



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0044 Introduced on January 12, 2021
Author: Verdin
Subject: South Carolina Citizens' Defense Act of 2021
Requestor: Senate Judiciary
RFA Analyst(s): Gardner, Gallagher, and Griffith
Impact Date: March 2, 2021

Fiscal Impact Summary

This bill amends a number of existing statutes and adds new provisions to create the South Carolina Citizens' Defense Act of 2021.

This bill requires the Department of Revenue (DOR) to administer additional sales tax exemptions. This will not operationally impact the department, as DOR already administers several sales tax exemptions. Therefore, this bill will not have an expenditure impact on the department's General Fund, Other Funds, or Federal Funds.

The bill also re-enacts Section 12-36-2120(76), which established the *Second Amendment Weekend* to allow a sales and use tax exemption on the gross proceeds of the sales price of handguns, rifles, and shotguns. This provision, previously enacted in legislation, was ruled unconstitutional by the Supreme Court of South Carolina on May 4, 2009, due to the manner in which the legislation was adopted and is therefore not currently in effect. This bill would permanently re-enact the exemption. Revenue and Fiscal Affairs (RFA) estimates that this bill will reduce General Fund revenue by \$700,572, Homestead Exemption (HEX) Fund revenue by \$175,143, and Education Investment Act (EIA) revenue by \$175,143 beginning in FY 2021-22.

In addition, the bill amends Section 12-36-2120(76) to rename this tax holiday the *Second Amendment and Home Security Weekend* and to expand current exemptions from sales and use tax to include several home security items. RFA estimates that this will reduce General Fund revenue by \$517,930, HEX Fund revenue by \$129,482, and EIA Fund revenue by \$129,482 beginning FY 2021-22.

As the bill creates an enhanced penalty for certain offenses, increases the types of ordinances that a county or municipality may not enact, and holds a premises owner employing signage prohibiting concealed weapons carry liable for certain injuries that occur on his premises, an increase in judicial caseloads may result. The Judicial Department expects to manage costs associated with any increase in caseloads using existing General Fund resources.

The bill also allows for certain health notations to be added to motor vehicle registrations upon the request of the registration holder. The Department of Motor Vehicles reports that these

provisions can be implemented using existing resources; as such, there will be no expenditure impact on the General Fund, Other Funds, or Federal Funds.

Further, the bill eliminates the requirement that a person who possesses a concealed weapon permit issued by the State Law Enforcement Division (SLED) must renew his permit every five years, which will result in an annual loss of \$2.6 million in Other Funds.

RFA anticipates this bill will reduce DOR General Fund revenue by \$1,218,502, the HEX Fund by \$304,625, the EIA Fund by \$304,625, and SLED Other Funds by \$2.6 million beginning in FY 2021-22.

Explanation of Fiscal Impact

Introduced on January 12, 2021

State Expenditure

This bill creates the South Carolina Citizens' Defense Act of 2021 and amends a number of existing statutes related to sales and use tax exemptions, local ordinances, liability of premises owners employing signage related to concealed weapon carry, concealed weapon permit renewals, and out-of-state concealed weapon permits. In addition, the bill adds new provisions pertaining to enhanced penalties for offenses committed against a law enforcement officer, exceptions for persons carrying a concealed weapon without a permit, creation of institutional concealed weapon permits, and notations of certain health conditions on motor vehicle registrations.

SECTION 1. This section of the bill creates the South Carolina Citizens' Defense Act of 2021.

SECTION 2. This section of the bill adds certain home security systems and their components to the list of purchases that are exempt from sale and use tax during the *Second Amendment Weekend* and changes the title of the *Second Amendment Weekend* to the *Second Amendment and Home Protection Weekend*.

SECTION 3. This section of the bill provides that a person who commits an offense against a law enforcement officer is guilty of a felony punishable by a fine of not less than \$2,000 and not more than \$10,000, imprisonment for not less than two years and not more than fifteen years, or both. The minimum fine and minimum prison sentence imposed may not be suspended.

SECTION 4. This section of the bill expands the list of activities related to firearms that a county, municipality, or other political subdivision may not enact a regulation or ordinance against. These activities now include the manufacture, assembly, storage, warehousing, distribution, or sale of firearms and of homemade firearms created or assembled without a serial number.

SECTION 5. This section of the bill provides that a premises owner or person in legal possession of a premises who employs signage denoting that carrying a concealed weapon on the premises is prohibited will be liable for any injury sustained by a concealed weapon permit

holder from the perpetrator of a crime while on the premises. The premises owner will be civilly liable to compensate the permit holder for damages from injuries that are sustained, as well as all attorneys' fees and costs incurred for any action the permit holder files against the premises' owner or person in possession of the posted premises.

SECTION 6. This section of the bill provides that a person in the act of evacuating during a mandatory evacuation order who carries a concealable weapon on or about his person but does not possess a concealed weapon permit may lawfully do so within the 48 hours after which the mandatory evacuation is ordered. The Governor may extend the 48-hour period by order.

SECTION 7. This section of the bill removes the requirement that a concealed weapon permit holder apply for a permit renewal every five years and pay SLED a renewal fee of \$50. SLED must, at least 30 days prior to the expiration of a concealed weapon permit, notify the holder that his permit is set to expire and that he may be eligible for confirmed carry status if he has held the permit at least five years. SLED must also include in its annual concealed weapon report the number of former permit holders who now hold confirmed carry status, the number of permits that expired and the number of new confirmed carry status holders, and the number of permits that expired for which the permit holder was not eligible for confirmed carry status.

SECTION 8. This section of the bill modifies Section 23-31-216 and Section 23-31-217. The language formerly comprising Section 23-31-216—related to fees associated with concealed weapon applications, renewals, and replacements—is moved to Section 23-31-217 and is modified to indicate that fees would now be associated with concealed weapon applications and replacements only. Section 23-31-216 now provides that a person who possesses a concealed weapon permit whose permit has expired attains confirmed carry status, that a person who has confirmed carry status and is carrying a concealable weapon must inform a law enforcement officer of his permit status and present his identification, and that SLED must maintain a list of all persons who have confirmed carry status and release the list or verify an individual's status when requested by a law enforcement agency or pursuant to a subpoena or court order. SLED may charge a fee to fulfill such information requests, and persons who receive a copy of the list from SLED must destroy the list.

SECTION 9. This section of the bill relates to out-of-state concealed weapon permits. Currently, the only out-of-state concealed weapon permits honored in South Carolina are those issued by states with which South Carolina has a reciprocity agreement or those issued by the state of Georgia or North Carolina. The bill provides that any valid out-of-state concealed weapon permit will be honored in South Carolina, removes the reciprocity requirements, and eliminates the provision that the current reciprocity requirements not be construed to authorize out-of-state permit holders to carry any firearm or weapon other than a handgun.

SECTION 10. This section of the bill authorizes SLED to issue institutional concealed weapon permits to persons who meet all the concealed weapon permit requirements and who participate in an annual training course held at the South Carolina Criminal Justice Academy. SLED must promulgate regulations detailing the curriculum and requirements for the course. Persons holding an institutional concealed weapon permit can lawfully carry a concealable weapon into a

school or college athletic event not related to firearms; a daycare facility or preschool facility; a church or other established religious sanctuary; or a hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed.

SECTION 11. This section of the bill authorizes the Department of Motor Vehicles (DMV) to, upon the request of a private passenger motor vehicle operator, add to his vehicle registration a notation of his diagnosis with an autism spectrum disorder, Asperger syndrome, or Tourette syndrome. The driver's application for this special motor vehicle registration notation must include an original certificate from a licensed physician that attests to the driver's diagnosis. The diagnosis notation will only appear if a law enforcement check is run on a vehicle's license plate through the DMV's online interface with law enforcement. This section of the bill will take effect one year after approval by the Governor.

SECTION 12. This section of the bill provides that the act will take effect upon approval from the Governor.

Department of Revenue: This bill would place the sales tax exemption on firearms sold during the *Second Amendment Weekend*, as provided for in Section 12-36-2120(76), into effect. Further, it would exempt several home security items from sales tax during the same weekend, which occurs from 12:01 a.m. on the Friday after Thanksgiving until twelve midnight the following Saturday. As DOR already administers several sales tax exemptions, these provisions will not operationally impact the department. Therefore, this bill will not have an expenditure impact on the department's General Fund, Other Funds, or Federal Funds.

Judicial Department. This bill creates an enhanced penalty for any offense in Title 16 committed against a law enforcement officer, increases the types of ordinances that a county or municipality may not enact, and provides that a premises owner employing signage prohibiting the carry of a concealed weapon is strictly liable for any injury a permit holder sustains from the perpetrator of a crime while on the posted premises. The department reports that the bill may increase caseloads in general sessions, common pleas, magistrate, and municipal courts. In FY 2019-20, there were 1,721 filings in general sessions, common pleas, magistrate, and municipal courts for offenses committed against law enforcement. However, as the bill creates a new civil cause of action, and as it creates an enhanced penalty, there is no data with which to estimate the number of filings, hearings, or trials that may result. The department expects to manage costs associated with any increase in caseloads using existing General Fund resources.

Department of Motor Vehicles. Section 11 of the bill authorizes DMV, upon the request of the vehicle registration holder, to add a notation to a private passenger-carrying motor vehicle registration to indicate that the driver may have an autism spectrum disorder, Asperger syndrome, or Tourette syndrome. The notation will only appear if a law enforcement check is run on a vehicle's license plate. The department reports that this section of the bill will be implemented using its existing resources and appropriations. Therefore, there will be no expenditure impact on the agency's General Fund, Other Funds, or Federal Funds.

State Law Enforcement Division. The bill eliminates the requirement that a person who possesses a concealed weapon permit issued by the agency must renew his permit every five years for a fee of \$50. Upon the expiration of a concealed weapon permit, the holder will be eligible for confirmed carry status. As the bill eliminates the need for payment of renewal fees, the agency will lose approximately \$2.6 million in Other Funds each fiscal year. Implementation of the bill will have no expenditure impact on the General Fund or Federal Funds.

State Revenue

Department of Revenue. Section 12-36-2120(76) established the *Second Amendment Weekend*, which allows a sales and use tax exemption on the gross proceeds of the sales price of handguns, rifles, and shotguns occurring from 12:01 a.m. on the Friday after Thanksgiving until twelve midnight the following Saturday. The exemption, previously passed in legislation, was ruled unconstitutional by the Supreme Court of South Carolina on May 4, 2009, in *The American Petroleum Institute and BP Products North America Inc. v. South Carolina Department of Revenue, et al.*, 382 S.C. 572, 677 S.E.2d 16 (2009). As a result, the exemption is not currently in effect. This bill would permanently re-enact Section 12-36-2120(76).

According to National Instant Criminal Background Check System (NICS) data, managed by the U.S. Federal Bureau of Investigation (FBI), approximately 200,000 background checks were performed in South Carolina in 2019. Background checks, as the FBI notes in its published data, do not correspond one-to-one with sales, but in most cases background checks for firearm transfers are conducted by licensed firearms dealers at the point of sale. These transfer checks are used to produce the following estimate of gun sales.

South Carolina issues concealed weapon permits which exempt holders from background checks at the point of sale.¹ To account for this, RFA adds ten percent to the estimate obtained from NICS background checks alone. RFA’s estimate also considers the portion of transactions that include multiple guns. The estimated average cost of retail guns is based on online price data for hand guns and long guns.

Estimated South Carolina Gun Sales, 2019			
Category	Estimated Guns Sold	Estimated Average Cost	Total Estimated Sales
Hand guns	142,512	\$722	\$102,893,664
Long guns	84,804	\$1,157	\$98,118,228
Total	227,316		\$201,011,892

Multiplying the estimated number of guns sold by the estimated average cost per gun produces a projected \$201,011,892 in gross sales for 2019. The following estimates assume individuals will

¹ Permanent Brady Permit Chart. Bureau of Alcohol, Tobacco, Firearms and Explosives. Accessed February 18, 2021. <https://www.atf.gov/rules-and-regulations/permanent-brady-permit-chart>.

delay purchases by a month as a result of the tax-free weekend and are derived from applying to the gross sale figure the sales and use tax rates of four percent for the General Fund and one percent each for the HEX Fund and the EIA Fund:

Revenue Reduction in Sales Tax from Firearms Sales, FY 2021-22	
Fund	Amount
General Fund	\$700,572
HEX Fund	\$175,143
EIA Fund	\$175,143
Total	\$1,050,858

Note: total may vary due to rounding.

This bill further amends Section 12-36-2120(76) to exempt the following items from sales tax during the *Second Amendment Weekend*:

- Home security and surveillance systems,
- Residential security lighting,
- Residential security doors,
- Door jamb reinforcement systems,
- Residential locksmith-grade door locks,
- Residential window security hardware, and
- Residential glass security laminate.

According to proprietary data, approximately 50,000,000 home security systems were sold in the U.S. in 2018. Accounting for population, this results in an estimated 776,895 systems sold in South Carolina. Based upon statistics regarding the cost of security upgrades, RFA estimates that small-scale surveillance systems average approximately \$100, while more extensive security upgrades average \$500. The exemption applies to the cost of the equipment and does not include any monitoring services. This analysis assumes that 25 percent of these systems are overall security upgrades (which may include multiple items such as surveillance systems, security lights, and security doors) costing an average of \$500 and that 75 percent are partial security upgrades costing an average of \$100. Multiplying these expenditures across 776,895 systems in the state produces approximately \$155,379,000 in annual home security sales. The following estimates assume individuals will delay purchases by a month as a result of the tax-free weekend and are derived from applying to the annual sales figure the sales and tax use rates of four percent for the General Fund and one percent each for the HEX Fund and the EIA Fund:

Revenue Reduction in Sales Tax from Home Security, FY 2021-22	
Fund	Amount
General Fund	\$517,930
HEX Fund	\$129,482
EIA Fund	\$129,482
Total	\$776,894

Note: total may vary due to rounding.

In summary, this bill will reduce General Fund sales tax revenue by \$1,218,502, the HEX Fund by \$304,625, and the EIA Fund by \$304,625 beginning in FY 2021-22. This impact is summarized by provision below:

Total Estimated Revenue Reduction in Sales Tax from <i>Second Amendment Weekend</i> , FY 2021-22			
Fund	Revenue Reduction from Home Security Exemptions	Revenue Reduction from Fire Arms Exemptions	Total Estimated Revenue Reduction
General Fund	\$517,930	\$700,572	\$1,218,502
HEX Fund	\$129,482	\$175,143	\$304,625
EIA Fund	\$129,482	\$175,143	\$304,625
Total	\$776,894	\$1,050,858	\$1,827,752

Note: total may vary due to rounding.

Local Expenditure

N/A

Local Revenue

N/A

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