

REVENUE SOURCES FOR FINANCING
TRANSPORTATION SAFETY ACTIVITIES IN VIRGINIA

Phase Three
Feasibility of a Surcharge on Traffic Fines

by

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(The opinions, findings, and conclusions expressed in this report are those of the authors and not necessarily those of the sponsoring agencies.)

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ABSTRACT

Senate Bill 85, an action of the 1978 General Assembly, amended the Code of Virginia to provide, in part, that the Division of Highway Safety be succeeded by the newly created Department of Transportation Safety effective July 1, 1978. In its Declaration of Policy, §33.1-390, the amended Code states that it is the policy of the Commonwealth to "investigate, evaluate and promote the safe movement of people and property by all modes — highway, railway, waterway, airway, and mass transit." (emphasis added.)

Because gasoline conservation has decreased excise tax revenues, and because the national political climate indicates impending reductions in federal spending, the Virginia Department of Transportation Safety will probably need to explore alternative ways of financing the expanded safety operations mandated by Senate Bill 85. One possible source of new revenues is a surcharge on traffic fines. This measure was mentioned in an earlier report on revenue sources, but the present report discusses the surcharge in greater detail and compares the relative merits of different forms of assessing it.

SUMMARY OF FINDINGS AND CONCLUSIONS

1. A surcharge on traffic fines is a desirable method of revenue raising because:
 - (a) the assessments fall upon those whose conduct most contributes to the safety problems that Virginia Department of Transportation Safety programs attempt to alleviate;
 - (b) the surcharge might deter potential traffic violators and thereby reduce traffic safety risks; and
 - (c) the surcharge would not impose onerous administrative burdens on the courts or on any other agency.
2. The surcharge could be assessed —
 - (a) on the basis of the number of demerit points ascribed to each traffic law the defendant is deemed to have violated;
 - (b) as a percentage of the fine or the fine and costs levied upon the defendant; or
 - (c) as a flat fee on a per case or per offense basis.
3. Each method of assessing the surcharge could generate several million dollars of revenue without imposing fees disproportionate to the original fines.
4. Because only highway users would pay the surcharge, using these funds for non-highway programs constitutes a private subsidy. However, the inequities of such subsidization can be avoided by earmarking the funds for highway purposes or by adopting similar revenue measures to assess the users of the other modes of transportation.

RECOMMENDATIONS

1. A surcharge on traffic fines should be adopted to maintain necessary funding levels for Virginia Department of Transportation Safety programs.
2. Of the schemes considered, linking the surcharge to the demerit points assessed for the traffic violation best addressed the balance between desired deterrent effects and administrative costs.
3. After a determination is made of the amount of surcharge revenue desired, accurate estimates of the number of assessable offenses should be developed so that appropriate rates can be derived.

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INTRODUCTION

In order for the Virginia Department of Transportation Safety to maintain or improve its current programs in light of reduced federal grants and state gasoline tax revenues, it must secure alternative sources of financing. This need has become particularly acute since 1978, when the Department was assigned responsibilities for safety in all modes of transportation pursuant to Senate Bill 85 without being given a corresponding increase in appropriations. This report focuses on one alternative revenue source — a surcharge on traffic fines — that was suggested in an earlier, more generalized study of possible revenue sources for financing transportation safety activities in the Commonwealth.*

PURPOSE

The purpose of this study was to further explore the possible use of a surcharge on traffic fines to help fund the operation of Virginia's transportation safety program. As part of the discussion of the possible use of the surcharge, the study first delved into the merits and demerits of any type of surcharge on traffic fines. Next, several means of effecting the surcharge were developed and assessed, and the potential revenue from each plan was estimated. Finally, a sample legislative proposal was drafted which could be introduced in the General Assembly.

*Simpson et al., Revenue Sources for Financing Transportation Safety Activities in Virginia, Phase Two — State Sources, Virginia Highway and Transportation Research Council (1980).

METHOD

The use of a surcharge on traffic fines was first suggested by the Michigan Office of Highway Safety Planning and was the subject of a proposal it submitted to the Michigan Legislature. The Michigan proposal ties the surcharge to driving demerit points, as does the proposal recommended in this report. The other methods of assessment considered here were developed by the authors. Traffic fine and conviction data from the Supreme Court of Virginia and the Division of Motor Vehicles were used to develop the various methods and to estimate revenues they would yield.

ANALYSIS

Justification of Surcharge as Revenue Measure

This section discusses the general merits of using a surcharge on traffic fines to assist in funding the activities of the Department of Transportation Safety and outlines potential objections. The benefits and difficulties which attend surcharge arrangements are discussed in the following sections.

The first and most significant rationale for using a surcharge on traffic fines is that it imposes the burden of funding safety programs upon those persons who most contribute to highway safety risks. The surcharge "affects only those convicted of, or found responsible for, traffic law violations. Since traffic law violations are accepted as being behaviors which increase the likelihood of becoming involved in a traffic accident, it is logical and appropriate that people exhibiting those behaviors should bear a greater burden of the costs of traffic safety improvement programs."* A similar surcharge method has been used in Virginia before. The Virginia Alcohol Safety Action Program's (VASAP) assessment of defendant fees and the self-sufficiency of the local programs are premised in part on the same rationale of assessing those persons most responsible for creating the need for such safety programs. Finally, to the extent that surcharge funds replace the special fund, they ease the inequity of taxing all drivers, notably safe ones, to finance programs designed primarily for unsafe drivers.

*Haseltine, Executive Director of the Michigan Office of Highway Safety Planning, "A Legislative Proposal to Replace the Driver Education Fund with a Traffic Safety Fund," p. 2 (1978). Table 1 also shows that this is true in Virginia, where over 86% of the accidents involved a traffic violation. Table 1 is taken from Simpson, Identification of Virginia's Highway Safety Problem Areas, VHTRC.

Table 1

Driver Violation-Related Accidents

Driver ViolationTotal AccidentsFatal Accidents

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Speed	18,708	16,152	15,058	443	358	328
Did Not Have Right-of-Way	23,836	22,771	21,253	160	171	47
Following Too Closely	16,739	13,274	11,355	68	8	7
Disregarded Stop Sign or Light	5,966	6,235	5,680	22	23	27
Other Violations	60,207	71,463	69,447	243	395	398
Total Violations	125,456	129,895	122,793	936	855	807
Total Drivers in Violation	124,828	129,895	122,793	871	855	807
Total Drivers Not in Violation	110,400	96,583	89,084	544	525	458
Not Stated	7,391	5,765	5,856	32	38	40
Total Drivers	242,619	232,243	217,733	1,447	1,418	1,305
Accidents Involving a Violation	116,685	120,697	114,752	818	796	771
Accidents Not Involving a Violation	21,465	15,192	14,053	162	171	149
Not Stated	4,120	—	—	18	—	—
Total Crashes	142,270	135,889	128,805	998	967	920
Percent of Drivers Reported in Violation		57.3%	57.9%	—	62.0%	63.8%
Percent of Accidents Involving a Violation	82.0%	88.8%	89.1%	82.0%	82.3%	83.8%
Percent Change of Crashes Involving a Violation		+3.4%	-4.9%	+11.0%	-2.7%	-3.1%

Further, a proposed surcharge would generate less political opposition than would a proposed general tax increase because the surcharge would affect fewer people. Therefore, a surcharge stands a better chance of legislative approval. This is not to say that there would be no opposition. The prospect for such opposition is discussed below. However, the surcharge would not be likely to meet the popular opposition generated by most proposed tax measures.

A third advantage of the surcharge on fines is somewhat speculative. The surcharge, by increasing the "cost" of engaging in the conduct which leads to violations, may serve as a deterrent to such unsafe conduct.* This, in turn, may decrease traffic accidents.

Of course, there are objections to the surcharge proposal which have been or may be raised. One objection that has been raised in other surcharge-fine circumstances is that the recipient agency would have an incentive to increase arrests solely to increase its revenue. This would not be applicable to the surcharge discussed here, however, because the Department of Transportation Safety has virtually no enforcement authority.

The judiciary will object that the additional responsibility of collecting the surcharge would complicate and detract from their primary adjudicatory role. However, any effect on judicial administration would be marginal, because the courts already engage in revenue collecting when they assess and collect court costs. The marginal effects can be mitigated by adopting an unequivocal standard for fixing assessments. Nonetheless, it should be noted that the Executive Secretary's Office of the Supreme Court is likely to oppose the surcharge on this ground.

A corollary concern of the judiciary is that if the Department of Transportation Safety receives authority to assess this surcharge and to require the courts to collect it, other groups and agencies which have sought similar measures could no longer be denied. There might then be a flood of surcharge measures, entangling judicial administration and confusing the role of the courts. This fear is not fully warranted because the Department of Transportation Safety's link to traffic fines is more direct than that of most other agencies. (Later applicants for surcharges

*K. Joscelyn of the Highway Safety Research Institute, University of Michigan, noted that deterrence is a very complex matter and that there have been few empirical studies done on deterrence of traffic fines. However, it was his opinion that a deterrent effect was likely, though its magnitude is difficult to anticipate.

would have to establish a right to such surcharges independent of the Department of Safety's authority.) They could easily be denied such authority for reasons of administrative convenience, or for lack of a sufficiently strong relation between the fines to be surcharged and the agencies' functions.

Another objection the judiciary might make is that it would incur the administrative cost of collecting, accounting for, and remitting the proceeds from the surcharge. While there is merit to this point, the personnel and administrative framework for handling similar funds are already in place. Any extra strain placed on these facilities by the surcharge on fines could be ameliorated by having the courts retain a percentage of the monies collected to offset any costs that may be incurred. While the courts may be tempted to impose fines solely to gather the new revenues, this threat exists under the present fine system and retaining a fraction of the surcharge would have a minimal marginal effect.

Another objection may arise because the surcharge applies only to highway traffic fines. The argument would be that it is unfair for highway users to fund an agency with major responsibilities in non-highway transportation safety. The strength of this objection depends on the extent to which the Department would be funded by the surcharge. As long as the surcharge was not the exclusive source of Department funding, it would not be an inequitable revenue source because the Department would claim that all driver-generated funds are earmarked for highway safety programs. Even if the revenues were not earmarked, a surcharge on traffic fines could be justified as an initial step, with efforts forthcoming to assess offenders using other modes. Lastly, the Department could argue that the legislature discounted these inequities by authorizing it to refund gasoline taxes received from non-highway sources.

In summary, it has been shown that there are several arguments on supporting the use of a surcharge or traffic fines to fund or to assist in funding the Department of Transportation Safety. While there are also meritorious objections, they do not appear to be prohibitive. Therefore, the institution of such a funding measure for the Department warrants further investigation and consideration.

Surcharge Proposals

This section of the report outlines the various methods available for implementing a surcharge on traffic fines. For each of the alternative proposals, relative strengths and weaknesses are discussed and revenue projections are made. Lastly, the authors present their recommendations.

Two standards guided the comparison of alternative surcharge proposals: an option was deemed inadequate if it generated less than \$2 million, and it was deemed excessively burdensome if the surcharge exceeded 5% of the original fine. These standards were adopted for illustrative purposes only, and are not substitutes for legislative judgement.

Before assessing the various proposals, the framework for collecting and disbursing fines and forfeitures through the state court system should be noted: (1) offending motorists pay their fines and court costs to the district courts; (2) the district courts remit all monies to the Virginia Supreme Court; (3) the Supreme Court divides all fines received into state and municipal accounts, transferring state funds to the Literary Fund via the state treasury and returning municipal funds and all court costs to the municipal treasuries.

Proposal 1: Surcharge Tied to Demerit Points

This proposal would levy a graduated series of surcharges on traffic fines according to the demerit points attached to the offense. The revenue potential of this plan would depend on the amount of the surcharge levied upon each demerit point class. This proposed method could easily raise \$2 million or more per year while keeping the surcharge rather low (see the "Projected Revenue" section below).

The major justification for the demerit point surcharge is that it assesses those persons contributing to safety problems and graduates the assessment according to a hierarchy of dangerous behaviors. Theoretically, the most dangerous offenders would contribute the most toward the Department's safety services and face the stiffest deterrent sanction. This type of surcharge is being considered by the Michigan Legislature.

The strongest objection to this type of surcharge is that it may be difficult to administer. To keep accurate records of how much money is owed to the Department, clerks at the district courts would first need a schedule of surcharges per violation by demerit point category. The court itself would also need to assess the surcharge accordingly. This by itself would not prove overly burdensome, but some record of the total number of violations within each demerit point category would also have to be forwarded by the district courts to the Supreme Court. Information from all the courts then would be tabulated and the corresponding funds transferred to the Department's account. Other surcharge schemes which do not entail this extra burden at the district court level might be more attractive administratively.

A second potential criticism of the demerit-point-based surcharge is that it assumes that demerit points accurately indicate the significance of the danger posed by the activity. This assumption is weakened by the presence of additional considerations in the allocation of demerit points. Driving with a revoked license, for example, is a three-demerit point offense but it is likely that the person who commits this offense will drive quite carefully to avoid getting caught; whereas driving without a valid inspection results in no demerit points, even though this behavior can be very unsafe. Officials with the Virginia Division of Motor Vehicles maintain that those anomalies are few, and that the demerit system generally reflects the dangerousness of the conduct.*

In response to the administrative criticism of this proposal, it can be argued that what is lost in greater paperwork is gained in greater rationality. No other implementation plan would assess offenders of motor vehicle laws in as equitable a fashion, with the more dangerous drivers paying proportionally more for the programs they necessitate.

Proposal 2: Surcharge as Percentage of Fine and Costs Levied

Under this proposal, the surcharge would be determined by fixing a percentage of traffic fines and court costs that would be added to the sanction and allocated to the Department of Safety. Like Proposal 1, this method would raise \$2 million without assessing a prohibitive fee against the defendant (see "Projected Revenue" below). Since including court fees expands the assessment base, the surcharge rate necessary to raise a given amount of funds is lower for this method than it would be under a fine-only method.

Fines are determined by the Uniform Fine Schedule and court costs are presently fixed at \$18. Because the schedule allows little flexibility in tailoring its sanctions to account for the degree of danger created by a violation, it can be argued that the demerit point system affords a more sensitive and rational measurement of the safety hazards presented.

*Mr. Anderson of the Virginia Division of Motor Vehicles noted that in the hearings to determine how many demerit points would be given particular traffic offenses "the primary consideration was the safety risk posed" by the conduct. Secondary consideration was given to the severity of the penalties established by the legislature for the various offenses. Personal communication, 3/19/81.

This method will raise objections from the judiciary over using court costs, a tool of internal judicial administration unrelated to safety, as a basis for assessing and delivering funds for the Department. On the other hand, since court costs are a constant \$18, regardless of the offense or the time it takes for the court to dispose of it, it can be argued that the costs are really part of the sanction imposed and a proper source of revenue for the Department.

The percentage surcharge, again like Proposal 1, presents some administrative burdens. The district courts would bear the brunt of these because it would be necessary for the clerk or the judge to first compute the total fine (and costs) and then tack on the percentage surcharge. Also, the Supreme Court would have to remove the surcharges collected from the total remittances it receives before it could divide the remainder into the standard state and municipal accounts. However, this surcharge may be easier for the district courts to administer than the demerit-point-based type, because the court would only have to calculate a constant percentage upon the fine (and costs) of the defendant rather than checking the demerit point and surcharge schedule for the offenses involved. At the Supreme Court level, the percentage surcharge would require that separate traffic fine figures be maintained, but it would be relatively easy to compute and check the amount owed the Department by applying the percentage to the total traffic fines remitted.

Proposal 3 and 3A: Surcharge as a Fixed Charge Per Case or Per Offense

A third possibility is to have the district court levy a surcharge of a given amount on each traffic court defendant, when that defendant pays the fine without a hearing or is found guilty after hearing. This surcharge and present-court-costs assessments would be administered similarly. Under Proposal 3, each defendant would pay only one surcharge, regardless of the number of counts charged. Under Proposal 3A, the defendant would pay a surcharge for each traffic offense involved. These two proposals are treated together because they present similar administrative problems and because they share the same logical basis for grading the amount assessed to the severity of the offense.

The major advantage of these proposals is that they would make it very simple for the district courts to apply the surcharge and for the Supreme Court to distribute the funds. The district courts would not have to be concerned with the demerit points on each violation nor would they have to compute percentages of the

finest levied. All that would be necessary would be a record of the number of traffic defendants who waived their hearings or were convicted after hearings; or a record of the number of offenses involved. These figures are already available or could be easily derived. It would also be simple for the district court to add the surcharge amount to the defendant's fine and court costs. The Supreme Court would then multiply the total number of defendants, or offenses, by the surcharge and transfer that amount of funds to the Department of Safety.

The disadvantage of per defendant or per offense surcharges is that such criteria fail to relate the assessment to the severity of the highway safety threat presented by the defendant. Under either proposal, the surcharge would not vary with the severity of the offense and under Proposal 3 it would also not vary with the number of offenses involved. Consequently, under Proposal 3, a defendant charged with three "serious" offenses would pay the same surcharge as a defendant with one "minor" offense, while under Proposal 3A, a defendant charged with one "minor" traffic offense would pay the same as a defendant charged with one "serious" offense. Therefore, a defendant's contribution to the revenue of the Department would not be very closely correlated to his contribution to the safety problems the Department addresses.

Projected Revenue

This section presents several estimates of the revenue that could be generated by each proposed surcharge. It must be emphasized that these are rough estimates constructed under time and data constraints. However, in most cases the projections are likely to be lower than the revenue that would be realized by the surcharge arrangement.

Proposal 1: Surcharge Tied to Demerit Points

By varying the surcharge levied against the different classes of demerit point violations, this method can generate widely ranging amounts of revenue. There are 4 demerit point classes: 6, 4, 3, and 0 points. Table 2 shows that by assessing a relatively low dollar amount surcharge on the demerit point class violations, a substantial amount of revenue can be generated. For example, a schedule of \$20 for 6 points, \$5 for 4 and 3 points, and \$0 for 0 points violations would probably raise at least \$2.5 million.

Table 2

Estimated Revenue Through Proposal 1: Demerit-Point-Related Surcharge

Demerit Points	Avg. No. of Violations*	Surcharge					
		\$7	\$10	\$20	\$25	\$20	\$30
6	59,890	5	5	10	10	15	15
4	275,014	3	5	5	5	10	10
3	113,442	0	0	0	0	0	0
0	144,949						
Projected Revenue**		\$2,134,126	\$2,541,180	\$4,515,150	\$4,814,600	\$6,457,430	\$7,056,330

*This average figure is derived from data supplied by the Division of Motor Vehicles. It is the average of demerit point convictions of Virginia drivers in Virginia courts for fiscal years 1977-80. The figures so derived are likely to be a low projection for two reasons. First, they are an average of past years and not a time-series projection, though the trend is unclear. Second, they do not include out-of-state drivers who would be assessed the surcharge under Proposal 1.

**Due to the potential underestimation of the number of violations, the projected revenue may also be lower than that which would be realized.

Proposal 2: Surcharge as Percentage of Fine or Fine and Court Costs

By varying the percentage surcharge placed on fines for the offense under the Virginia Uniform Fine Schedule, widely diverging amounts of revenue can be raised. Under the Fine Schedule, \$15 fines are assessed on most offenses, with some \$10 and very few \$5 and \$25 fines. Court costs are a standard \$18. It should be noted that the Uniform Fine Schedule applies only to offenders who waive a hearing on the charge and plead guilty. Judges have discretion to impose different fines and court costs on those offenders who contest the charge in a hearing. This fact will alter only the projection of the typical surcharge fine because the revenue figures were derived from Virginia Supreme Court data on the total amounts of fines, forfeitures, and court costs received by the district courts during the past three fiscal years.

Table 3 illustrates that a relatively small percentage surcharge, 10% for example, could generate a large amount of revenue, roughly \$2.0 million.

Proposals 3 and 3A: Surcharge as a Per Case or Per Offense Levy

The Department of Transportation Safety could derive substantial revenue by levying a modest surcharge on each traffic defendant who is convicted, waives the hearing and pays the Uniform Fine, or who is otherwise deemed culpable and fined, or upon each offense for which the defendant is deemed culpable. For example, a \$5 surcharge of these types could generate approximately \$3,360,705 a year. The same estimate is used for both proposals because the available data were insufficiently detailed to enable a differentiation between the number of offenses for which people were "convicted" and the number of persons "convicted." Table 4 shows estimated revenue amounts from various per case or per offense levies.

Typical Surcharged Fines

Table 5 gives data which illustrate the effects of the various surcharge proposals on the amount of money paid by the offending motorist. The four typical traffic offenses presented — speeding, failure to keep to the right, failure to dim headlights, and improper parking — reflect the range of demerit points and fines assessed by the Division of Motor Vehicles and the courts.

Table 3

Estimated Revenue from Proposal 2:
Surcharge as Percentage of Fine or Fine and Court Costs

Estimated Fines and Forfeitures Derived From Traffic Offenses: \$14,281,899*

Surcharge:	5%	10%	15%	20%
Revenue Produced:	\$714,094	\$1,428,190	\$2,142,285	\$2,856,380

Estimated Fines, Forfeitures, and Court Costs Derived From Traffic Offenses: \$19,625,697**

Surcharge:	5%	10%	15%	20%
Revenue Produced:	\$981,285	\$1,962,569	\$2,943,855	\$3,925,138

*This figure is necessarily a rough approximation since the State Supreme Court supplied only data on the total amount of fines, forfeitures and court costs taken in by the courts and did not attribute fines to the type of offense (e.g., traffic or criminal) from which they arose. The figure was arrived at by multiplying total fines, forfeitures, or court costs received, by the percentage of traffic to criminal dispositions, since these two types of offenses are the most likely sources of fines. The actual amount of fines derived from traffic offenses may be higher in future years, since this estimate is based on the average of the fines taken in the previous three fiscal years, and does not make a time-series projection of increased offenses, fines, and court costs as miles driven in Virginia increase.

**This was derived by multiplying total court costs by the percentage of traffic dispositions to all other dispositions, since every disposition through the courts results in some trial fee. This figure is also subject to the same qualifications noted in the preceding footnote.

Table 4

Estimated Revenue Through Proposals 3 & 3A: Per Case and Per Offense Levies

Number of Assessable Defendants*	Amount of Surcharge
672,141	\$5
	\$4
Projected Revenue	\$3,360,705
	\$2,688,564
	\$2,016,423

*This number is based on figures provided by the Division of Motor Vehicles from abstracts of convictions received. The figure used is an average of the number of violations reportable to DMV of Virginia operators, including out-of-state convictions of Virginia operators, for calendar years 1978-80 inclusive. The fact that this is an average and that out-of-state defendants are not included in the figure would tend to make the estimate lower than that which could be reasonably expected. However, the inclusion of out-of-state convictions which would not be subject to the surcharge would tend to cause an overestimate. The effect of these two competing tendencies upon the reliability of the defendant figure is not clear.

Table 5

Typical Surcharged Fines

Offense	Speeding		Fail.to Keep		Fail.to Dim		Improper Use
	20 MPH	to Right	Lights	Handicapped	Parking		
Fine*	\$40.00	\$15.00	\$10.00	\$ 5.00			
Court Costs	18.00	18.00	18.00	18.00			
Demerit Points	6.00	4.00	3.00	0			
Presurcharge Amount	58.00	33.00	28.00	23.00			
Plan 1 (Demerit Points**)	7.00	5.00	3.00	0			
Plan 2a (15% Fine and Costs)	8.70	4.95	4.20	3.45			
Plan 2b (15% Fine)	6.00	2.25	1.50	.75			
Plan 3 (\$4.00 Fee)	4.00	4.00	4.00	4.00			
Plan 1	65.00	38.00	31.00	23.00			
Amount Paid with Surcharge Plan 2a	66.70	37.95	32.20	26.45			
Plan 2b	64.00	35.25	29.50	23.75			
Plan 3	62.00	37.00	32.00	27.00			

*This chart is based on the fines and costs specified for offenses under the Virginia Uniform Fine Schedule, Rule 3B:2, adopted pursuant to §46.1-180, Code of Va. Ann.

**For the purpose of this table, the surcharge array chosen was \$7.00 per 6 point demerit, \$5.00 per 4 point, \$3.00 per 3 point and zero for a no-point offense. The total amount paid by the offender under all the proposals would, of course, change if different surcharge arrays, percentages or fees were chosen.

A level of surcharge was chosen from each proposal which would result in the generation of approximately \$2 million in revenue. As is shown by the table, relatively insignificant surcharges, in terms of the increased penalty the offending motorist would pay, can result in substantial revenue production for the Department of Transportation Safety.

Recommended Proposal and Sample Legislative Proposal

Selecting one proposal that should be recommended for legislative action from the four methods discussed above is very difficult, especially since the authors did not have all the information pertinent to such a selection. However, for the reasons stated below, the demerit-point-based surcharge is recommended. The criteria considered in reaching this decision were (1) the proposal's ability to generate the necessary revenue, (2) the ability to do so without an overly onerous surcharge on the defendant, (3) the ease of administering the surcharge, and (4) the rationality of the relationship between the amount surcharged and the severity of the offense.

Based upon reasonable projections, each proposal can generate sufficient revenues without excessively burdening defendants. The differences arise when considering administrative costs and the link between assessment and the dangerousness of a defendant's behavior. Proposal 1, the demerit-point-based surcharge, presents some potentially bothersome administrative problems; however, there would be a very strong correlation between the defendant's surcharge and the highway safety risk he had created. Similarly, Proposal 2, the percentage-of-fine (and court-cost) surcharge, would probably present less burdensome administrative problems, but the percentage surcharge would not be as strongly related to the severity of the offense. Proposal 1, the demerit-point-based surcharge, is recommended because of its strong correlation between the amount surcharged and the safety risk involved. However, evidence of a more significant difference in administrative cost favoring Proposal 2 could be a basis for preferring the percentage surcharge.

Proposals 3 and 3A, the per-defendant and per-offense surcharge, are certainly the least costly to administer; however, they are not recommended because of their extremely low correlations to the risk created. These two proposals should be considered only if the policy makers decide that administrative ease is an overriding concern.

The following sample draft of a statute is offered merely as a rough draft which would have to be refined by persons experienced in drafting legislation. The recommended demerit-point-based surcharge is in the first sample section. Alternative language for the other proposals follows.

§46.1-182.1 Department of Transportation Safety Traffic Offense Surcharge — When a person is convicted of, forfeits bail in connection with, or otherwise evidences guilt of a violation of the motor vehicle operation laws of the Commonwealth contained herein at Title 18.2, Chapter 7, Article 2 (§§18.2-266 et seq.) and Title 46.1 (§§46.1-1 et seq.) or of a local ordinance enacted pursuant to §§46.1-180 and 46.1-181, such person shall be assessed a surcharge, in addition to the prescribed fine and court costs. The surcharge shall be computed[at a rate based upon the demerit points levied upon each offense by the Division of Motor Vehicles. For 6 demerit point offenses the surcharge shall be \$_____; for 4 point offenses, \$_____; for 3 point offenses, \$_____; and for 0 point offenses, \$_____]* The funds collected through the means of this surcharge shall go to the Department of Transportation Safety.

Language for Proposal 2: Percentage-Fine Surcharge

at a rate of _____ per centum of the total fines (and costs) levied upon the person.

Language for Proposal 3: Per-Case Surcharge

at a rate of \$_____ for each defendant disposition resulting in a conviction, bail forfeiture, or other evidence of guilt.

Language for Proposal 3A: Per-Offense Surcharge

at a rate of \$_____ for each applicable traffic offense for which the person is convicted, forfeits bail, or is otherwise deemed culpable.

*The bracketed clause is the language for Proposal 1. The language for the alternative proposals follows.