



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2797 (Patron – Filler-Corn)

LD#: 19104846

Date: 1/18/2019

Topic: Age requirement for purchase of firearms

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2, relating to the purchase of firearms. Currently, federal law requires that a person be at least 18 years of age to purchase a rifle or shotgun from a licensed firearms dealer and at least age 21 to purchase a handgun from a licensed firearms dealer.¹ Additionally, under § 18.2-308.7 of the *Code of Virginia*, it is unlawful for a person under the age of 18 to knowingly and intentionally possess or transport a handgun or assault firearm in the Commonwealth (with limited exceptions). Current Virginia law specifies that a dealer may not sell or transfer an assault firearm to a person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

Under the proposal, to purchase a handgun or assault firearm from a licensed dealer, a person must (i) be age 21 or older, (ii) must have attained age 18 by July 1, 2019, or (iii) be 18, 19 or 20 years of years and have received a high school diploma/GED or be a member of the Armed Forces. The proposal specifies that a dealer may not sell or transfer a handgun or an assault firearm from his inventory unless the prospective buyer meets the stated criteria. Finally, the proposal modifies the definition of an assault firearm in § 18.2-308.2:2 from a firearm equipped with a magazine that will hold more than 20 rounds to a firearm equipped with a magazine that will hold more than 10 rounds.

The proposal would expand the applicability of several existing felony offenses. Under § 18.2-308.2:2(K), making a materially false statement on a consent form that is required to purchase a firearm from a licensed dealer is a Class 5 felony. Under § 18.2-308.2:2 (L), it is a Class 6 felony for any firearms dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of this section. Pursuant to

¹ Retrieved from <http://www.vsp.virginia.gov/Firearms.shtm#FAQ> (December 4, 2018).

§ 18.2-308.2:2(M), purchasing a firearm with the intent to transfer it to an individual who is ineligible to purchase a firearm from a dealer is a Class 4 felony that carries a mandatory minimum term of one year. Offenders who transfer more than one firearm in violation of § 18.2-308.2:2(M) are subject to a mandatory minimum term of five years. Subsection N of § 18.2-308.2:2 makes it a Class 4 felony for any person ineligible to purchase or possess a firearm to solicit, employ, or assist any person in purchasing a firearm in violation of § 18.2-308.2:2(M); a violation of this subsection also carries a mandatory minimum term of five years.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of additional convictions that may result from enactment of the proposal. However, individuals convicted of a felony due to proposal may be sentenced similarly to those convicted under the existing provisions of § 18.2-308.2:2 (see table below).

Offenders Convicted of Select Felony Firearm Offenses, FY2017-FY2018

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
False statement on firearm consent form (§ 18.2-308.2:2(K)) ¹	199	80.4%	13.6%	3 months	6.0%	1.9 years
Dealer sell/transfer firearm in violation of section (§ 18.2-308.2:2(L)) ²	0	N/A	N/A	N/A	N/A	N/A
Solicit, etc., dealer to transfer firearm to another (§ 18.2-308.2:2(L1)) ²	2	50%	N/A	N/A	50%	1.0 year
Purchase firearm to provide to ineligible person (§ 18.2-308.2:2(M,i)) ²	1	100%	N/A	N/A	N/A	N/A
Transport firearm out of state to provide to ineligible person (§ 18.2-308.2:2(M,ii)) ²	0	N/A	N/A	N/A	N/A	N/A
Solicit violation of § 18.2-308.2:2(M) (§ 18.2-308.2:2(N)) ²	5	20%	N/A	N/A	80%	4.3 years

Note: The analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.

¹ Source: Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2017-FY2018

² Source: Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2017-FY2018 and

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions (except subsection K) under § 18.2-308.2:2 and the proposed § 18.2-308.2:5 are not covered by the sentencing guidelines when these offenses are the primary, or most serious, offense in a case. However, such a conviction may 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, 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, 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.

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