



Economic Impact Analysis Virginia Department of Planning and Budget

6 VAC 40-20 – Regulations for Breath Alcohol Testing
Department of Forensic Science
June 3, 2008

Summary of the Proposed Amendments to Regulation

The Department of Forensic Science (DFS) proposes to amend its regulations on breath alcohol testing to accommodate newly purchased breath alcohol testing equipment and to modify rules for denial and revocation of instructor certificates.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Currently, DFS regulations allow for breath alcohol devices to be repaired by the devices' manufacturer or by the manufacturer's authorized repair service. DFS is also currently required to produce and use a preventative maintenance checklist each month to ensure that breath alcohol devices are in proper working order.

DFS proposes to amend these rules because they have purchased new breath alcohol devices. DFS proposes to eliminate language that allows a manufacturer's repair service to repair these devices because DFS or the manufacturer will handle any repairs that become necessary. DFS also proposes to amend its rule that requires a maintenance checklist so that this checklist will be optional (the list may not be needed for the new devices). There will likely be no costs attached to changing the rules for maintenance and repair of breath alcohol devices. DFS and any other interested parties will benefit from having regulations that accurately reflect the repair and maintenance rules for new breath alcohol equipment.

Current regulations allow DFS issued breath alcohol device operator licenses, as well as breath alcohol device operation trainer certificates, to be terminated or revoked if operators or

trainers “no longer meet the qualifications necessary for issuance”. DFS policy, however, also allows licenses and certificates to be taken if the licensee or certificate holder violates DFS’s rules of behavior. DFS proposes to amend these regulations to clarify that licenses and certificates can be suspended or revoked for “good cause shown”. Because actual grounds for suspension or revocation will not change, DFS’s regulated community will likely not incur any costs on account of this amendment to regulatory language. DFS regulants may slightly benefit from changing the regulatory language to reflect actual policy.

Businesses and Entities Affected

This regulatory action will affect all breath alcohol device operators that are licensed by DFS as well as all breath alcohol device operation trainers that are DFS certified. DFS currently licenses approximately 4,500 device operators and certifies 40 trainers.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.