

**Department of Planning and Budget
2013 Fiscal Impact Statement**

1. Bill Number: SB 1018

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

2. Patron: Howell

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 lower the cut-off amount at which the offense becomes a felony from 3,000 packages to 500 packages.

6. Budget Amendment Necessary: No. The General Assembly included funding for the fiscal impact of this legislation in the budget bill it passed.

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 the penalty for what is now a misdemeanor, possession of 500 to 2,999 packages of illegal cigarettes, to a Class 6 felony.

For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail. 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: HB 1820 also amends this Code section in a similar fashion, but increases the penalty for the misdemeanor offense and provides higher penalties for second or subsequent offenses.

Date: 2/27/2013

Document: G:\LEGIS\fis-13\sb1018er.docx Dick Hall-Sizemore