

## Department of Planning and Budget 2023 Fiscal Impact Statement

**1. Bill Number:** SB1135 ER

**House of Origin**     Introduced     Substitute     Engrossed

**Second House**     In Committee     Substitute     Enrolled

**2. Patron:** McDougle

**3. Committee:** Passed both Houses

**4. Title:** Possession, purchase, or sale of catalytic converters; penalty.

**5. Summary:** Under current law, breaking, injuring, tampering with, or removing a catalytic converter or related parts from a motor vehicle is punishable as a Class 6 felony. This bill creates a Class 6 felony charge for selling, offering for sale, or purchasing a catalytic converter from a motor vehicle exhaust system that has been illegally detached from a motor vehicle.

The enrolled bill provides a judge or jury may make a permissive inference that a person who is in possession of a catalytic converter that has been removed from a motor vehicle to have obtained the catalytic converter in violation of this section unless the person is (i) an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth; (ii) a scrap metal purchaser that has adhered to the compliance provisions of subdivisions B 1 or 2 of § 59.1-136.3; or (iii) a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.

**6. Budget Amendment Necessary:** Yes, Item 404.

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

**8. Fiscal Implications:** The Virginia Criminal Sentencing Commission (VCSC) reports that data are insufficient to identify the number of stolen catalytic converters removed from a motor vehicle that are sold, purchased, or offered for sale. However, VCSC estimates that, if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony larceny charges under certain sections of the Code of Virginia. According to Sentencing Guidelines data for FY 2021 and FY 2022, 13.5 percent of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of 1.6 years. Another 45.3 percent received a local-responsible (jail)

term for which the median sentence was 3.0 months. The remaining 41.2 percent did not receive an active term of incarceration to serve after sentencing.

For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. 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 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 misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, local law enforcement agencies, Commonwealth Attorneys, Public Defenders offices, courts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None