



Fiscal Impact Statement for Proposed Legislation
Virginia Criminal Sentencing Commission

Senate Bill 1323
Amendment in the Nature of a Substitute
(Patron prior to substitute – Craig)

LD#: 25105760

Date: 01/22/2025

Topic: Electronic gaming devices

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p>** Provided by the Department of Juvenile Justice</p>
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* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal establishes the Virginia Gaming Commerce Regulation Act for the purpose of providing a licensing and regulatory scheme for electronic gaming devices. The bill defines electronic gaming devices and specifies the license and registration requirements for the distribution, operation, hosting, and play of electronic gaming devices. The bill directs the Virginia Lottery Board to promulgate regulations no later than June 30, 2026, to implement the provisions of the Act and authorizes the Virginia Alcoholic Beverage Control Authority to grant provisional registrations until such regulations are promulgated.

The proposal defines a number of new offenses. For example, it would be a Class 1 misdemeanor for anyone to make a false statement on any electronic gaming license application. It would also be a Class 1 misdemeanor for a licensee to possess or operate an electronic gaming device in an unregulated location, to possess or operate any unregistered electronic gaming device, to knowingly permit any person under 21 years of age to play an electronic gaming device, or to extend credit to any person for the purpose of playing any electronic gaming device. For many of the new Class 1 misdemeanor offenses, the proposal specifies that a third or subsequent violation would be a Class 6 felony.¹

¹ The proposed felonies would be eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders serve a minimum of 67% of the sentence ordered by the court.

The proposal also defines several other offenses that would be punishable as Class 6 felonies, such as manufacturing, distributing, operating, or hosting an electronic gaming device without a license or unlawfully tampering with an electronic gaming device.¹

Finally, the proposal expands the definition of racketeering in § 18.2-513 to include several of the provisions relating the electronic gaming devices.

Currently, under § 18.2-328, operating an illegal gambling enterprise is a Class 6 felony. An operator who engages in an illegal gambling operation that is in continuous operation for more than 30 days or who has a gross revenue of \$2,000 or more in a single day is subject to imprisonment for up to 10 years.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2019 through FY2024, two offenders were convicted of a felony under § 18.2-328 for operating an illegal gambling operation. It was the primary, or most serious, offense in one of these cases. The offender did not receive an active term of incarceration to serve after sentencing.

Under § 58.1-4018, fraudulently tampering with lottery machinery is a Class 3 felony subject to imprisonment for 5 to 20 years. According to the Circuit Court CMS data, during the same six-year period, there were three convictions for this offense. It was not the most serious offense in any of these cases.

Existing data do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new felony offenses for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Thus, the magnitude of the impact on prison beds cannot be determined.

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

Adult community corrections programs. Because the proposal could result in felony and misdemeanor 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 estimated.

Virginia’s Sentencing Guidelines. The proposed new felonies would not be covered by the Sentencing Guidelines as the primary, or most serious, offense. Such convictions, however, could augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. If enacted, the new felonies would not be defined as violent in § 17.1-805(C) for the purposes of the Guidelines. No adjustment to the Guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, 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 2 of the Acts of Assembly of 2024, Special Session I, 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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