



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2321 (Patron – Morefield)

LD#: 17103465

Date: 1/12/2017

Topic: Restricted ammunition

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
Cannot be determined *
- **Juvenile Detention Facilities:**
Cannot be determined *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-308.3, relating to firearm ammunition. Currently, the definition of restricted firearm ammunition includes:

- i) Ammunition coated with or containing polytetrafluorethylene (commonly referred to as Teflon),
- ii) “KTW” bullets or “French Arcanes,” and
- iii) Cartridges containing bullets coated with plastic with other than lead or lead alloy cores, jacketed bullets with non-lead cores, or cartridges with bullets that are comprised of a non-lead metal or metal alloy.

The proposal modifies § 18.2-308.3 so that the definition of “restricted firearm ammunition” includes, under clause ii, “pinched tip” bullets, and under clause iii, cartridges containing bullets with other than lead, lead alloy, or copper cores, jacketed bullets with non-lead, non-copper cores, and cartridges with bullets that are comprised of a non-lead, non-copper metal or metal alloy. Furthermore, the proposal clarifies that to “use or attempt to use restricted firearm ammunition” refers to an attempted or actual discharge of restricted ammunition and does not include mere possession of such ammunition. In addition, any ammunition that has been approved by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives for commercial sale would not be considered restricted firearm ammunition.

Currently, under § 18.2-308.3, the use or attempted use of restricted firearm ammunition while committing or attempting to commit a crime is punishable as a Class 5 felony. Under the proposed amendments to § 18.2-308.3(B), the felony penalty would only apply if the offender uses or attempts to use restricted firearm ammunition while committing or attempting to commit a felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2011 through FY2016, one offender was convicted of a Class 5 felony for a restricted firearm ammunition violation under the current provisions of § 18.2-308.3. This offender was sentenced to a local-responsible (jail) term of six months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal could broaden the applicability of an existing felony offense by adding “pinched tip” bullets as a type of restricted firearm ammunition. Conversely, the proposal may also narrow the applicability of this felony, since the proposed definition of restricted firearm ammunition would not prohibit bullets partially or wholly comprised of copper or a copper alloy. Furthermore, the proposal limits the applicability of the felony penalties contained in § 18.2-308.3(B) to instances where such usage occurs while the offender is committing or attempting to commit a felony offense. During the most recent six-year period, no offender whose primary offense was a violation of § 18.2-308.3 received a state-responsible (prison) sentence. Therefore, the proposal is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. The proposal may affect local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections resources. The net impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia’s sentencing guidelines. Felony convictions under § 18.2-308.3 are not covered by the sentencing guidelines as the primary offense. Convictions under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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