

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)**

BILL NUMBER: SB 521 2nd Edition
SHORT TITLE: Pyrotechnic Regulation Enhanced
SPONSOR(S): Senator Rand

	FISCAL IMPACT				
	Yes (X)	No ()		No Estimate Available ()	
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction					
Recurring					
Nonrecurring					
Judicial					
Recurring					
Nonrecurring					
TOTAL					
EXPENDITURES:					
ADDITIONAL PRISON BEDS*	It is likely that most misdemeanants sentenced to an active sentence under this bill would be housed in local jails at a cost to the state of \$18/day. The exception is Class 1 offenders falling in Prior Record Level III who may receive active sentences that might be served in the state prison system.				
POSITIONS: (cumulative)	Unable to determine exact amount; additional positions not anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Department of Correction (DOC); Judicial Branch				
EFFECTIVE DATE:	Effective when it becomes law, except for Section 3, which is effective December 1, 2003.				
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY¹: SB 521 amends Article 54 to provide enhanced regulation for indoor pyrotechnic displays. The bill amends the Article to include “concerts” on the list of public exhibitions to which the Article applies. It also amends G.S. 14-413 to prohibit issuing a permit for indoor use of pyrotechnics at a concert or public exhibition unless the local fire marshal or the State Fire Marshal certifies that: adequate fire suppression will be used at the site, the structure is safe for use of such pyrotechnics with the type of fire suppression to be used; and adequate egress from the building is available based on the size of the expected crowd. The bill extends these indoor pyrotechnic requirements to apply to any city authorized (or officer delegated the power) to grant pyrotechnic permits by local act. In addition, the bill amends G.S. 14-410 to require supervision by experts who have previously secured written authority from the University of North Carolina for pyrotechnic exhibitions. A violation of the enhanced indoor pyrotechnic regulation is punishable as a Class 1 misdemeanor.

Current G.S. 14-410 makes it unlawful to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any pyrotechnics within the State except that pyrotechnics may be exhibited, used or discharged at public exhibitions. In addition, current G.S. 14-413 authorizes the board of county commissioners in any county to issue permits for use in connection with conduct of public exhibitions only after satisfactory evidence is produced as to the effect of the pyrotechnics. Current G.S. 14-410 further requires these public exhibitions to be supervised by experts who have previously secured written authority from the board of county commissioners. In the case of public exhibitions authorized by the University of North Carolina and its lands or buildings, no permit or written authority from the board of county commissioners is required. Any violation of the Article is punishable as a Class 2 misdemeanor under current G.S. 14-515.

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division (FRD) does not assume savings due to deterrent effects for this bill or other criminal penalty bills.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

¹ AOC Research and Planning Division

Since SB 521 creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In FY 2001-02, 15.8 percent of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served was 35.2 days.

The Sentencing Commission does note that in FY 2001-2002, 26 offenders were convicted for the unlawful possession of pyrotechnics, a Class 2 misdemeanor. However, data are not available concerning whether these involved indoor displays. In FY 2001-2002, the average estimated time served for Class 2 misdemeanants sentenced to active sentences was 23.4 days.

Because of the increase in punishment from Class 2 to Class 1 misdemeanors for indoor pyrotechnic displays, misdemeanants sentenced to active punishment would still be housed in local jails, but would now be paid for by the State at a cost of \$18/day. (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because only Class 1 offenders falling in Prior Record Level III receive active sentences that might be served in the state prison system, convictions for this proposed offense would not be expected to have a significant impact on the prison population. Therefore, convictions as a result of this bill would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The AOC anticipates that some defendants currently charged with Class 2 misdemeanors would be charged with Class 1 misdemeanors under the bill. AOC data show that 159 defendants were charged with the unlawful possession of pyrotechnics. Data are not available on the number of defendants who were charged for violations relating specifically to indoor pyrotechnic displays. The AOC does not anticipate a significant change in court time or litigation strategies required to dispose of the Class 1 misdemeanor cases under this bill, compared to the Class 2 misdemeanors under current law.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS: None

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