.2-923 (how and where pedestrians may cross highways); (iii) § 46.2-926 (pedestrians stepping into highway where they cannot be seen; (iv) § 46.2-1003 (illegal use of defective and unsafe equipment; (v) § 46.2-1013 (tail light violations); (vi) § 46.2-1014 (brake light violations); (vii) § 46.2-1014.1 (supplemental high mount stop light violations); (viii) § 46.2-1049 (exhaust system violations); (ix) § 46.2-1052 (tinting films, signs, decals, and stickers on windshields); or (x) § 46.2-1054 (suspension of objects or alteration of vehicle so as to obstruct the driver's view. Additionally, no evidence discovered or obtained pursuant to a violation of these subsections shall be admissible in any trial, hearing, or other proceeding. The bill amends § 46.2-1049 (concerning exhaust system violations) to allow for the use of other equipment that has been submitted to and approved by the Superintendent of State Police or that meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation. The bill also amends § 46.2-1054 (concerning the suspension of objects or alteration of vehicle so as to obstruct the driver's view) to require that an object must substantially obstruct the driver's view for a violation to occur.

The bill also provides that no evidence discovered or obtained pursuant to a violation of the following subsections shall be admissible in any trial, hearing, or other proceeding: (i) § 46.2-334.01 (licenses issued to persons less than 18 years old subject to certain restrictions); (ii) § 46.2-335 (learner's permits); (iii) § 46.2-810.1 (smoking in vehicle with a minor present); (iv) § 46.2-1030 (when lights must be lighted; number of lights to be lighted at any time; and use of warning lights); or (v) § 46.2-1094 (occupants of front seats of motor vehicles required to use safety lap belts and shoulder harnesses).

The bill also provides that, for a violation of § 18.2-250.1 (possession of marijuana),

no law enforcement officer may lawfully search or seize any person, place, or thing solely on the basis of the odor of marijuana, and no evidence discovered or obtained pursuant to a violation of this subsection shall be admissible in any trial, hearing, or other proceeding. The bill provides that the provisions of this subsection shall not apply if the violation occurs in a commercial motor vehicle.

Additionally, the bill provides that no law enforcement officer shall stop a motor vehicle due to an expired registration sticker in violation of § 46.2-646 or § 46.2-1157 prior to the first day of the fourth month after the original expiration date. No evidence discovered or obtained pursuant to a violation of these subsections shall be admissible in any trial, hearing, or other proceeding.

The bill also amends § 46.2-1300 (concerning the powers of local authorities and the erection of signs and markers). It provides no governing body of a county, city, or town may provide that a violation of a local ordinance is cause for a stop or arrest of a driver when such a stop or arrest is prohibited for a similar offense under the provisions of this section of the Code. Additionally, no citation for a violation of a local ordinance relating to the ownership or maintenance of a motor vehicle shall be cause to stop or arrest a driver of a motor vehicle unless such violation is a jailable offense. No evidence discovered or obtained pursuant to a violation of this subsection shall be admissible in any trial, hearing, or other proceeding.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary. See below #8

**8. Fiscal Implications:** Currently, each of the Code section violations listed in the proposed legislation may be punishable by a civil fine, plus court processing fees. Fines are deposited into the Literary Fund. In addition, various fees are required by law to be assessed, and the revenue is deposited into a number of special funds that support specified programs. A violation of § 18.2-250.1 (possession of marijuana) is punishable as a civil penalty of not more than \$25, which is deposited into the Drug Offender Assessment and Treatment Fund. Any potential fiscal impact as a result of this proposed legislation is indeterminate at this Time.

The Department of State Police (VSP) believes that as a result of this legislation the agency will have to replace their drug detection canines and retrain each trooper assigned to a canine. Costs associated with these efforts are one-time costs, and the agency should be able to absorb these costs (one-time) using their existing appropriations.

There is no anticipated fiscal impact on the Courts. Any potential impact on local law enforcement agencies, Commonwealth's Attorneys, or Public Defenders is indeterminate at this time.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Local law enforcement agencies, Commonwealth's Attorneys, Public Defenders, and Courts.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.