Department of Motor Vehicles
2017 Fiscal Impact Statement

1. **Bill Number** HB2051

   House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. **Patron** Adams

3. **Committee** Passed Both Houses

4. **Title:** Driver's license; marijuana possession.

5. **Summary/Purpose:** This bill revises the existing provision that a person loses his driver's license for six months when convicted of or placed on deferred disposition for a drug offense to provide that the provision does not apply to deferred disposition of simple possession of marijuana. The exception applies only to adults; juveniles will still be subject to license suspension. The bill provides that a court retains the discretion to suspend or revoke the driver's license of a person placed on deferred disposition for simple possession of marijuana and must suspend or revoke for six months the driver's license of such person who was operating a motor vehicle at the time of the offense. The bill also requires that such a person whose driver's license is not suspended or revoked perform at least 74 hours of community service. The provisions of the bill are contingent upon written assurance from the U.S. Department of Transportation that Virginia will not lose any federal funds as a result of implementation of the bill.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:** The Department of Motor Vehicles (DMV) will incur costs of $55,563 to implement the provisions of this bill. The bill would allow a court to suspend or revoke a person's driver's license following a deferral of prosecution for marijuana possession, but would also allow the court to not suspend the person's license and instead assign an additional 50 hours of community service, for a total of at least 74 hours of community service, unless the person committed the offense while operating a motor vehicle. Under current law, a court must suspend a person's driver's license following a deferral, but does not have the power to order the revocation of the person's driver's license. DMV will need to update its automated systems to recognize cases where the court has chosen to order driver's license deprivation, and will further need to distinguish between suspension orders and revocation orders to ensure that the order is properly posted to the driver's record.

   This bill may lead to a loss of DMV reinstatement fee revenue. The bill allows courts placing an individual on probation following a deferral of prosecution for possession of marijuana contrary to § 18.2-250.1 to require the person to complete at least 74 hours of community service in lieu of suspending the person's driver's license for six months, but requires driver's license suspension if the person committed the offense while driving a motor vehicle.

When a person's driver's license is suspended, an individual must pay a $145 reinstatement fee prior to getting their license back. DMV keeps $45 of this fee, and $100 goes to the Trauma Center Fund. If a person has more than one suspension, they will pay the reinstatement fee on the first suspension satisfied, and will pay a $5 multiple order fee for each additional suspension required to be satisfied prior to regaining their license. In FY 2015, there were 2,260 single orders and 465 multiple orders of suspension for deferral of marijuana possession which were reinstated, and in FY 2016 there were 2,566 single orders and 337 multiple orders of suspension for deferral of marijuana possession which were reinstated. Based on the average reinstatement statistics from the last two fiscal years, the Trauma Center Fund could lose up to $241,300 in reinstatement fees per year, and DMV could lose up to $110,590 in reinstatement fees per year. Actual amounts lost could be less, however, because under this language a person who was operating a motor vehicle while committing the offense would not be eligible to avoid driver's license suspension, and additionally the court would have the discretion to order driver's license suspension as a term of probation. DMV does not have statistics on how many suspension orders are issued for persons possessing marijuana while operating a motor vehicle, and cannot estimate how many individuals would have their licenses suspended by the court as a term of their probation.

The second enactment clause provides that the bill will not come into effect unless VDOT receives assurance from the Federal Highway Administration (FHWA) that there will not be a loss of any federal funds as a result of the implementation of the bill. States are required by 23 U.S.C. § 159(a) to suspend a person's driver's license following conviction of a drug offense or risk losing federal highway funding allocated to Virginia under 23 U.S.C. § 104(b). Virginia can likely implement this bill without risking federal funding; federal law only requires suspension following a conviction, and a deferral occurs in lieu of a conviction. If the federal government disagrees with this interpretation, Virginia may also avoid loss of federal funds if the Governor submits a certification that the General Assembly has passed a resolution of opposition to the requirements of 23 U.S.C. § 159(a), and that the Governor is also so opposed. The Virginia Department of Transportation has affirmed that they will seek assurance from FHWA.

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

10. **Technical amendment necessary:** Line 58, insert "§" symbol before "46.2-390.1".

11. **Other comments:** This bill is a companion to SB 1091.

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cc: Secretary of Transportation