

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB2435

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Minchew

3. Committee: Committee for Courts of Justice

4. Title: Use of handheld personal communications devices while driving; penalty.

5. Summary: This bill expands the prohibition of using a handheld personal communications device while operating a motor vehicle to all communications unless the device is specifically designed to allow voice and hands-free operation and the device is being used in that manner. Current law prohibits only the reading of an email or text message and manually entering letters or text in the device as a means of communicating. The bill expands the exemptions to include handheld personal communications devices that are used for navigation or generating audio transmissions when the device is physically mounted to the vehicle. The bill provides that any violation of this prohibition that occurs concurrently with an additional traffic offense, or if the violation results in an accident, may be punishable as reckless driving. Current law provides that a violation of this prohibition is punishable as a traffic infraction only.

6. Budget Amendment Necessary: Yes. Item 394

7. Fiscal Impact Estimates: Fiscal Impact Estimates Are Preliminary. See Item 8

8. Fiscal Implications: Although this legislation could have a positive revenue impact from fines associated with additional convictions, it is impossible to determine the extent of the impact at this time. Any possible fine revenue derived from this legislation will be deposited in the Literary Fund.

Under the proposal, using certain handheld communications devices while driving would be punishable as reckless driving if the individual commits an additional traffic offense or if the use proximately results in an accident. Pursuant to § 46.2-868, reckless driving is punishable as a Class 1 misdemeanor or, if the person's license had been suspended or revoked due to a moving violation and the reckless driving was the sole and proximate cause of death of another, a Class 6 felony.

According to the fiscal impact statement issued by the Virginia Criminal Sentencing Commission on January 23, 2017, because the bill defines a new reckless driving offense, which under certain circumstances is punishable as a Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be

estimated; however, the impact, if any, is likely to be small. Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2016), the estimated total state support for local jails averaged \$32.82 per inmate, per day in FY 2015.

9. Specific Agency or Political Subdivisions Affected: Virginia's judicial system; law enforcement agencies, Compensation Board, Department of Corrections

10. Technical Amendment Necessary: No

11. Other Comments: None