

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB1525

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: Albo

3. Committee: Passed Both Houses

4. Title: Revocation or suspension of driver's licenses; laws of other jurisdictions.

5. Summary: This bill precludes the Commissioner of the Department of Motor Vehicles from administratively revoking or suspending a person's driver's license solely on the basis that such person was convicted under the laws of another jurisdiction if on the basis of receiving a record of such person's conviction for any offense under the laws of another jurisdiction that would otherwise require the Commissioner to revoke or suspend such person's driver's license unless such offense is substantially similar to an offense under the laws of the Commonwealth or a county, city, or town ordinance. Whenever the Commissioner is required to determine whether the law of another jurisdiction is substantially similar to the laws of the Commonwealth, or a county, city, or town ordinance, such determination shall be based only on the text of the other jurisdiction's law without reference to the particular circumstances of any conviction under such other jurisdiction's laws. However, if the Commissioner cannot reasonably determine from the text of the other jurisdiction's law whether such law is substantially similar to the laws of the Commonwealth, or a county, city, or town ordinance, the Commissioner may, if available, review a certified copy of the final order of the person's conviction in order to make such determination.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final. See Item #8.

8. Fiscal Implications: The bill contains an enactment clause that requires the Department of Motor Vehicles (DMV) to reinstate a person's driver's license that was administratively revoked or suspended prior to July 1, 2017, by the Commissioner solely on the basis of receiving a record of such person's conviction for any offense under the laws of another jurisdiction if, on a form promulgated by the Department, such person submits a request to review such suspension or revocation and the Department determines that such suspension or revocation was based on a conviction not in compliance with the provisions of this act. The person requesting the review shall submit with the form a copy of the other jurisdiction's statute under which he was convicted that was in effect at the time of the conviction and a certified copy of the final order of conviction from the other jurisdiction. Any refusal by DMV to reinstate a person's driver's license shall be reviewable in accordance with the provisions of § 46.2-410.1 of the Code of Virginia. Nothing herein shall require DMV to reinstate a person's driver's license if such license was otherwise suspended or revoked.

It is unclear whether § 46.2-410.1 covers appeal of "disqualification" by a driver with regard to Commercial Driver's License (CDL) privileges. § 46.2-410.1 currently states that this section shall not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by the Commissioner pursuant to Article 6.1 (§ 46.2-341.1 et seq.) of this chapter. Therefore, CDL disqualification could not be appealed under § 46.2-410.1, but whether it can be appealed under the Administrative Process Act is questionable. Since the bill's new section allows an appeal thru § 46.2-410.1, that may be the only way one can appeal now. Following federal mandates, DMV must disqualify a driver from driving a commercial motor vehicle (CMV) in the event the driver obtains any number of convictions for various things. This is not a suspension of a license to drive any car, but, in essence, a suspension for a period of time, for a driver to drive a CMV. The Code requires DMV to make a determination of substantially similar for these circumstances. The Code makes a distinction between "disqualification" and "suspension," so clearly there is a difference, and DMV may still be able to disqualify under this bill's provisions. However, DMV is concerned that defense attorneys will file suit under this bill's new provisions making arguments that this section encompasses disqualification. In the event that a circuit court agrees with this argument without knowledge of federal regulation or the case law for evaluating substantially similar laws, Virginia would be taken out of substantial compliance with federal CDL requirements, thus placing Virginia's ability to issue CDLs in jeopardy. DMV issued 37,810 CDLs in FY 2016. There are 208,725 active CDLs in the Commonwealth.

Federal Motor Carrier Safety Administration (FMCSA) regulations dictate how a state must treat a CDL holder when he is convicted of DUI or refusal to be tested for alcohol. The federal regulations require disqualification under certain condition including any DUI conviction. States are required to be in compliance with the provisions of the Federal Motor Carrier Safety Improvement Act (MCSIA). DMV is concerned this provision could create possible loopholes for commercial drivers to appeal. If this issue did arise, it could make Virginia vulnerable to the withholding of federal highway aid funds and grant funds authorized under the Motor Carrier Safety Assistance Program.

9. Specific Agency or Political Subdivisions Affected: Department of Motor Vehicles, Department of Transportation.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 3/2/2017

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Cc: Secretary of Transportation