

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: SB469ER

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

2. Patron: Obenshain

3. Committee: Passed both houses.

4. Title: Controlled substances; manufacturing, selling, giving, distributing, etc.; adulterated.

5. Summary: The bill expands an existing felony offense in § 18.2-248.02 relating to allowing a minor or incapacitated person to be present during the manufacture or attempted manufacture of methamphetamine, to include the manufacture or attempted manufacture of fentanyl. This felony offense is punishable by imprisonment of between 10 and 40 years. In addition, the substitute creates a new Class 6 felony for any person, except for permitted manufacturers, to possess, purchase, sell, give, distribute, or possess with intent to sell, give, or distribute an encapsulating machine or a tableting machine that manufactures, compounds, converts, produces, processes, prepares, or otherwise introduces into the human body a controlled substance. This penalty is elevated to a Class 5 felony if any person knowingly uses such devices to unlawfully manufacture a controlled Schedule I or Schedule II substance of the Drug Control Act or a controlled substance analog. The bill also elevates an existing Class 2 misdemeanor to a Class 6 felony for any violation of § 54.1-3457, relating to prohibited acts associated with misbranded and adulterated drugs and cosmetics.

6. Budget Amendment Necessary: No, funding is provided in Item 390 of the Governor's Introduced Budget (HB30/SB30).

7. Fiscal Impact Estimates: Final, see Item 8 below.

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission (VCSC), there is insufficient data to reliably estimate the impact of the proposed legislation on state-responsible (prison) bed space needs. Due to the lack of data, the VCSC has concluded, pursuant to § 30-19.1:4 of the Code of Virginia, and as required by Chapter 1, 2023 Acts of Assembly, Special Session I, a minimum impact of \$50,000 is assigned to the bill and is accounted for in the introduced budget.

The fiscal bill may have on local-responsible (jail) bed space needs cannot be determined. The Commonwealth currently pays \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail, and \$15.00 a day for each state responsible prisoner held in local jail. It also funds a large 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

9. Specific Agency or Political Subdivisions Affected: State and local law enforcement agencies, Department of Corrections, local and regional jails, Courts, Commonwealth's Attorneys, Public Defenders.

10. Technical Amendment Necessary: No.

11. Other Comments: None.