

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB439 S2

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

2. Patron: Surovell

3. Committee: Courts of Justice

4. Title: Driving under the influence; first offenders; license conditions.

5. Summary: This bill provides that in the case of an adult offender's first conviction of driving under the influence when the offender's blood alcohol content was less than 0.15, the sole restriction of the offender's restricted driver's license will be the prohibition of the offender from operating any motor vehicle not equipped with a functioning, certified ignition interlock system for one year without any violation of the ignition interlock system requirements. The bill provides that if a person is ineligible to receive a restricted license, a court may instead authorize such person to use a remote alcohol monitoring device (defined in the bill), refrain from alcohol consumption, and participate in an alcohol safety action program. The bill provides that tampering with a remote alcohol monitoring device is punishable as a Class 1 misdemeanor.

The bill also requires the Executive Director of the Commission on the Virginia Alcohol Safety Action Program (VASAP) or his designee shall, pursuant to approval by the Commission, certify remote alcohol monitoring devices for use in the Commonwealth and adopt regulations and forms for the installation, maintenance, and certification of such remote alcohol monitoring devices.

This bill incorporates SB 154 and SB 520.

6. Budget Amendment Necessary: Yes, Item 402.

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

8. Fiscal Implications: According to the Department of Motor Vehicles (DMV), this legislation would require programming adjustments to its information systems at an estimated cost of \$73,961. DMV reports that it would be able to absorb this cost within its existing resources assuming other legislative proposals with fiscal impacts to DMV are not passed. DMV's current fiscal outlook precludes funding the cumulative burden of implementing the programming and staffing requirements of multiple pieces of legislation without improved revenue streams.

Current law provides penalties for driving with a revoked or restricted driver's license following a driving-while-intoxicated (DWI) conviction. Typically, first and second offenses

are punishable as Class 1 misdemeanors. Driving without an ignition interlock system when one is required is also punishable as a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. A third or subsequent violation of driving after forfeiture of license within a ten-year period is punishable as a Class 6 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him up to one year in jail or one to five years in prison.

According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

According to the VASAP, the agency is able to absorb the cost of developing regulations for alcohol monitoring devices within its existing appropriations.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Motor Vehicles, the Virginia Alcohol Safety Action Program, Department of Corrections, local and regional jails, courts, law-enforcement agencies

10. Technical Amendment Necessary: None

11. Other Comments: None