

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number SB 384

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

2. Patron Norment

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) or for driving with significantly elevated blood alcohol content (BAC). The proposed legislation would increase these mandatory minimum penalties, as follows:

Elevated BAC

Current law

| <u>BAC</u> | <u>First Offense</u> | <u>Second Offense w/in 10 years</u> |
|----------------|----------------------|-------------------------------------|
| 0.20-0.25 | 5 days | 10 days |
| More than 0.25 | 10 days | 20 days |

Proposed

| <u>BAC</u> | <u>First Offense</u> | <u>Second Offense w/in 10 years</u> |
|----------------|----------------------|-------------------------------------|
| 0.15-0.20 | 5 days | 10 days |
| More than 0.20 | 10 days | 20 days |

Subsequent Offenses

| 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 |

Finally, the bill would prohibit any sentence imposed for reckless driving or DWI with a revoked driver's license from running concurrently with any other sentence and would increase the length of time for suspension of a driver's license for the subsequent refusals of a person to consent to a breath or blood test.

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 | \$210,840 | General |
| 2006-07 | \$224,840 | General |
| 2007-08 | \$236,520 | General |
| 2008-09 | \$242,360 | General |
| 2009-10 | \$245,280 | 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.

9. Specific agency or political subdivisions affected:

Compensation Board
Local and regional jails

10. Technical amendment necessary: None.

11. Other comments: Most of the provisions of this bill are included, to some extent, in HB 667, 1107, and 1147. 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, and SB 329. The cumulative effects of the provisions of all these bills should be considered, rather than each bill in isolation.

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cc: Secretary of Finance
Secretary of Administration