

Department of Planning and Budget 2013 Fiscal Impact Statement

1. Bill Number: SB 1019

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

2. Patron: Howell

3. Committee: Passed both houses

4. Title: Counterfeit cigarettes

5. Summary:

Counterfeit cigarettes, according to the definition set out in the Code of Virginia, are cigarettes that (i) have false manufacturing labels, (ii) are not manufactured by the manufacturer indicated on the container, or (iii) have affixed to the container a false tax stamp. Knowingly possessing or distributing counterfeit cigarettes is subject to civil penalties under current law.

The proposed legislation would provide for criminal penalties for knowingly possessing or distributing counterfeit cigarettes, as follows:

- Fewer than 10 cartons—Class 1 misdemeanor for the first offense; Class 6 felony for the second or subsequent offense.
- 10 or more cartons—Class 6 felony.

6. Budget Amendment Necessary: No. The budget bill passed by the General Assembly includes an appropriation for the fiscal impact of this legislation.

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:

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. 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. 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 misdemeanant 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: 2/25/2013

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