

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** SB160

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

**2. Patron:** Surovell

**3. Committee:** Transportation

**4. Title:** Holding handheld personal communications devices while driving a motor vehicle.

- 5. Summary:** The proposed legislation directs the Commissioner of the Department of Motor Vehicles (Commissioner) to establish an advisory council to monitor the effectiveness and enforcement of current law pertaining to the use of handheld personal communications devices in certain motor vehicles (§ 46.2-1078.1), and to review whether the enforcement of § 46.2-1078.1 has a disproportionate impact on minority or low-income populations. The proposed legislation also specifies the members of such an advisory council. The proposed legislation also specifies that the Commissioner will work with the Virginia Association of Chiefs of Police and a nonprofit organization, as specified, to create training and educational materials on the implementation and enforcement of § 46.2-1078.1, and that such materials are to be reviewed by the advisory council, and available to law-enforcement agencies. Additionally, the proposed legislation states that the Commissioner, working with a nonprofit organization, as specified, and other traffic safety organizations, shall create and provide educational materials for the public regarding the provisions of § 46.2-1078.1. The proposed legislation also requires the Commissioner to report annually to the Governor and the General Assembly on: (i) the citations issued pursuant to § 46.2-1078.1, including, to the extent available, the relevant demographic characteristics of those persons issued citations; and (ii) any findings of the advisory council.

The proposed legislation also establishes that it is unlawful for any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device. The bill establishes that this prohibition will not apply to: (i) the operator of any emergency vehicle while he is engaged in the performance of his official duties; (ii) an operator who is lawfully parked or stopped; (iii) any person using a handheld personal communications device to report an emergency; (iv) the use of an amateur or a citizens band radio; or (v) the operator of any Department of Transportation vehicle or vehicle operated pursuant to the Department of Transportation safety service patrol program or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services, as defined in current law, during the performance of traffic incident management services. The proposed legislation also makes certain additions to the definition of “emergency vehicle.”

The bill also establishes that a violation of such is a traffic infraction punishable for a first offense by a fine of \$125, and for a second or subsequent offense by a fine of \$250. The proposed legislation establishes that if such a violation occurs in a highway work zone, it is punishable by a mandatory fine of \$250.

This bill has a delayed effective date of January 1, 2021.

6. **Budget Amendment Necessary:** No.
7. **Fiscal Impact Estimates:** Preliminary (see Item 8 below).
8. **Fiscal Implications:** The proposed legislation prohibits any person, while driving a moving motor vehicle on the highways in the Commonwealth, to hold a handheld personal communications device, with specified exceptions. The bill also establishes that a violation of such is a traffic infraction punishable for a first offense by a fine of \$125 and for a second or subsequent offense by a fine of \$250. The proposed legislation also establishes that if such a violation occurs in a highway work zone, it is punishable by a mandatory fine of \$250. Because all fines are deposited into the Literary Fund, the proposed legislation may increase deposits to the Literary Fund. However, any impact to the Literary Fund cannot be determined at this time.

The bill also requires the Commissioner of the Department of Motor Vehicles (Commissioner) to establish an advisory council to monitor the effectiveness and enforcement of current law pertaining to the use of handheld personal communications devices in certain motor vehicles (§ 46.2-1078.1), and to review whether the enforcement of § 46.2-1078.1 has a disproportionate impact on minority or low-income populations. The proposed legislation also specifies the members of such an advisory council. Furthermore, the proposed legislation specifies: (i) certain tasks the advisory council is to perform; and (ii) establishes reporting requirements for the Commissioner. Any cost to the Department of Motor Vehicles is indeterminate at this time.

9. **Specific Agency or Political Subdivisions Affected:** Department of Motor Vehicles; law-enforcement agencies; courts.
10. **Technical Amendment Necessary:** No.
11. **Other Comments:** This bill incorporates SB136 and SB944, and is similar to HB874