



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1063 Amendment in the Nature of a Substitute (Patron Prior to Substitute – McPike)

LD#: 20106481

Date: 1/30/2020

Topic: Electronic gaming devices

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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds several sections to the *Code of Virginia* relating to electronic gaming devices (EGDs). The proposed § 58.1-4030 defines “electronic gaming device” as follows:

"Electronic gaming device" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by chance, skill, or some combination thereof, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game. "Electronic gaming device" does not include charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364) of Title 59.1."

The proposal sets forth administrative procedures, licensing frameworks, and operation requirements for EGDs, and establishes new offenses relating to their play. It would rename the Virginia Lottery Board to the Virginia Lottery and Gaming Oversight Board (VLGOB), and designate the VLGOB to regulate the devices. It would also rename the overarching agency of the Virginia Lottery to the Virginia Lottery and Gaming Department. Respective licenses issued by the VLGOB would be required to manufacture, distribute, operate, or own an establishment that hosts, EGDs in The Commonwealth.

The proposal defines several offenses that would be punishable as Class 1 misdemeanors, including: any person under the age of 21 who plays an EGD or anyone who redeems game winnings from a person under the age of 21; any person who makes a false statement in any game license application; and any host that gives a reward for an unauthorized EGD, gives a reward that is redeemable anywhere but the host location's ticket redemption terminal, or permits a person under the age of 21 to play an EGD.

The proposal also defines several offenses that would be punishable as Class 6 felonies, including: manufacturing, distributing, operating, or hosting an EGD without a license; anyone but an operator licensee possessing or using a key to a gaming device, or any person tampering with a device; entering into an agreement for the placement of an EGD with an unlicensed operator host, or procurement agent¹; and conspiring, confederating, or combining with another to commit any felony prohibited under the proposed Article 2 in Chapter 40 of Title 58.1.

Currently, under § 18.2-328, operating an illegal gambling enterprise is a Class 6 felony. An operator who engages in an illegal gambling operation that is in continuous operation for more than 30 days or who has a gross revenue of \$2,000 or more in a single day is subject to imprisonment for one to ten years.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2018 and FY2019, one offender was convicted of a felony under § 18.2-328 for operating a continuous illegal gambling operation. This was the primary, or most serious, offense at sentencing. This individual did not receive an active term of incarceration to serve after sentencing.

Under § 58.1-4018, fraudulently tampering with lottery machinery is a Class 3 felony subject to imprisonment for five to twenty years. According to the Circuit Court CMS for FY2014 through FY2019, there have been no convictions for this offense in the past six years.

Existing data do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new 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 beds cannot be quantified.

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

Adult community corrections programs. Because the proposal could result in felony and misdemeanor 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 that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Since the proposal defines new felony offenses, convictions under the proposed sections of the *Code* would not be covered by the sentencing guidelines as the primary, or most

¹ The proposal mentions procurement agents "if applicable"; however, the proposal does not explicitly state a licensing framework for procurement agents.

serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 854 of the 2019 Acts of Assembly 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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