

Fiscal Impact Review 2016 General Assembly Session

Bill number: SB 208

Review Requested By: Co-Chairman Norment
Co-Chairman Hanger

JLARC Staff Fiscal Estimates

JLARC staff do not concur with the preliminary estimates in the Fiscal Impact Statement (FIS) for SB 208. SB 208 would authorize the sale, use and transport of consumer fireworks in Virginia. JLARC staff estimate that there would be a general fund cost of approximately \$367,000 in FY 2018 for the State Fire Marshal's Office (SFMO) to respond to increased fireworks-related incidents. This is lower than the FIS estimate of \$1,350,000 because the FIS assumes that the SFMO would respond to all increased incidents in the state. The JLARC staff estimate assumes the SFMO would only respond to incidents in the localities that it enforces. JLARC staff estimate that SB 208 could result in increased sales tax revenue ranging from \$477,000 to \$1,221,000 annually. FY 2017 costs and revenue increases would likely be substantially less because the bill has a delayed effective date of January 1, 2017.

An explanation of the JLARC staff review is included on the pages that follow.

Authorized for release:



Hal E. Greer, Director

Bill summary: SB 208 would authorize the sale, storage, use, and transport of consumer grade fireworks. Consumer fireworks are defined in the bill as small fireworks containing restricted amounts of pyrotechnic composition designed primarily for visible or audible effects by combustion. Examples of consumer fireworks include cones, firecrackers, and rockets. Currently, only permissible fireworks, such as sparklers and whirligigs, are allowed in Virginia. The bill excludes the sale, use, and transport of consumer and permissible fireworks from State Fire Prevention Code (SFPC). The provisions of the bill have a delayed effective date of January 1, 2017.

Discussion of fiscal implications: JLARC staff estimate that SB 208 could result in additional costs for the Virginia Department of Fire Programs (VDFFP) of \$367,000 in general funds (GF) annually. This compares to the preliminary estimates in the Fiscal Impact Statement (FIS) of \$1,350,000 GF annually. JLARC staff estimate that SB 208 could result in an increase in sales tax revenue, ranging from \$477,000 to \$1,221,000 annually. SB 208 will not take effect until January 1, 2017, so the costs and revenue increases in FY 2017 are expected to be substantially less than for FY 2018 and later years.

Cost to the Virginia Department of Fire Programs

According to VDFFP, authorizing consumer fireworks in Virginia would lead to an increased number of fireworks-related incidents to which the State Fire Marshal's Office (SFMO) would need to respond. The FIS estimates that an additional 15 inspectors (3 inspectors in each of 5 regions) with an annual cost of \$1,350,000 in salaries and benefits would be needed to respond to the increased incidents.

The JLARC staff estimate of \$367,000 annually is substantially less than the FIS. This is because the estimate assumes that the SFMO would only respond to incidents in localities that have not adopted the Statewide Fire Prevention Code (SFPC) and are enforced by the SFMO. Locally-appointed fire officials respond to incidents in localities that have adopted the SFPC. For example, in FY 2013 the SFMO responded to 3 of 41 incidents of fires started by fireworks and in FY 2014 the SFMO responded to 6 of 41 these incidents. The remaining incidents were responded to by local enforcement. While the number of fireworks incidents is expected to increase under SB 280, the SFMO would still likely respond to a fraction of the new incidents.

To arrive at the \$367,000 estimate, JLARC staff utilized the statewide costs assumed in the FIS for the additional inspection capability, which equates to \$0.17 per Virginia resident. JLARC staff applied the per person cost to the number of persons living in areas requiring SFMO enforcement (1,357,602 persons or 17% of the state population). Localities requiring enforcement by the SFMO tend to be larger in land area than locally

enforced areas, and therefore, more time may be required to respond to incidents. Based on data provided by VDFP, the land area for SFMO-enforced areas is 1.6 times larger than locally enforced areas. JLARC staff adjusted the cost of additional inspectors to reflect the larger land area.

Table 1: Calculation of the cost for additional State Fire Marshal’s Office (SFMO) inspectors

| | | |
|--|------------------|--|
| Estimated cost based on population relying on the SMFO | | |
| | \$0.17 | cost per person for statewide inspection capability based on FIS |
| X | <u>1,357,602</u> | <u>persons that would require SFMO enforcement</u> |
| | \$229,066 | cost of 2.5 additional inspectors |
| Cost adjustment for land areas relying on SFMO | | |
| | \$229,066 | cost of inspectors for population relying on the SFMO |
| X | <u>1.6</u> | <u>ratio of land area for population relying on the SFMO</u> |
| | \$366,505 | cost of 4 additional inspectors based on land area |
| Source: Virginia Department of Fire Programs, 2015 | | |

Several factors support a reduced level of needed inspection capability compared to the FIS. According to the U.S. Consumer Product Safety Commission, fireworks use is concentrated in June and July, and it is likely that any increase in fireworks-related incidents would occur during these months. The Virginia Sheriffs Association indicated that many fireworks-related incidents would be reported to and dealt with by local law enforcement and may not require involvement of the SFMO. Also, for states that have authorized consumer grade fireworks and report fireworks-related incidents, there has been moderate short-term increases in incidents following the authorizing legislation, but the number of fireworks-related incidents declined in the long-term.

Fireworks Fees

According to VDFP, amendments to § 27-96.1 of SB 208 would prevent the department from regulating the sale and use of consumer fireworks. Similar bills proposed in the 2014 and 2015 would have allowed VDFP to regulate consumer fireworks and charge related fees, such as permit fees for retailers. According to VDFP, the previous bills did not have a positive fiscal impact because the assumed fees would have offset the additional costs related to the bills.

According to the American Pyrotechnics Association (APA), most states collect permit fees for the sale of consumer fireworks. Permanent retail fees can range from \$25 to \$1000 per permit. Seasonal or temporary retail permit fees may range from \$10 to \$250.

Wholesale permit fees can range from \$50 to \$3000. Most states use revenue generated from permit fees to offset fireworks related training, education, and enforcement costs. Staff at the APA indicated that having a permit process is necessary for protecting property and public safety.

Other states considering authorizing consumer fireworks have identified additional costs related to the inspection of retail and wholesale facilities (often offset by fees) rather than increased inspections related to increased fireworks-related incidents. It may be that a stronger regulatory structure on the sale of fireworks leads to fewer incidents after fireworks are purchased.

Revenue Impact

SB 208 could result in increased state tax collections on the sales of consumer fireworks. Based on actual or estimated consumer fireworks sales reported in six other states and nationally, annual sales of consumer fireworks in Virginia could range from \$1.36 to \$3.48 per capita. This would result in a total consumer fireworks sales of \$11.4 million to \$29.2 million annually.

Sales of permissible fireworks are already taxed in Virginia and would not generate new revenue. A 2012 fiscal review by the Georgia Department of Accounts found that in states with less restrictive consumer fireworks laws, the "safe and sane" category of fireworks accounted for about 10% of the fireworks sales. Using this assumption, 90 percent of sales tax revenue in Virginia would be generated from the new estimated consumer fireworks sales.

Using a blended Virginia state sales tax rate of 4.65% provided by the Virginia Department of Taxation, the estimated additional state sales tax revenue could range from \$0.5 million to \$1.2 million annually. SB 208 would not take effect until January 1, 2017, so the additional revenue in FY 2017 would be substantially less than FY 2018 and later years. A fiscal estimate for a similar bill in Georgia with a January 1 effective date estimated the increased revenue in the first year to be approximately 20 percent of subsequent years.

Table 2: Estimated Additional State Sales Tax Revenue

| Lower estimate | | |
|-----------------|--------------------|--|
| | \$1.36 | consumer fireworks sales per capita, including permissible |
| X | <u>8,382,993</u> | <u>Virginia state population (2015)</u> |
| | \$11,400,870 | Total estimated consumer fireworks sales |
| | \$10,260,783 | consumer fireworks sales, excluding permissible |
| x | <u>4.65%</u> | <u>Virginia blended state sales tax rate</u> |
| | \$477,126 | Estimated additional state sales tax revenue |
| Higher estimate | | |
| | \$3.48 | consumer fireworks sales per capita, including permissible |
| X | <u>8,382,993</u> | <u>Virginia state population (2015)</u> |
| | \$29,172,816 | Total estimated consumer fireworks sales |
| | \$26,255,534 | consumer fireworks sales, excluding permissible |
| x | <u>4.65%</u> | <u>Virginia blended state sales tax rate</u> |
| | \$1,220,882 | Estimated additional state sales tax revenue |

Sources: Actual or estimated consumer fireworks sales in Michigan, Texas, North Carolina, Maine, Georgia and nationally. Sales information was available for IN but not included because it is substantially higher than in other states.

Corrections Costs

The Virginia Criminal Sentencing Commission (VCSC) fiscal impact statement (FIS) found that SB 208 would not increase costs for adult community correctional programs and state and local adult correctional facilities. JLARC staff concur with the VCSC FIS.

Budget amendment necessary? Yes, a budget amendment may be required to appropriate funds for the additional staff at the Virginia Department of Fire Programs. However, the cost of this would appear to be offset by an expected increase in sales tax revenue.

Agencies affected: Virginia Department of Fire Programs

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Date: 2/11/2016