

REVISED
Department of Planning and Budget
2012 Fiscal Impact Statement

1. Bill Number: HB758

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Hodges

3. Committee: Counties, Cities and Towns

4. Title: Littering; defines and provides for penalties based on gravity of offense.

5. Summary: This bill defines littering and establishes penalties for littering, based on the gravity and subsequent nature of the offense. The bill allows counties, cities, and towns to adopt and enforce litter control ordinances pursuant to its provisions. Finally, the bill contains enactment clauses that, (i) repeal §§ 33.1-346 and 33.1-346.1, Code of Virginia, and (ii) provide an estimate from the Virginia Criminal Sentencing Commission stating that a minimum fiscal impact of \$50,000 is anticipated to result from this bill. This revised version corrects the anticipated fiscal impact in years 2014 through 2018.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2012	\$0	n/a	n/a
2013	\$50,000	0.00	Varied
2014	\$0	0.00	n/a
2015	\$0	0.00	n/a
2016	\$0	0.00	n/a
2017	\$0	0.00	n/a
2018	\$0	0.00	n/a

8. Fiscal Implications: This bill defines and establishes varies offenses related to littering.

The bill imposes a Class 4 misdemeanor charge on any person found guilty of mitigated criminal littering, and a Class 3 misdemeanor charge on a person found guilty of criminal littering. For the purposes of this bill, “mitigated criminal littering” is defined as an amount less than or equal to five pounds or seven and one-half cubic feet, and “criminal littering” is defined as more than five pounds or seven and one-half cubic feet and less than or equal to 10 pounds or 15 cubic feet. For these civil offenses, individuals are to be fined \$50 and required to perform 40 or 80 hours of service removing litter from public locations for a Class 4 or Class 3 misdemeanor, respectively,. In the instance an individual is charged with

littering in a state park, they are to be assessed a civil penalty of up to \$250, with the revenue deposited to the State Park Conservation Resources Fund within the Department of Conservation and Recreation. In accordance with § 10.1-202, Code of Virginia, monies in this fund are to be expended for the conservation, development, maintenance, and operations of state parks acquired or held by the Department. Revenues from civil penalties collected for instances of littering in areas other than state parks are to be deposited to the state general fund. It is not known the amount of revenue that may be generated from the civil penalties associated with this bill. Any adjustments to the nongeneral fund appropriations of the funds in which these penalties are collected may be made administratively, if necessary.

The bill also designates the following types of criminal offenses: a Class 2 misdemeanor for aggravated criminal littering (defined as littering in an amount exceeding 10 pounds or 15 cubic feet), a Class 1 misdemeanor for a third conviction of aggravated criminal littering, and a Class 6 felony for aggravated criminal littering in an amount exceeding 1,000 pounds or 200 cubic feet or in any amounts for any commercial purpose. The penalty for conviction of a Class 2 misdemeanor can be a sentence of up to six months in jail; for a Class 1 misdemeanor, up to 12 months in jail; and for a Class 6 felony, up to 12 months in jail or one to five years in prison. Therefore, the bill could result in additional persons being housed in jails or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase 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. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2011), the estimated total state support for local jails averaged \$29.98 per inmate, per day in FY 2010.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 890 of the 2011 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

The Department of Environmental Quality does not anticipate that this bill will result in a fiscal impact on the agency.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Department of Juvenile Justice, local courts, jails, Department of Conservation and Recreation and the Department of Environmental Quality.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** Currently, § 33.1-346 A., Code of Virginia, makes it an unlawful act to dump a companion animal on any public property for the purpose of disposal. The second enactment clause to this bill repeals §§ 33.1-346 and 33.1-346.1, Code of Virginia.

Date: 1/18/2012