

**Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement**

PUBLISHED: 1/25/2025 10:54 AM

ORIGINAL

Bill Number: HB2732

Patron: Higgins

Bill Title: Manufacturing, selling, distributing, or possessing flavored nitrous oxide; penalties.

Bill Summary: Provides that any person who knowingly manufactures, sells, distributes, or possesses with the intent to manufacture, sell, give, or distribute flavored nitrous oxide, when intended for human consumption, is guilty of a Class 5 felony. Under the bill, any person who knowingly possesses flavored nitrous oxide, when intended for human consumption, is guilty of a Class 6 felony. The bill specifies that such prohibition does not apply to nitrous oxide that has been denatured or otherwise rendered unfit for human consumption or to (i) any person or establishment that is licensed to sell, serve, or offer for sale food or drink for human consumption; (ii) any person engaged in the business of selling or distributing catering supplies only or food processing equipment only, or of selling or distributing compressed gases for industrial or medical use that sells or otherwise distributes nitrous oxide in the course of that business; or (iii) any health care professional while engaged in the performance of his official duties.

Budget Amendment Necessary: Yes

Items Impacted: Item 390

Explanation: See below

Fiscal Summary:

Proposal requires minimum "Woodrum" impact funding per § 30-19.1:4, Code of Virginia, to account for a possible increase in the need for state prison beds due to this legislation.

General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
Dept. of Corrections		\$50,000				
TOTAL		\$50,000				

Fiscal Analysis:

Anyone convicted of a Class 6 felony is subject to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Anyone convicted of a Class 5 felony is subject to a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2024), the estimated total state support for local jails averaged \$56.38 per inmate, per day in FY 2023.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2, 2024 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Other: None