

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number SB 329

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 Stolle

3. Committee Passed both houses.

4. Title Driving while intoxicated

5. Summary/Purpose:

The proposed legislation expands the penalties for DUI in two types of cases:

Unreasonable refusal to submit to a blood or breath test

Under current law, a person who unreasonably refuses to consent to having his blood and breath tested for alcohol content is subject to having his driver's license suspended for one year. The proposed legislation would make it a misdemeanor offense to refuse a breath or blood test if a person had had prior convictions, within ten years, of DUI or refusal to take a breath or blood test. If there had been one such prior offense, the refusal to take a breath or blood test would be a Class 2 misdemeanor, subject to a sentence in jail of up to six months. In the case of two or more prior offenses, it would be a Class 1 misdemeanor, which carries a sentence of up to twelve months in jail. In both situations, in addition to imposing a criminal sentence, the court could suspend the offender's driver's license for three years.

Driving after license suspended or revoked

Under the current provisions of law, the criterion for being deemed as driving while intoxicated (DWI) is a blood alcohol content (BAC) of 0.08 percent or higher.

Regardless of compliance with any other restrictions on his privilege to drive, the proposed legislation would make it a Class 1 misdemeanor for anyone meeting the following criteria to drive a vehicle:

- Having a suspended, restricted, or revoked driver's license as a result of DWI violations, and
- Having a BAC of 0.02 percent or more.

An offender would be subject to the provisions relating to the refusal to submit to a blood or breath test.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	\$5,840	General
2005-06	\$5,840	General
2006-07	\$5,840	General
2007-08	\$5,840	General
2008-09	\$5,840	General
2009-10	\$5,840	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 new misdemeanors created by this legislation, there would likely be an increase in the number of persons held in local and regional jails. For each person held in jail awaiting trial, the Commonwealth reimburses the localities \$8.00 per day. Due to the limitations in the available data, the Virginia Criminal Sentencing Commission was not able to project the bill's impact on jail bed space. However, based on analyses of similar legislation, the staff of the Commission estimated that the legislation could result in a need for 2-5 jail beds annually. The fiscal impacts noted in Item 6 are the additional per diem payments the Commonwealth would be obligated to pay localities, if there were an increase of two beds.

9. Specific agency or political subdivisions affected:

Compensation Board
Local and regional jails
Department of Motor Vehicles

10. Technical amendment necessary: None.

11. Other comments:

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, and SB 384. 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\Sb329er.Doc Dick Hall-Sizemore

cc: Secretary of Finance

Secretary of Administration