

Department of Planning and Budget 2013 Fiscal Impact Statement

1. Bill Number: HB 1820

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

2. Patron: Ware, O.

3. Committee: Passed both houses

4. Title: Illegal sale or possession of cigarettes

5. Summary:

Under current law, it is illegal to possess, sell, or otherwise distribute cigarettes upon which the appropriate taxes have not been paid. If the quantity of cigarettes involved is fewer than 3,000 packages, the offense is currently a Class 2 misdemeanor. For 3,000 or more packages, the offense is a Class 6 felony.

The proposed legislation would change the penalties as follows:

- Fewer than 500 packages—Class 1 misdemeanor for first offense; Class 6 felony for second subsequent offense.
- 500 or more packages—Class 6 felony for first offense; Class 5 felony for second or subsequent offense.

6. Budget Amendment Necessary: Yes. Item 389. Both houses have included funding for the fiscal impact of this bill in their respective budget bills.

7. Fiscal Impact Estimates: Final. See Item 8 below.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2013		
2014	\$50,000	General
2015		
2016		
2017		
2018		

8. Fiscal Implications:

Someone convicted of a Class 2 misdemeanor is subject to a jail sentence of up to six months. The proposed legislation would increase some offenses from a Class 2 misdemeanor to a Class 6 felony and some offenses from a Class 6 felony to a Class 5 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison; for a Class 5 felony, the possible sentence is up to 12 months in jail, or 1 to 10 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail 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 misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion 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 2012), the estimated total state support for local jails averaged \$26.54 per inmate, per day in FY 2011.

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 3 of the 2012 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/20/2013

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