

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 623

An Act to amend and reenact § 58.1-1017.1 of the Code of Virginia, relating to possession with intent to distribute tax-paid, contraband cigarettes; penalties.

[S 1017]

Approved March 20, 2013

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1017.1 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1017.1. Possession with intent to distribute tax-paid, contraband cigarettes; penalty.

Any person other than an authorized holder who possesses, with intent to distribute, more than 5,000 (25 cartons) *but fewer than 100,000 (500 cartons)* tax-paid cigarettes is guilty of a Class ~~2~~ *1* misdemeanor for a first offense and is guilty of a Class ~~4~~ *misdeemeanor* ~~6~~ *felony* for any second or subsequent offense. *Any person other than an authorized holder who possesses, with intent to distribute, 100,000 (500 cartons) or more tax-paid cigarettes is guilty of a Class 6 felony for a first offense and is guilty of a Class 5 felony for a second or subsequent offense.* Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no more than \$5,000, for a first offense; (ii) \$5 per pack, but no more than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no more than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 3 of the Acts of Assembly of 2012, Special Session I, 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.