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## SENATE BILL NO. 933

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice  
on January 31, 2001)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend the Code of Virginia by adding sections numbered 18.2-308.5:1 through 18.2-308.5:10, relating to firearm safety lock regulations; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 18.2-308.5:1 through 18.2-308.5:10 as follows:

§ 18.2-308.5:1. Firearm safety lock regulations.

A. No later than July 1, 2001, the Attorney General shall commence development of regulations to implement a minimum safety standard for firearm safety devices to significantly reduce the risk of firearm-related injuries to children seventeen years of age and younger. The final standard shall do all of the following: (i) address the risk of injury from unintentional gunshot wounds; (ii) address the risk of injury from self-inflicted gunshot wounds by unauthorized users; (iii) include provisions to ensure that all firearm safety devices are reusable and of adequate quality and construction to prevent children and unauthorized users from firing the firearm and to ensure that these devices cannot be readily removed from the firearm except by an authorized user utilizing the key, combination, or other method of access intended by the manufacturer of the device; and (iv) include additional provisions as appropriate.

B. The Attorney General shall give appropriate consideration to the use of devices that are not detachable, but are permanently installed and incorporated into the design of a firearm. The Attorney General shall adopt and issue regulations implementing a final standard not later than July 1, 2002. The final standard shall become effective July 1, 2003.

§ 18.2-308.5:2. Laboratory certification.

Effective July 1, 2002:

A. The Office of the Attorney General shall certify laboratories to verify compliance with standards for firearm safety devices set forth in § 18.2-308.5:1.

B. The Office of the Attorney General may charge any laboratory that is seeking certification to test firearm safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to § 18.2-308.5:1.

C. The certified laboratory shall, at the manufacturer's or dealer's expense, test the firearm safety device and submit a copy of the final test report directly to the Office of the Attorney General along with the firearm safety device. The Office shall notify the manufacturer or dealer of its receipt of the final test report and the Office's determination as to whether the firearm safety device tested may be sold in the Commonwealth.

D. On and after January 1, 2003, the Office of the Attorney General shall compile, publish, and thereafter maintain a roster listing all of the safety devices that have been tested by a certified testing laboratory, have been determined to meet the Office's standards for firearm safety devices, and may be sold in the Commonwealth.

E. The roster shall list, for each firearm safety device, the manufacturer, model number, and model name.

§ 18.2-308.5:3. Firearm transfer with safety device.

Effective July 1, 2003:

A. All firearms sold or transferred in the Commonwealth by a licensed firearm dealer, including private transfers through a dealer, and all firearms manufactured in the Commonwealth, shall include or be accompanied by a firearm safety device that is listed on the Attorney General's roster of approved firearm safety devices.

B. All firearms sold or transferred in the Commonwealth by a licensed firearm dealer, including private transfers through a dealer, and all firearms manufactured in the Commonwealth shall be accompanied with warning language or labels as described in § 18.2-308.5:4.

C. The sale or transfer of a firearm shall be exempt from subdivision A if all of the following apply: (i) the purchaser or transferee purchases an approved safety device no more than thirty days prior to the day the purchaser or transferee takes possession of the firearm; (ii) the purchaser or transferee presents the approved safety device to the firearm dealer when picking up the firearm; (iii) the purchaser or transferee presents an original receipt to the firearm dealer that shows the date of purchase, the name, and the model number of the safety device; (iv) the firearm dealer verifies that the requirements in clauses (i) to (iii), inclusive, have been satisfied; and (v) the firearm dealer maintains a copy of the receipt along with the dealer's record of sales of firearms.

§ 18.2-308.5:4. Warning on firearm package.

A. The packaging of any firearm and any descriptive materials that accompany any firearm sold or transferred in the Commonwealth, or delivered for sale in the Commonwealth, by any licensed manufacturer or licensed dealer shall bear a label containing the following warning statement:

"WARNING

Children are attracted to and can operate firearms that can cause severe injuries or death. Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison."

A yellow triangle containing an exclamation mark shall appear immediately before the word "Warning" on the label.

B. If the firearm is sold or transferred without the accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulations of the Attorney General.

C. The warning statement required under subdivisions A and B shall be (i) displayed in its entirety on the principal display panel of the firearm's package, and on any descriptive materials that accompany the firearm; and (ii) displayed in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or those descriptive materials in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

§ 18.2-308.5:5. Recall of nonconforming devices.

If at any time the Attorney General determines that a firearm safety device subject to the provisions of this article and sold after July 1, 2003, does not conform with the standards required by § 18.2-308.5:1 and § 18.2-308.5:3, the Attorney General may order the recall and replacement of the firearm safety device, or order that the firearm safety device be brought into conformity with those requirements. If the firearm safety device cannot be separated from the firearm without damaging the firearm, the Attorney General may order the recall and replacement of the firearm. If the firearm safety device can be separated and reattached to the firearm without damaging the firearm, the licensed manufacturer or licensed firearm dealer shall immediately provide a conforming replacement as instructed by the Attorney General.

§ 18.2-308.5:6. Reporting of gunshot wounds.

Each law-enforcement agency investigating an incident shall report to the Center for Injury and Violence Prevention of the Virginia Department of Health any information obtained that reasonably supports the conclusion that (i) a person nineteen years of age or younger suffered an unintentional or self-inflicted gunshot wound inflicted by a firearm that was sold or transferred in the Commonwealth or manufactured in the Commonwealth; and (ii) whether as a result of that incident the person died, suffered serious injury, or was treated for an injury by a medical professional.

§ 18.2-308.5:7. Violations.

Any violation of § 18.2-308.5:3 or § 18.2-308.5:4 is punishable by a civil penalty of \$1,000. On the second violation of any of those sections, the licensed firearm manufacturer shall be ineligible to manufacture, or the licensed firearm dealer shall be ineligible to sell, firearms in the Commonwealth for thirty days and shall be punished by a fine of \$1,000. On the third or subsequent violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in the Commonwealth. On the third or subsequent violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in the Commonwealth.

§ 18.2-308.5:8. Compliance no relief from liability.

Compliance with the requirements set forth in §§ 18.2-308.5:1 through 18.2-308.5:7 shall not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.

§ 18.2-308.5:9. Antique firearms not required to have safety device.

A. §§ 18.2-308.5:1 through 18.2-308.5:7 do not apply to the commerce of any firearm defined as an antique firearm pursuant to §18.2-308.2:2.

B. This section does not apply to (i) the manufacture for, transfer to, or possession by the Commonwealth or the United States or a department or agency of the Commonwealth or the United States of a handgun; or (ii) the transfer to, or possession by, a law-enforcement officer employed by an entity referred to in clause (i) for law-enforcement purposes.

§ 18.2-308.5:10. Transfer fee.

A. The Office of the Attorney General may require each dealer to charge each firearm purchaser or transferee a fee, not to exceed one dollar, for each firearm transaction. The fee shall be for the purpose of supporting program costs related to this act, including the establishment, maintenance, and upgrade of related database systems and public rosters.

B. There is hereby created within the General Fund the Firearm Safety Account. Revenue. The fee imposed by subsection A shall be deposited into the Firearm Safety Account and shall be available for

**122** *expenditure by the Office of the Attorney General upon appropriation by the General Assembly.*  
**123** *Expenditures from the Firearms Safety Account shall be limited to program expenditures as defined in*  
**124** *subsection A.*