

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** HB1365

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

2. **Patron:** Leftwich

3. **Committee:** Courts of Justice

4. **Title:** Manufacture, sale, or distribution of imitation nicotine vapor products; penalty.

5. **Summary:** This bill prohibits the manufacture, sale, or distribution of any imitation nicotine vapor product, defined in the bill as (i) any counterfeit nicotine vapor product or (ii) any liquid nicotine or nicotine vapor product that was not manufactured, prepared, compounded, or processed by a person registered with the U.S. Food and Drug Administration (FDA) pursuant to 21 U.S.C. § 387e. The bill makes a first violation of this provision a Class 1 misdemeanor and a second or subsequent offense a Class 6 felony, provided that the accused was at liberty (defined in § 53.1-151 as freedom without any legal restraints, including release pending trial, sentencing or appeal, or release on probation or parole or escape), between each conviction and it is admitted, or found by the jury or judge before whom the person is tried, that the accused was previously convicted of a violation.

6. **Budget Amendment Necessary:** Yes, Item 402.

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

8. **Fiscal Implications:** By adding new Class 1 misdemeanor and Class 6 felony offenses, this bill may increase the need for local-responsible (jail) bed space and state-responsible (prison) bed space.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 prisoner. 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

According to the Virginia Department of Agriculture and Consumer Services, this bill is not expected to have a fiscal impact on agency operations.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails

10. Technical Amendment Necessary: None

11. Other Comments: None