

**Department of Planning and Budget**  
**2020 Special Session I - Fiscal Impact Statement**

**1. Bill Number:** HB5049ER

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

**2. Patron:** Helmer

**3. Committee:** Passed both houses.

**4. Title:** Acquisition and use of military property by law-enforcement agencies.

**5. Summary:** Provides that no agency of the Commonwealth or director or chief executive of any agency or department that employs law enforcement officers shall acquire or purchase (i) weaponized unmanned aerial vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no established commercial flight application; (iii) grenades or similar explosives or grenade launchers from a surplus program operated by the federal government; (iv) armored multi-wheeled vehicles that are mine-resistant, ambush-protected, and configured for combat from a surplus program operated by the federal government; (v) bayonets; (vi) firearms of .50 caliber or higher; (vii) ammunition of .50 caliber or higher; or (viii) weaponized tracked armored vehicles. Nothing in this subsection restricts the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle (HMMWV), or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure must be disposed of at the conclusion of any investigation or as otherwise provided by law. Any agency or director or chief executive of any such agency or department that employs law enforcement officers that has previously acquired such property is prohibited from using such items unless they have received a waiver to use such items from the Criminal Justice Services Board Board). Any waiver request made to the Board, with the exception of the Department of State Police (VSP), must be limited to special weapons and tactics unit or other equivalent unit use only. VSP may seek a waiver for any of its units. The Board may grant a waiver upon showing of good cause by the requesting agency, director, or chief executive that the continued use of the item that is the subject of the waiver request has a bona fide public safety purpose. Any such agency, director, or chief executive that has filed a waiver request with the Board may continue to use such prohibited items while such waiver request is pending. If such request is denied, the agency, director, or chief executive that filed such waiver shall no longer use the prohibited item. According to the provisions of the bill, this section should not be construed so as to prohibit the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property from the federal government that is not specifically prohibited. The provisions of this section do not apply to the Virginia National Guard or Virginia Defense Force.

The bill also requires the Department of Criminal Justice Services (DCJS) to establish training standards and publish and periodically update model policies for law enforcement

personnel on the handling and use of tear gas or other gases and kinetic impact munitions that embody current best practices for using such items as a crowd control measure or during an arrest or detention of another person. The bill also requires DCJS to establish and administer a waiver process for law enforcement agencies to use certain military property, and to publish any waivers granted by the Board on the DCJS website.

The bill also provides that no locality, sheriff, chief of police, or director or chief executive of any agency or department that employs deputy sheriffs or law enforcement officers, or any public or private institution of higher education that has established a campus police department shall acquire or purchase any such items. Nothing in this subsection restricts the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle (HMMWV), or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure must be disposed of at the conclusion of any investigation or as otherwise provided by law. Any locality, sheriff, chief of police, or director or chief executive of any agency or department employing deputy sheriffs or law enforcement officers that has previously acquired any such item is prohibited from using such items unless they have received a waiver to use them from the Board. Any waiver request made to the Board shall be limited to special weapons and tactics unit or other equivalent unit use only. The Board may grant a waiver upon a showing of good cause by the requesting locality, sheriff, chief of police, or director or chief executive that the continued use of the item that is the subject of the waiver request has a bona fide public safety purpose. Any locality, sheriff, chief of police, or director or chief executive that has filed a waiver request with the Board may continue to use such prohibited items while such waiver request is pending before the Board. If such request is denied, the locality, sheriff, chief of police, or director or chief executive that filed such waiver shall no longer use such prohibited item. According to the provisions of the bill, this section should not be construed so as to prohibit the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property from the federal government that is not specifically prohibited.

Additionally, the bill prohibits the use of kinetic energy munitions, as defined in the bill. The use of kinetic impact munitions by a law enforcement officer is prohibited unless the use of kinetic impact munitions is necessary to protect the officer or another person from bodily injury. In addition to any other penalty authorized by law, any law enforcement officer who knowingly violates the provisions of this chapter shall be subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law enforcement officer, or decertification, as provided elsewhere in the Code.

Additionally, the bill provides that the Superintendent of State Police shall not acquire or purchase any such items. Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle (HMMWV), or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided by law. According to the provisions of the bill, this section should not be construed so as to prohibit the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving

medication, or any personal property from the federal government that is not specifically prohibited.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Final. See below.

**8. Fiscal Implications:** There is no anticipated fiscal impact on the Division of Capitol Police, the Department of State Police (VSP), or the Department of Criminal Justice Services (DCJS) as a result of the provisions of the proposed legislation.

According to the Marine Resources Commission (MRC), the agency currently has twelve M14 rifles that were purchased via military surplus. The rifles are used solely for honor guard duty, and are not used for law enforcement activities. In order to continue to use the current M14 rifles, the agency would have to obtain a waiver from DCJS. If the agency cannot obtain this waiver, then the rifles would have to be replaced in order to continue the Honor Guard functions. If this waiver is not approved, the MRC would have to replace the rifles. The cost of each M14 is approximately \$1,500, for a total cost of \$18,000 to replace all twelve. According to the MRC, the agency can absorb this additional cost.

Any fiscal impact to any other state agency is indeterminate at this time because information is not available. Should additional information become available, the fiscal impact statement will be updated.

**9. Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services, Department of State Police, College and University Police Departments, Department of Motor Vehicles, Virginia Alcoholic Beverage Control Authority, Department of Conservation and Recreation, Division of Capitol Police, Department of Wildlife Resources, Marine Resources Commission, Virginia Lottery, Office of the State Inspector General, Department of Juvenile Justice, Local law enforcement agencies, Local and regional jails, state agencies with law-enforcement personnel.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.