

## Department of Planning and Budget 2013 Fiscal Impact Statement

**1. Bill Number: SB 1017**

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

**2. Patron: Howell**

**3. Committee: Passed both houses**

**4. Title: Contraband cigarettes**

**5. Summary:**

Under current law, unauthorized possession, with the intent to distribute, more than 5,000 (25 cartons) tax-paid cigarettes is a Class 2 misdemeanor for the first offense and a Class 1 misdemeanor for the second or any subsequent offense.

The proposed legislation would increase the penalty for the offense as follows:

- More than 5,000 cigarettes (25 cartons) but fewer than 100,000 (500 cartons)—Class 1 misdemeanor for first offense and Class 6 felon for a second or subsequent offense.
- 100,000 cigarettes (500 cartons) or more—Class 6 felony for a first offense and Class 5 felony for a second or subsequent offense.

**6. Budget Amendment Necessary:** Yes. The House and Senate have included funding for the fiscal impact of this bill in the amendments to 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:**

The proposed legislation increases a Class 2 misdemeanor ( up to six months in jail) to a Class 1 misdemeanor (up to 12 months in jail) and a Class 1 misdemeanor offense to a Class 6 felony (up to 12 months in jail or 1 to 5 years in prison). In addition, it creates a new Class 6 felony and a new Class 5 felony offense (up to 12 months in jail or 1 to 10 years in prison). As a result, it could increase the number of persons housed in local jails and prisons.

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 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:** Identical to HB 1783.

**Date:** 2/18/2013

**Document:** G:\LEGIS\fis-13\sb1017er.docx Dick Hall-Sizemore