



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 451 **Engrossed with Amendments** *(Patron Prior to Engrossment – Puckett)*

Date Submitted: 02/08/02

LD #: 02-3833252

Topic: Tobacco sales and tax information; unlawful sale of tobacco revenue stamps

Proposed Change:

Adds §§58.1-3.2 and 58.1-1008.1 and amends §58.1-1009 relating to tobacco sales and tax information. Under the proposed §58.1-3.2, the Tax Commissioner is authorized to disclose any information on the sales or purchases of tobacco products, or the taxes of such products to any governmental agency or any national or regional association of such agencies. The section also authorizes the disclosure of similar information to any tobacco product manufacturer required to establish a qualified escrow fund under §3.1-336.2, although this information is restricted to brands or products of that manufacturer only.

Under the proposed §58.1-1008.1, tobacco product manufacturers (as defined in §3.1-336.1) shipping within or into the Commonwealth must submit a monthly report identifying all purchasers of cigarettes. The section also authorizes the Department of Taxation to examine, within regular business hours, any documents relating to the information required for the report or to the manufacturer's compliance with this section. Failure to file or refusal to allow an inspection of the records is punishable as a Class 2 misdemeanor, and each failure is a separate violation.

The amended §58.1-1009 makes it a Class 6 felony to purchase tobacco revenue stamps, whether genuine or counterfeit, from any person other than the Department of Taxation, unless such stamps are already affixed to cigarettes being purchased. It would also be a Class 6 felony to use unlawfully purchased stamps or cause them to be used. The proposal also allows the Department to revoke permits issued to wholesalers for the purpose of purchasing tobacco revenue stamps at a discount if a violation of this section is committed.

Current Practice:

Currently §58.1-1009 makes it a Class 6 felony to unlawfully sell tobacco revenue stamps and allows for wholesalers to qualify to purchase tobacco revenue stamps at a discount of two and one-half cents per carton.

Pre/Post-Sentence Investigation (PSI) data from CY1999 and CY2000 revealed no convictions under §58.1-1009. Convictions under this section are not covered by the sentencing guidelines as the primary (or most serious) offense but may augment the sentence recommendation as additional offenses.

Impact of Proposed Legislation:

The impact of the proposed legislation on state-responsible (prison) bed space cannot be quantified but is expected to be small. In addition to creating a new misdemeanor crime for manufacturers who fail to report or refuse to cooperate, the proposal would expand behavior considered a felony offense under §58.1-1009 to include individuals who unlawfully purchase tobacco revenue stamps. While there are no recent felony convictions under the current §58.1-1009, the databases available to the Commission are insufficient to provide information on the number of incidences that may be affected by the proposed legislation. No adjustment to the guidelines would be necessary under the proposal.

Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.