



PRESS RELEASE
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For Immediate Release
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Cuccinelli Calls for Special Session:

"We Need to Protect Virginians From Drug Dealers and Drunk Drivers."
FAIRFAX -- Today, State Senator Ken Cuccinelli, (R-Fairfax), and Republican Candidate for Attorney General, called on Governor Tim Kaine to bring the Legislature back to Richmond immediately to address the problems created by the ruling of the United States Supreme Court in *Melendez-Diaz v. Massachusetts*.

This decision has begun forcing prosecutors to suspend drug and drunk driver prosecutions, "which is a situation that is bad and will likely get worse if we don't act quickly," said Cuccinelli.

"The first priority of Government is public safety. It is with this in mind that I call on Governor Kaine to convene the General Assembly as soon as possible to fix the problem with our notice waiver statute in the Virginia Code. While Virginia's law was ruled constitutional by our Virginia Supreme Court, that ruling was a close 4-3 decision, and it is on appeal to the U.S. Supreme Court. While I share our Attorney General's opinion that Virginia should prevail under the current statute, the U.S. Supreme Court will not reconvene to hear this case until at least October, and the case is clearly a close call at best," said Cuccinelli.

"Commonwealth's Attorneys are on the front lines in the war on crime, they need to be secure in knowing that all Virginia's statutes are constitutional and that their prosecutions will not be undone because of *Melendez*. And of course the state has an obligation to the defense, to ensure protection under the 6th Amendment. I believe the only way to ensure constitutionality is to conform Virginia's notice waiver statute to Georgia's, which the U.S. Supreme Court said is constitutional in the *Melendez* case. Anything less I believe would be a disservice to Virginia's Commonwealth's Attorneys and its law enforcement community," concluded Cuccinelli.

Until the ruling in *Melendez-Diaz*, the Virginia state forensic lab was able to submit a certificate of analysis of their findings for use in court in drug and D.U.I. cases. Virginia law allows the certificate of analysis as proof of the drugs involved in the case or blood alcohol content. "With the volume of cases analyzed, requiring court appearances by



the scientist in every case has the potential to cripple the criminal justice system," noted Cuccinelli.

Local prosecutors across the Commonwealth are also asking for a special session to fix the problem. Louisa County Commonwealth's Attorney Tom Garrett said, "Across the Commonwealth drunk drivers and drug dealers are going free in cases that would have been certain convictions two weeks ago."

Senator Cuccinelli said, "A legislative fix would be much better than hiring 100-200 new scientists, which we couldn't do now even if we tried."

Senator Cuccinelli noted that under the Virginia Constitution, if the Governor does not act, the legislature can call itself into session if 2/3 of the Senators and 2/3 of the Delegates write to the Governor making such a request. "We can call the special session now, before too much damage has been done, or we'll end up doing it later, after hundreds or thousands of drug defendants and drunk drivers have gotten off spot-free. I think we should act right now."

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