



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 899

(Patron – Levine)

LD#: 20104905

Date: 1/6/2020

Topic: Restricted firearm ammunition

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 proposed legislation adds § 18.2-308.9, relating to restricted firearm ammunition. Under the proposal, it would be a Class 5 felony for any person to manufacture, import, sell, transfer, or possess any restricted firearm ammunition, as defined in § 18.2-308.3. The definition of restricted firearm ammunition includes:

- 1) Ammunition coated with or containing polytetrafluorethylene (commonly referred to as Teflon),
- 2) “KTW” bullets or “French Arcanes,” and
- 3) Cartridges containing bullets coated with plastic with other than lead or lead alloy cores, jacketed bullets with non-lead cores, or cartridges with bullets that are comprised of a non-lead metal or metal alloy.

The proposal provides exceptions for law enforcement officers, government officers, and members of the Armed Forces authorized to possess restricted ammunition while such individuals are acting within the scope of official duties. In addition, the proposal expands forfeiture provisions in § 19.2-386.28 to include restricted ammunition.

Currently, under § 18.2-308.3, the use or attempted use of restricted firearm ammunition while committing or attempting to commit a crime is punishable as a Class 5 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 through FY2019, one offender was convicted of a Class 5 felony for a restricted firearm ammunition violation under the current provisions of § 18.2-308.3. This offender was sentenced to a local-responsible (jail) term of six months.

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted of Class 5 felony weapons offenses covered by Virginia's Sentencing Guidelines.

According to Sentencing Guidelines data for fiscal year (FY) 2018 and FY2019, 299 offenders were convicted of the three Class 5 felony weapons offenses covered by the Guidelines¹. The Class 5 felony weapons offense was the primary, or most serious, offense in 258 of the cases. Of these, 8.5% received a state-responsible (prison) sentence with a median sentence of approximately 1.7 years. Another 20.2% were sentenced to a local-responsible (jail) term, for which the median sentence was six months. The remaining 71.3% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new Class 5 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the magnitude of 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, but the magnitude of the impact cannot be determined.

Adult community corrections resources. 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. As a new felony, convictions under the proposed § 18.2-308.9 would not be 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 would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), 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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¹ Offenses used in this analysis: 3rd/subsequent violation of carrying a concealed weapon under § 18.2-308(A), false statement on criminal history check consent form under § 18.2-308.2:2(K), and discharge from motor vehicle under § 18.2-286.1.