

## Department of Planning and Budget 2011 Fiscal Impact Statement

**1. Bill Number:** SB1267

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Martin

**3. Committee:** Courts of Justice

**4. Title:** Contraband and unstamped cigarettes; penalties.

**5. Summary:** Decreases from 3,000 packs to 500 packs the threshold possession amount of contraband cigarettes that triggers a mandatory jail time. Currently, if an offender is found guilty of possessing 3,000 or more packages of contraband cigarettes, the sentence of such person includes a mandatory minimum term of confinement of 90 days. The bill also changes the felony threshold amount from 3,000 unstamped packs to 500 packs, to mirror the levels set out in the definition for 'contraband cigarettes' in the federal Contraband Cigarette Trafficking Act.

**6. Budget Amendment Necessary:** Yes. Item 380

**7. Fiscal Impact Estimates:** Preliminary. See Item 8.

**8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission, the proposal could result in additional felony convictions and therefore impact the population of state responsible offenders. However, the possible impact of the proposed legislation on state and local adult beds cannot be determined. Due to this, Chapter 874 of the 2010 Acts of Assembly requires a minimum fiscal impact of \$50,000 be appropriated to the Department of Corrections in fiscal year 2012 if this bill passes. The Commission also states the impact on local and regional jail beds and adult community corrections cannot be quantified and that the Department of Juvenile Justice does not expect the proposal to impact juvenile correctional center or detention facility beds.

However, although insufficient data exists to determine the fiscal impact due to this proposal, the proposal could result in a decrease in the jail population since the proposal lowers the felony threshold (from 3,000 cigarette packages to 500 packages). This change reduces the number of Class 1 misdemeanor violations by making them felonies. A potential reduction in per diem payments may result since Class 1 misdemeanor outcomes result in sentences of up to 12 months in jail (and a fine up to \$2,500). Any reduction in the jail population will reduce costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Compensation Board, local and regional jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

**Date:** 1/24/2011

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