

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** SB173

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

**2. Patron:** Stanley

**3. Committee:** Senate Finance

**4. Title:** Sale and use of consumer fireworks

**5. Summary:** The proposed legislation provides the following:

- Allows a person to sell consumer fireworks if the person possesses a federal permit, a permit issued by the Virginia Fire Services Board (Board), and a local permit, as required by the locality where the sales facility is located;
- Directs the Board to establish requirements and a process for the issuance and renewal of permits for the sale of consumer fireworks;
- A permittee is required to carry, with respect to each permitted facility, public liability and product liability insurance with minimum limits of \$5 million to cover potential losses, damages, or injuries to persons or property as a result of the sales of consumer fireworks.
- The bill specifies certain requirements for facilities at which consumer fireworks are permitted to be sold, including prohibitions on an individual under 18 years of age (i) being admitted into any consumer fireworks retail sales facility, unless accompanied by a parent, guardian, or responsible adult or (ii) working in any consumer fireworks retail sales facility.
- It prohibits a person from:
  - (a) selling consumer fireworks within the Commonwealth unless he is a permittee or an employee or agent of a permittee;
  - (b) selling consumer fireworks from a place other than a permanent consumer fireworks retail sales facility;
  - (c) selling consumer or permissible fireworks to an individual who appears to be under the influence of alcohol or drugs;
  - (d) knowingly selling or otherwise furnishing consumer or permissible fireworks to an individual under 18 years of age;
  - (e) purchasing, using, or possessing consumer or permissible fireworks if the individual is under 18 years of age; or
  - (f) selling or storing fireworks that are not consumer fireworks as defined in a standard established by the American Pyrotechnics Association.

- Certain violations are punishable as a Class 1 misdemeanor. A person violating restrictions on the hours during which, or places where, consumer or permissible fireworks may be used would be subject to a civil penalty not to exceed \$150 per violation.
- Finally, the bill creates a seven percent tax on the purchase of all consumer fireworks and revenues from the tax are to be deposited into the Local Consumer Fireworks Fund (“Fund”). The funds are to be distributed evenly among all localities in which consumer fireworks are sold for purposes of supplementing the salaries paid to deputy sheriffs.

**6. Budget Amendment Necessary:** Yes, Items 273 and 406  
Front Page, Revenue Estimates

**7. Fiscal Impact Estimates:** Preliminary (Item 8)

**8. Fiscal Implications:** Under the provisions of the legislation, “consumer fireworks” are defined as any fireworks device in a finished state, exclusive of mere ornamentation, as defined by law. The SFMO anticipates an increase in workload in order to implement the provisions of this legislation. The State Fire Marshal Office (SFMO), a division of the Virginia Department of Fire Programs (VDFP), enforces the Statewide Fire Prevention Code (“Code”) in all areas of the Commonwealth, including the Code provisions pertaining to fireworks.

The SFMO is the acting fire official for 183 localities statewide. Currently, the budget bill authorizes 29 full time position to administer and enforce provisions of the Code for five regional offices. In 2016, the SFMO completed 9,206 inspections of daycare centers, assisted living facilities, schools and college dormitories. Additionally, the office inspects state-owned buildings and oversees construction projects.

If the legislation is enacted, the SFMO would be required to issue permits for the sale of consumer fireworks or explosives, including the inspection of consumer firework sales facilities. While there are no specific provisions for inspections of these facilities, issuing a permit generally requires inspection to ensure compliance with Code requirements. According to the SFMO, it would incur additional costs to review and process permit applications, issue permits, track permit holders, and conduct inspections. The SFMO also anticipates local building officials would require assistance from the SFMO during the permitting and construction of consumer firework facilities due hazard and complex nature of the projects. Once in operation, the amount of time required to inspect a consumer fireworks facility will depend on the size of the facility and the volume of stock. Due to the hazard associated with these facilities, the SFMO indicates that these facilities would be subject to random periodic inspections (minimum of quarterly if not monthly inspections) rather than the once per year that is currently associated with many permitted occupancies.

Additionally, the proposed legislation requires the SFMO to obtain background checks for persons seeking a permit under this legislation. The SFMO is currently authorized to charge a fee for background clearance cards, blaster and pyrotechnician certifications. The background checks are conducted by the Virginia State Police. Currently, the SFMO charges

a fee of \$150 for background checks. The overall fiscal impact of this new function is indeterminate. However, the SFMO indicates that one full time staff position (Compliance/Safety Officer) and associated funding will be needed to facilitate permit reviews and inspections. The position would have field responsibilities and would require a state vehicle. Costs related to this position are outlined in the below:

Compliance/Safety Officer position salary cost	\$70,000
Benefit cost	\$26,600
IT cost	\$4,000
State vehicle/fuel costs	\$9,000
<b>Total position related cost</b>	<b>\$109,600</b>

According to the SFMO, as fireworks facilities are constructed, additional personnel would be needed in regional offices to conduct periodic inspections.

The VDFP believes it would incur additional technology costs to upgrade the existing permit tracking software. The estimated cost for technology updates in order to track the permitting and inspection process for consumer fireworks stores is \$50,000.

The proposed legislation also imposes a tax on consumer fireworks at the rate of 7 percent of the purchase price. The tax would be collected by the Department of Taxation (“TAX”) in the same manner as retail sales and use tax. The revenues from the tax would be deposited into the newly created Local Consumer Fireworks Fund after the direct costs of administering the tax are recovered. Payments from the fund would be made evenly to all localities in which consumer fireworks are sold to supplement the salaries paid to deputy sheriffs.

Senate amendments to the proposed legislation grants “local sheriffs or other issuing authority” the ability to issue consumer fireworks sale permits, and it provides these entities with the ability to issue Background Clearance Cards, certifications as blasters and pyrotechnicians. Currently, this function can only be performed by the SFMO. The SFMO anticipates its collection of permitting fees would decrease as a result of these amendments.

According to TAX, the agency would incur administrative costs as shown in the following table:

<b>Fiscal Year</b>	<b>Costs</b>
2019	\$855,450
2020	\$87,215
2021	\$87,215
2022	\$89,615
2023	\$92,115
2024	\$94,515

The majority of the FY 2019 costs involves system and form changes, and one full time position, which carries forward into the out years.

According to TAX, the legalization of consumer fireworks would generate approximately \$1.29 million in FY 2019, \$1.32 million in FY 2020 and \$1.35 million in FY 2021 in retail sales and use tax revenues. A breakdown of these estimates is provided in the chart below:

<b>Fund</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
State Sales and Use Tax (5.3%)	\$1,208,000	\$1,235,000	\$1,261,000
GF - Unrestricted	\$518,000	\$530,000	\$541,000
GF - Restricted	\$255,000	\$261,000	\$266,000
Transportation*	\$183,000	\$187,000	\$191,000
Local Option	\$229,000	\$234,000	\$239,000
HMOF (GF Transfer)	\$23,000	\$23,000	\$24,000
Regional Transportation Funds (0.7%)	\$84,000	\$87,000	\$89,000
Hampton Roads (TPO)	\$29,000	\$30,000	\$31,000
Northern Virginia (NVTA)	\$55,000	\$57,000	\$58,000
<b>Total Sales and Use Tax</b>	<b>\$1,292,000</b>	<b>\$1,322,000</b>	<b>\$1,350,000</b>

\*Includes 0.5% TTF, 0.175% HMOF, 0.050% IPROCF, and 0.075% Mass Transit Fund

In addition, TAX estimates the proposed Consumer Fireworks Tax would generate an estimated \$1.6 million in FY 2019, \$1.64 million in FY 2020, and \$1.67 million in FY 2021 for the newly created Local Consumer Fireworks Fund.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Fire Programs, Virginia Department of Taxation, and Local law enforcement agencies.
- 10. Technical Amendment Necessary:** Yes, TAX is recommending the following technical amendment:

Page 5, line 295, insert “2. The tax imposed pursuant to this Act shall be effective January 1, 2019.”

**11. Other Comments:**

TAX recommends that the following language be added to Item 273 of the Appropriation Act:

“Y. The Department of Taxation is hereby appropriated revenues from the Consumer Fireworks Tax to recover any administrative costs for collecting the tax incurred by the Department of Taxation as provided by § 58.1-1745, Code of Virginia.”