



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2227

(Patron – Marsden)

ID#: 09-8457608

Date: 1/5/2009

Topic: Concealed airsoft guns

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal expands § 18.2-308 to include any weapon designed to expel a projectile at a speed of more than 250 feet per second by compressed air or gas (including, but not limited to, airsoft guns). Anyone who carries an airsoft or similar gun about his person and hidden from common observation would be punished the same as carrying a concealed firearm, knife, flailing instrument or throwing star. Under this proposal, an offender would be guilty of a Class 1 misdemeanor for a first violation, a Class 6 felony for a second violation, and a Class 5 felony for a third or subsequent violation.

Analysis:

There were 3,293 convictions reported in calendar year (CY) 2006 and CY2007 General District Court Automated Information System (CAIS) data for misdemeanor violations of § 18.2-308. Nearly one-third (32%) received a local-responsible (jail) term, for which the median sentence was one month. More than two-thirds of offenders (68%) convicted were given no active term of incarceration to serve.

According to fiscal year (FY) 2006 and 2007 Pre/Post-Sentence Investigation (PSI) data, there were also 32 felony convictions for violations of § 18.2-308 as the primary, or most serious, offense. Thirty were convicted of a second violation of carrying a concealed weapon. Of these, 40% of the offenders received a local-responsible (jail) sentence with a median sentence of three months. For the 23% of offenders who were given a state-responsible (prison) term, the median sentence was 1.5 years. The remaining 37% of offenders received no active period of incarceration. Two of the felony convictions were for a third or subsequent violation of carrying a concealed weapon. One received a state-responsible (prison) term of two years and the other received a local-responsible (jail) sentence of 52 days.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the definition of the felony crime defined in § 18.2-308 to cover instances where the concealed weapon is an airsoft gun or similar weapon that expels a projectile by compressed air or gas, the proposal may increase the state-responsible (prison)

bed space needs of the Commonwealth. Criminal justice databases are insufficient to determine the number of additional felony convictions that would result from the proposal; therefore, the impact on state-responsible bed space cannot be determined.

Local adult correctional facilities. Because it expands the misdemeanor and felony crimes defined in § 18.2-308 to cover instances where the concealed weapon is an airsoft gun or similar weapon, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be quantified.

Adult community corrections resources. Because the proposal could result in additional felony offenders placed on community supervision, it may have an impact on adult community corrections resources; however, the magnitude of the impact cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-308 are not covered by the sentencing guidelines. A conviction 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 is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined. Because the proposal expands the application of a concealed weapon to include airsoft guns, some juveniles may be committed as a result of a violation under § 18.2-308. However, for a first offense (Class 1 misdemeanor) existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact of the proposal 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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.