

## Department of Planning and Budget 2004 Fiscal Impact Statement

**1. Bill Number**    **HB 1147**

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

**2. Patron**        McDonnell

**3. Committee**    Passed both houses

**4. Title**            Driving while intoxicated

**5. Summary/Purpose:**

Under current law, driving while intoxicated (DWI) is a Class 1 misdemeanor, while a third or subsequent offense is a Class 6 felony. The current statutes also provide mandatory minimum sentences of time in jail for second or subsequent convictions of driving while intoxicated (DWI). The proposed legislation would increase these mandatory minimum penalties, as follows:

Offense	Current law	Proposed legislation
Second within 5 years	5 days	20 days
Second within 5-10 years	0 days	10 days
Third within 5 years	30 days	180 days
Third within 5-10 years	10 days	90 days

**6. Fiscal Impact Estimates:** Final. See Item 8.

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	\$151,840	General
2005-06	\$207,320	General
2006-07	\$221,920	General
2007-08	\$233,600	General
2008-09	\$239,440	General
2009-10	\$242,360	General

**7. Budget amendment necessary:** Yes. Item 67.

**8. Fiscal implications:**

Pursuant to Sec. 30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission has determined that the proposed legislation would not require an appropriation related to the increase in the number of prison beds projected to result from this legislation.

However, due to the increases in minimum mandatory jail sentences for persons convicted of DUI proposed by the legislation, there would be an increase in the number of persons held in local and regional jails. For each person held in jail on a misdemeanor conviction, the Commonwealth reimburses the localities \$8.00 per day. The fiscal impacts noted in Item 6 are the additional per diem payments the Commonwealth would be obligated to pay localities, based on the Sentencing Commission's projected increase in jail beds resulting from the proposed legislation. Neither the House nor the Senate provided funds in their budget amendments to cover the additional costs projected for this legislation.

There would be another significant fiscal effect of this legislation, although it cannot be precisely quantified. The proposed legislation is projected to result in a net increase in the number of persons housed in local and regional jails. This increase will vary from year to year, but will range between 52 and 83 additional jail inmates annually over the next six years. Currently, there are approximately 2,000 state-responsible offenders housed in local or regional jails who have been there beyond the 60-day limit because there is insufficient bed space in prisons, and this backlog is projected to grow over the next few years unless offsetting actions are taken. In addition to the backlog of state responsible inmates in jails, the local responsible jail population is projected to increase. The proposed legislation would likely add to the local jail populations. The increases from this bill, and potential increases from other bills being considered, in the jail population will increase the pressure to develop more state prison bed space to house state responsible inmates, as well as to expand local jails to house the additional local responsible inmates.

**9. Specific agency or political subdivisions affected:**

Compensation Board  
Local and regional jails

**10. Technical amendment necessary:** None.

**11. Other comments:** The provisions of this bill are included in SB 384, which is broader. Also, one of the provisions in this bill is also included in HB 1107, which is narrower in scope. In addition, there are several other bills that increase other aspects of the penalties for DUI. These include HB 889, HB 1132, and SB 442, which are identical, HB 667, and SB 329. The cumulative effects of the provisions of all these bills should be considered, rather than each bill in isolation.

**Date:** 03/31/04 / rwh

**Document:** G:\LEGIS\Fis-04\Hb1147er.Doc Dick Hall-Sizemore

cc: Secretary of Finance  
Secretary of Administration  
Secretary of Public Safety