

Department of Planning and Budget

2011 Fiscal Impact Statement

1. Bill Number: HB 2148

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

2. Patron: Cline

3. Committee: Passed both houses

4. Title: Trademark infringement

5. Summary:

Under current law, “use” of a trademark is associated with selling or otherwise distributing goods in commerce. Using a trademark to cause consumer confusion or for deceptive purposes or counterfeiting a trademark is a criminal offense. The first offense is a Class 1 misdemeanor; a second or subsequent offense is a Class 6 felony.

The proposed legislation would expand the term “use” to include goods simply possessed in the Commonwealth, in addition to those being sold.

6. Budget Amendment Necessary: None.

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

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. It also funds most 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 2010), the estimated total state support for local jails averaged \$33.01 per inmate, per day in FY 2009.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission has projected that this proposed legislation will not increase future state-responsible bed space needs of the state.

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: 2/18/2011

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