



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 773

(Patron – McDougle)

Date Submitted: 01/13/04

LD #: 04-0939408

Topic: Failure to pay for motor fuel

Proposed Change:

The proposal amends § 46.2-819.2 by removing the civil penalty of \$100 for driving off without paying for motor fuel and increasing the length of time that a driver's license is suspended for committing this offense. The amendment also defines the offense as a larceny.

Data Analysis:

There is no specific data available on the number of thefts of motor fuel by driving off from a gas station without paying.

According to fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, 4,663 offenders held pre- or post-trial in jail were convicted of petit larceny of property valued at less than \$200 (see *Background Sentencing Information* below). Of these, 6% received probation without an active term of incarceration, while 93% were sentenced to local-responsible (jail) terms with a median sentence of one month. The remaining offenders (1%), convicted of additional charges, received state-responsible (prison) terms.

Based on two recent years of data (fiscal year (FY) 2000 and FY2001 Pre/Post Sentence Investigation data), 4,387 offenders were convicted of grand larceny of property valued at \$200 or more as the primary (most serious) offense in a sentencing event. Of these, 43% received probation without incarceration, 30% received jail terms, and 27% were sentenced to prison terms with a median sentence of two years.

Background Sentencing Information

Misdemeanor Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local-Responsible Sentence
Petit larceny of property less than \$200 (§ 18.2-96(2))	4,663	6%	93%	1%	1 mo.

Note: Includes only convictions of those held in the local jail pretrial or sentenced to serve time post-trial.

Data Source: FY2001 and FY2002 Local Inmate Data System (LIDS) database

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Grand larceny of property \$200 or more (§ 18.2-95(ii))	4,387	43%	30%	27%	2.0 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

Impact of Proposed Legislation:

The proposed legislation explicitly defines driving off without paying for motor fuel as a larceny, removes the civil penalty, and increases the period for which the offender's driver's license must be suspended. Currently, theft of motor fuel is subject to the existing criminal penalties established by the petit and grand larceny statutes (§§ 18.2-96(2) and 18.2-95(ii)), in addition to a civil fine of up to \$100 and license suspension. Since the proposal does not increase the penalty for theft of motor fuel, no additional state-responsible (prison) or local-responsible (jail) beds are required by this proposal.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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