



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 758

(Patron – Hodges)

LD#: 12100044

Date: 11/30/2011

Topic: Littering

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal repeals §§ 33.1-346 and 33.1-346.1 of the *Code of Virginia* and adds §§ 33.1-350.1 through 33.1-350.5 to define littering, mitigated criminal littering (Class 4 misdemeanor), criminal littering (Class 3 misdemeanor) and aggravated criminal littering (Class 2 misdemeanor), based on the volume of litter. A third conviction for aggravated criminal littering would constitute a Class 1 misdemeanor, while littering in an amount over 1,000 pounds, 200 cubic feet or for commercial purposes, would constitute a Class 6 felony. Additional penalties for removing the litter also are provided. The bill further permits localities to adopt local litter ordinances, allows the Department of Motor Vehicles to provide vehicle information for enforcement purposes, and gives enforcement authority to state and local law enforcement officers.

Currently, under § 33.1-346, littering is a misdemeanor punishable by up to 12 months in jail and/or a fine of \$250 to \$2,500.

Analysis:

According to the General District Court Automated Information System (CAIS) for FY2011, 1,133 offenders were convicted of a misdemeanor littering offense under §§ 33.1-346 and 33.1-346.1. Information on the volume or commercial purpose of the litter, necessary to determining the misdemeanor or felony classification under the proposed statute, is not available for these cases. Less than one percent (5) were sentenced to an active period of incarceration. One received a local-responsible (jail) term of six months. The other four combined received less than one month.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the definition of littering to a Class 6 felony for large amounts of litter or when littering is done for commercial purposes. Consequently, it could increase the need for state-responsible (prison) beds. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal cannot be determined.

Local adult correctional facilities. Because it would make a third conviction for aggravated criminal littering a Class 1 misdemeanor, the proposal may increase local-responsible (jail) bed space needs. However, data are not available to estimate the magnitude of the impact.

Adult community corrections resources. Because the proposal may result in additional felony offenders on community supervision, the proposal may impact local and state community corrections resources. However, the full cost of the impact on adult community corrections cannot be estimated.

Virginia's sentencing guidelines. Existing statutes define littering as a misdemeanor. Misdemeanor offenses are not covered by the sentencing guidelines when such a conviction is the primary (most serious) offense in the case. A conviction under this provision, however, could augment the guidelines recommendation as an additional offense, if the most serious offense at sentencing is covered by the guidelines. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact of the proposal 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.