



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 184

(Patron – Marsden)

LD #: 16103089

Date: 12/28/2015

Topic: Prohibition of certain firearms magazines

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 **

** 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 665 of the 2015 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 several sections of the *Code* relating to firearms. The proposed modifications to §§ 18.2-308.2:01, 18.2-308.2:2, and 18.2-308.7 expand the definition of assault firearms to include certain firearms that are equipped with a magazine that holds more than 10 rounds of ammunition. Currently, the definition of assault firearms in these statutes includes firearms that are equipped with a magazine that holds more than 20 rounds. Under the proposed § 18.2-309.1, importing, selling, bartering, or transferring any firearms magazine that is designed to hold more than 10 rounds of ammunition would be punishable as a Class 1 misdemeanor.

Currently, under § 18.2-308.2:01(A), the possession or transportation of an assault firearm by any person who is not a US citizen or who is not lawfully admitted for permanent residence is a Class 6 felony. Section 18.2-308.2:2 makes it a Class 6 felony for a firearms dealer to sell, rent, trade, or transfer an assault firearm to any person who is not a US citizen or who is not lawfully admitted for permanent residence. Under § 18.2-308.7, possession of an assault firearm by a person under the age of 18 is a Class 1 misdemeanor. Pursuant to § 18.2-311.2, a third or subsequent misdemeanor firearm conviction (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is a Class 6 felony.

Under the existing provisions of § 18.2-287.4, it is a Class 1 misdemeanor to carry certain loaded firearms in public places in enumerated jurisdictions. Under the proposal, certain loaded firearms equipped with a magazine that holds more than 10 rounds of ammunition would be prohibited in public places in all Virginia localities. The proposal also expands the applicability of the Class 6 felony currently defined in § 18.2-308.8, relating to the possession, etc., of Striker 12's or like firearms, to include semi-automatic folding stock shotguns with spring tension drum magazines capable of holding more than 10 shotgun shells.

Analysis:

Existing data do not contain sufficient detail to determine the number of instances in which an individual commits an act that would be a violation of the proposed provisions and that is not already covered under the statutes as currently written. However, offenders convicted under the proposal may be sentenced similarly to those who are currently convicted under the existing statutes.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2010 through FY2015, three individuals were convicted of a Class 6 felony under § 18.2-308.2:01 for possession of certain firearms by aliens. This was the primary, or most serious, offense at sentencing in all of the cases. While one offender did not receive an active term of incarceration to serve after sentencing, another received a local-responsible (jail) sentence of five months. The remaining offender was sentenced to a state-responsible (prison) term of five years. No individuals were convicted of a felony under §§ 18.2-308.2:2(L) or 18.2-308.8 during this time period.

Data from the General District Court Case Management System for FY2014 and FY2015 indicates that six offenders were convicted of a Class 1 misdemeanor under § 18.2-287.4 for carrying a loaded firearm in certain jurisdictions. Three of these offenders did not receive an active term of incarceration to serve after sentencing. The other three were sentenced to local-responsible (jail) terms with one receiving 10 days, one receiving 15 days, and one receiving 14 months.

Offenders convicted of the proposed Class 1 misdemeanor under § 18.2-309.1 who accumulate three or more weapon convictions could be found guilty of a Class 6 felony under § 18.2-311.2. A review of FY2010-FY2015 Circuit Court CMS data for all felony convictions resulting from a third or subsequent misdemeanor weapons violation revealed that, during the six-year period, none of the offenders received a state-responsible (prison) sentence.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felony offenses, the proposal may 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 may also 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. Felony convictions under §§ 18.2-308.2:01, 18.2-308.2:2(L), and 18.2-308.8 are not covered by the sentencing guidelines as the primary (most serious) offense in a case. However, a conviction under these provisions can 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 correctional centers. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on juvenile detention bed space needs 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 665 of the 2015 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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