



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2411 *As Enrolled* (Patron Prior to Enrollment – Adams, L.R.)

LD#: Enrolled

Date: 2/26/2019

Topic: Timber theft

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
Cannot be determined *
- **Juvenile Detention Facilities:**
Cannot be determined *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal adds § 55-334.2 and amends other sections of the *Code* related to timber theft. The proposal specifies that a person who buys and removes timber from a landowner's property is guilty of timber theft, a Class 1 misdemeanor, if he fails to pay the landowner by the date specified in their agreement, or if there is no written agreement, within 60 days of removing the timber. Any person who, without the consent of the seller, fails to make payment in full within this time period is guilty of timber theft and shall be ordered to pay restitution equal to three times the value of the timber removed. An exception is provided for a purchaser who made timely payment to a person he believed in good faith to be the rightful owner of the timber. The bill requires a timber buyer, in certain cases, to furnish at the request of the landowner an accounting of each load removed from the property, with supporting documentation. A person who fails to provide such information, or who provides false information, is guilty of a Class 3 misdemeanor. Finally, the proposal extends from 30 days to 90 days the period during which the owner of land on which a person encroached and cut timber has the right to notify such trespasser and to appoint a timber estimator to determine the amount of damages.

Currently, under § 55-334.1, any person who knowingly and willfully takes, steals, and removes from the lands of another any timber growing, standing or lying on the lands is guilty of larceny. The existing provision does not explicitly cover failure to pay a landowner for a timber purchase, as is proposed.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be convicted for timber theft for failing to remit payment under the proposed § 55-334.2.

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2013 through FY2018, one individual was convicted of a felony for larceny of timber under § 55-334.1. This was the primary, or most serious, offense in the case. The offender received a state-responsible (prison) sentence of 3.8 years. Based on General District Court CMS data for the same six-year period, there were no misdemeanor convictions for larceny of timber under § 55-334.1.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal does not create a new felony or expand the applicability of an existing felony; therefore, it is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. By establishing a new misdemeanor offense, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in misdemeanor convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for local community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on local community corrections programs cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines do not apply when the most serious offense at sentencing is a misdemeanor. Misdemeanor convictions, however, could augment the guidelines recommendation if the most serious offense is a felony covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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