

## Department of Planning and Budget 2009 Fiscal Impact Statement

**1. Bill Number:** HB124

House of Origin	<u>  X  </u>	Introduced	<u>      </u>	Substitute	<u>      </u>	Engrossed
Second House	<u>      </u>	In Committee	<u>      </u>	Substitute	<u>      </u>	Enrolled

**2. Patron:** Purkey

**3. Committee:** Militia, Police and Public Safety

**4. Title:** Alcoholic beverages; penalty for possession of open container of alcohol in a motor vehicle.

**5. Summary:** This bill provides that no person shall possess an alcoholic beverage in the passenger area of a motor vehicle upon a public highway of the Commonwealth in other than the manufacturer's unopened, original container. The bill punishes violators with a civil penalty of \$25.

**6. Fiscal impact estimates:** Preliminary. See Item 8 below.

**7. Budget amendment necessary:** No.

**8. Fiscal implications:** Enactment of this bill would enable Virginia to comply with federal open container requirements and avoid the additional transfer of federal highway funds from road construction to safety programs. Federal law requires that a state have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the state.

Beginning in federal fiscal year 2001, states not in compliance with federal law have been subject to the transfer of federal funds from highway construction to safety programs. As the National Highway Traffic Safety Administration has determined in previous years, the statutory language offered by this bill is in compliance with federal open container provisions. Since Virginia did not enact open container legislation that meets federal requirements, funds have been transferred from federal highway construction funds to safety programs each year since 2001. In FY 2009, \$16,858,368 was transferred, for a grand total of \$119,136,379 diverted from highway construction since 2001.

The bill also provides for the imposition of a \$25 civil penalty on anyone who violates the proposed statute. The revenues from this penalty are to be deposited to the Traffic Safety Fund. No estimate of the potential revenues is available at this time.

**9. Specific agency or political subdivisions affected:** Department of Motor Vehicles, Virginia Department of Transportation.

**10. Technical amendment necessary:** No.

**11. Other comments:** The Virginia Department of State Police has indicated that it supports this bill.

**Date:** 1/13/10/jlv

**Document:** G:\10-12\FIS\HB124.Doc Janet Vogelgesang

cc: Secretary of Transportation