

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB2411

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

2. Patron: Adams, L.R.

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Timber sales; theft; accounting; penalty.

5. Summary: Provides that a person who buys and removes timber from a landowner's property is guilty of larceny 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. The bill provides that a person who is convicted of larceny of timber shall be ordered to pay three times the value of the timber removed. The bill also provides that, following the passing of the payment deadline, a buyer's failure to pay within 10 days of receiving a demand for payment shall constitute prima facie evidence of the buyer's intent to violate the larceny provision. An exception exists for a purchaser who made 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 all supporting documentation. A person who fails to provide such information, or who provides false information, is guilty of a Class 3 misdemeanor.

The bill 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 and directs the State Forester to assist landowners and law-enforcement agencies with regard to reported cases of timber theft.

The bill requires that records of the Department composed of confidential commercial or financial information supplied by individuals or business entities to the Department in the course of an investigation of timber theft are excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications: It is anticipated that the impact from this bill to the Department of Forestry (DOF) is indeterminate as DOF does not have enough information to estimate the number of new cases.

According to the bill, any person who is guilty of timber theft is guilty of a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, 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. It also funds a large 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 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

According to this bill, any person who fails to provide the information required by this bill, or who knowingly provides false information, is guilty of a Class 3 misdemeanor. A Class 3 misdemeanor is punishable by a fine of up to \$500. All revenue collected from such fines is deposited into the Literary Fund. However, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the impact of this bill cannot be determined.

According to the Virginia Criminal Sentencing Commission, this bill 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.

Therefore, pursuant to § 30-19.1:4, Code of Virginia, 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.

9. Specific Agency or Political Subdivisions Affected: Department of Forestry; Department of Corrections.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is the companion to SB1469, as amended.