



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 129 (Patron – Bell, Richard P.)

LD#: 14102447

Date: 12/17/2013

Topic: Manufacture, etc., of explosive materials

Fiscal Impact Summary:

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-85, which prohibits the manufacture, possession or use of fire bombs and explosive materials.

Currently, under § 18.2-85, it is a Class 5 felony to possess materials with the intent to manufacture explosives or to manufacture, transport, distribute, possess, or use a fire bomb or explosives. The term “explosive material” includes any chemical compound or device that an ignition by fire, friction, concussion, percussion, or detonation may cause a sudden generation of highly heated gases. The proposal expands this definition to include any chemical compound or device that may be ignited by high impact velocity.

Analysis:

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted of a Class 5 felony under § 18.2-85.

According to the Circuit Court Case Management System (CMS)¹ for fiscal year (FY) 2012 and FY2013, 21 offenders were convicted of a Class 5 felony under § 18.2-85 for possessing materials with the intent to manufacture explosives or manufacturing, possessing, etc., explosives. This offense was the primary, or most serious, offense in 14 of the cases. While approximately one-third (35.7%) of these offenders did not receive an active term of incarceration to serve after sentencing, 28.6% received a local-responsible (jail) term, with a median sentence of 2.5 months. The remaining five offenders (35.7%) received state-

¹ Formerly referred to as the Court Automated Information System (CAIS).

responsible (prison) terms, with a median sentence of four years. In the other seven cases in which this crime was not the primary offense, the charge accompanied convictions ranging from burglary to sale of marijuana to a minor.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding an existing Class 5 felony offense, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

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

Adult community corrections programs. Because the proposal could result in felony 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. Convictions under § 18.2-85 are not covered by the sentencing guidelines as the primary, or most 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 correctional centers. According to the Department of Juvenile Justice, the proposal may have an impact on juvenile correctional center bed space needs. However, the actual impact on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that, while the proposal may have an impact on juvenile detention bed space needs, the actual impact on 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 806 of the 2013 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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