

035021822

**HOUSE BILL NO. 1856**

Offered January 8, 2003

Prefiled January 7, 2003

*A BILL to amend and reenact §§ 15.2-1209, 18.2-282, 18.2-284, 18.2-287.4, 18.2-308.1, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.7, 18.2-433.1 and 22.1-277.07 of the Code of Virginia, relating to the definition of firearms.*

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Patron—Lingamfelter

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Referred to Committee on Militia, Police and Public Safety

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-1209, 18.2-282, 18.2-284, 18.2-287.4, 18.2-308.1, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.7, 18.2-433.1 and 22.1-277.07 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-1209. Prohibiting shooting of firearms in certain areas.

Any county may prohibit the shooting of firearms ~~or air-operated or gas-operated weapons~~ in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

Any county that prohibits the firing of firearms shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption shall apply on land of at least five acres that is zoned for agricultural use.

§ 18.2-282. Pointing, holding, or brandishing firearm or object similar in appearance; penalty.

A. It shall be unlawful for any person to point, hold or brandish any firearm, as hereinafter described, or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor or, if the violation occurs upon any public, private or parochial elementary, middle or high school, including buildings and grounds or upon public property within 1,000 feet of such school property, he shall be guilty of a Class 6 felony.

B. Any police officer in the performance of his duty, in making an arrest under the provisions of this section, shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm, or object ~~which~~ that was similar in appearance to a firearm, with intent to induce fear in the mind of another.

C. For purposes of this section, the word "firearm" ~~shall mean~~ means any weapon in which ~~ammunition may be used or discharged by explosion or pneumatic pressure that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material.~~ The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

§ 18.2-284. Selling or giving toy firearms.

No person shall sell, barter, exchange, furnish, or dispose of by purchase, gift or in any other manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by ~~means of powder or other explosive action of an explosion of a combustible material,~~ discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense.

Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

§ 18.2-287.4. Carrying loaded firearms in public areas prohibited; penalty.

It shall be unlawful for any person to carry a loaded firearm on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public (i) in any city with a population of 160,000 or more or (ii) in any county having an urban county executive form of government or any county or city surrounded thereby or adjacent thereto or in any county having a county manager form of government. The provisions of this section shall not apply to law-enforcement officers, licensed security guards, military personnel in the performance of their lawful duties, or any person having a valid permit to carry such firearm or to any person actually engaged in lawful hunting or lawful recreational shooting activities at an established

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59 shooting range or shooting contest. Any person violating the provisions of this section shall be guilty of  
60 a Class 1 misdemeanor.

61 For purposes of this section, "firearm" means any (i) semi-automatic center-fire rifle or pistol ~~which~~  
62 ~~that expels a projectile~~ *single or multiple projectiles* by action of an explosion *of a combustible material*  
63 and is equipped at the time of the offense with a magazine which will hold more than twenty rounds of  
64 ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding  
65 stock or (ii) shotgun with a magazine which will hold more than seven rounds of the longest  
66 ammunition for which it is chambered.

67 Any firearm carried in violation of this section may be forfeited to the Commonwealth pursuant to  
68 the provisions of § 18.2-310.

69 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.

70 § 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited.

71 A. If any person possesses any (i) stun weapon or taser as defined in this section, (ii) knife, except a  
72 pocket knife having a folding metal blade of less than three inches, or (iii) weapon, including a weapon  
73 of like kind, designated in subsection A of § 18.2-308, other than a firearm, upon (i*a*) the property of  
74 any public, private or parochial elementary, middle or high school, including buildings and grounds,  
75 (i*ib*) that portion of any property open to the public used for school-sponsored functions or  
76 extracurricular activities while such functions or activities are taking place, or (i*ic*) any school bus  
77 owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

78 B. If any person possesses any firearm designed or intended to ~~propel a missile of any kind~~ *expel a*  
79 *projectile by action of an explosion of a combustible material* while such person is upon (i) any public,  
80 private or parochial elementary, middle or high school, including buildings and grounds, (ii) that portion  
81 of any property open to the public used for school-sponsored functions or extracurricular activities while  
82 such functions or activities are taking place, or (iii) any school bus owned or operated by any such  
83 school, he shall be guilty of a Class 6 felony; however, if the person possesses any firearm within a  
84 public, private or parochial elementary, middle or high school building and intends to use, or attempts to  
85 use, such firearm, or displays such weapon in a threatening manner, such person shall not be eligible for  
86 probation and shall be sentenced to a minimum, mandatory term of imprisonment of five years, which  
87 shall not be suspended in whole or in part and which shall be served consecutively with any other  
88 sentence.

89 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.  
90 The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a  
91 part of the school's curriculum or activities, (ii) a person possessing a knife customarily used for food  
92 preparation or service and using it for such purpose, (iii) persons who possess such weapon or weapons  
93 as a part of any program sponsored or facilitated by either the school or any organization authorized by  
94 the school to conduct its programs either on or off the school premises, (iv) any law-enforcement officer  
95 while engaged in his duties as such, (v) any person who possesses a knife or blade which he uses  
96 customarily in his trade, or (vi) a person who possesses an unloaded firearm ~~which~~ *that* is in a closed  
97 container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle  
98 in a firearms rack in or upon a motor vehicle. For the purposes of this paragraph, "weapon" includes a  
99 knife having a metal blade of three inches or longer.

100 As used in this section:

101 "Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other  
102 type of charge that exceeds the equivalency of a five milliamp sixty hertz shock and (ii) used for the  
103 purpose of temporarily incapacitating a person; and

104 "Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of  
105 charge or shock through the use of a projectile and (ii) used for the purpose of temporarily  
106 incapacitating a person.

107 § 18.2-308.2:01. Possession or transportation of certain firearms by aliens.

108 It shall be unlawful for any person who is not a citizen of the United States or who is not a person  
109 lawfully admitted for permanent residence to knowingly and intentionally possess or transport any  
110 assault firearm or to knowingly and intentionally carry about his person, hidden from common  
111 observation, an assault firearm. A violation of this section shall be punishable as a Class 6 felony. Any  
112 firearm possessed, transported or carried in violation of this section shall be forfeited to the  
113 Commonwealth and disposed of as provided in § 18.2-310.

114 For purposes of this section, "assault firearm" means any semi-automatic center-fire rifle or pistol  
115 ~~which~~ *that expels a projectile* *single or multiple projectiles* by action of an explosion *of a combustible*  
116 *material* and is equipped at the time of the offense with a magazine which will hold more than twenty  
117 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a  
118 folding stock.

119 § 18.2-308.2:2. Criminal history record information check required for the transfer of certain  
120 firearms; firearm safety information to be provided.

121 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
122 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
123 information. Such form shall include only, in addition to the information required by subdivision B 1,  
124 the identical information required to be included on the firearms transaction record required by  
125 regulations administered by the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the  
126 Treasury, except that the copies of such forms mailed or delivered to the Department of State Police  
127 shall not include any information related to the firearm purchased or transferred.

128 B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other  
129 person who is a resident of Virginia until he has (i) obtained written consent as specified in subsection  
130 A, and provided the Department of State Police with the name, birth date, gender, race, and social  
131 security and/or any other identification number and the number of firearms by category intended to be  
132 sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone  
133 call to the State Police and is authorized by subdivision B 2 of this section to complete the sale or other  
134 such transfer. To establish personal identification and residence in Virginia for purposes of this section,  
135 a dealer must require any prospective purchaser to present one photo-identification form issued by a  
136 governmental agency of the Commonwealth or by the United States Department of Defense, and other  
137 documentation of residence. Except where the photo-identification was issued by the United States  
138 Department of Defense, the other documentation of residence shall show an address identical to that  
139 shown on the photo-identification form, such as evidence of currently paid personal property tax or real  
140 estate tax, or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check,  
141 (e) passport, (f) automobile registration, or (g) hunting or fishing license; other current identification  
142 allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and  
143 ATF Ruling 79-7; or other documentation of residence determined to be acceptable by the Department  
144 of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in  
145 Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders  
146 may be used as documentation of residence. Additionally, when the photo-identification presented to a  
147 dealer by the prospective purchaser is a driver's license or other photo-identification issued by the  
148 Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall  
149 not, except for a renewed driver's license or other photo-identification issued by the Department of  
150 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until thirty days after  
151 the date of issue of an original or duplicate driver's license unless the prospective purchaser also  
152 presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original  
153 date of issue of the driver's license was more than thirty days prior to the attempted purchase.

154 In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any  
155 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent  
156 residence. To establish citizenship or lawful admission for a permanent residence for purposes of  
157 purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth  
158 certificate or a certificate of birth abroad issued by the United States State Department, a certificate of  
159 citizenship or a certificate of naturalization issued by the Immigration and Naturalization Service, an  
160 unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a  
161 current selective service registration card, or an immigrant visa or other documentation of status as a  
162 person lawfully admitted for permanent residence issued by the Immigration and Naturalization Service.

163 Upon receipt of the request for a criminal history record information check, the State Police shall (1)  
164 review its criminal history record information to determine if the buyer or transferee is prohibited from  
165 possessing or transporting a firearm by state or federal law, (2) inform the dealer if its record indicates  
166 that the buyer or transferee is so prohibited, and (3) provide the dealer with a unique reference number  
167 for that inquiry.

168 2. The State Police shall provide its response to the requesting dealer during the dealer's call, or by  
169 return call without delay. If the criminal history record information check indicates the prospective  
170 purchaser or transferee has a criminal record or has been acquitted by reason of insanity and committed  
171 to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse  
172 Services, the State Police shall have until the end of the dealer's next business day to advise the dealer  
173 if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by  
174 state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has  
175 fulfilled the requirements of subdivision B 1 of this subsection may immediately complete the sale or  
176 transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case  
177 of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be  
178 advised immediately of the reason for such delay and be given an estimate of the length of such delay.  
179 After such notification, the State Police shall, as soon as possible but in no event later than the end of  
180 the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee  
181 is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the

requirements of subdivision B 1 of this subsection and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than thirty days, except for multiple handgun transactions for which records shall be maintained for twelve months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of twelve months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with proof of citizenship or status as a person lawfully admitted for permanent residence and one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, other than a rifle or a shotgun, to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within twenty-four hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within ten days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of this Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history record information under § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within thirty days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Antique firearm" means any firearm, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 and any replica of such a firearm if such replica (i) is not designed or redesigned for using rimfire or conventional center-fire fixed ammunition or (ii) uses rimfire or conventional center-fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels a ~~projectile~~ *single or multiple projectiles* by action of an explosion of a *combustible material* and is equipped at the time of the offense with a magazine which will hold more than twenty rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle ~~which expels a projectile~~ *that will or is designed to or may readily be converted to expel single or multiple projectiles* by action of an explosion of a *combustible material*.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to

fire a ~~projectile~~ *single or multiple projectiles* by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq., (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, (iii) antique firearms, or (iv) transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or transportation of firearms which is more stringent than this section.

J. All licensed firearms dealers shall collect a fee of two dollars for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of five dollars shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 5 felony. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years, which shall not be suspended in whole or in part nor shall the person be eligible for parole during that period.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years, which shall not be suspended in whole or in part nor shall the person be eligible for parole during that period.

O. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

P. The Department of Education, in conjunction with the Department of Game and Inland Fisheries, shall develop a standard informational form and posted notice to be furnished to each licensed firearms dealer in the Commonwealth at no cost to the dealer. The form and notice shall provide basic information of the laws governing the purchase, possession and use of firearms by juveniles and adults.

Copies of the form shall be made available by the dealer whenever a firearm is purchased.

Every firearms dealer shall conspicuously post the written notice which shall be at least eight and one-half inches by eleven inches in size and printed in boldface type of a minimum size of ten points. A licensed firearms dealer shall not be liable for damages for injuries resulting from the discharge of a firearm purchased from the dealer if, at the time of the purchase, the dealer failed to provide the form or failed to post the written notice.

Q. Except as provided in subdivisions 1, 2 and 3 of this subsection, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any thirty-day period. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a thirty-day period may be made upon completion of an enhanced background check, as described herein, by special application to the Department of State Police listing the number and type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for

305 the implementation of an application process for purchases of handguns above the limit.

306 Upon being satisfied that these requirements have been met, the Department of State Police shall  
307 forthwith issue to the applicant a nontransferable certificate which shall be valid for seven days from the  
308 date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the  
309 consummation of such sale and shall be kept on file at the dealer's place of business for inspection as  
310 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
311 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
312 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
313 Department of State Police, issue certificates forthwith pursuant to this subsection. Applications and  
314 certificates issued under this subsection shall be maintained as records as provided in subdivision 3 of  
315 subsection B. The Department of State Police shall make available to local law-enforcement agencies all  
316 records concerning certificates issued pursuant to this subsection and all records provided for in  
317 subdivision 3 of subsection B.

318 2. The provisions of this subsection shall not apply to:

319 a. A law-enforcement agency;

320 b. An agency duly authorized to perform law-enforcement duties;

321 c. State and local correctional facilities;

322 d. A private security company licensed to do business within the Commonwealth;

323 e. The purchase of antique firearms as herein defined;

324 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
325 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
326 purchased a handgun within a thirty-day period, provided (i) the person provides the firearms dealer  
327 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
328 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
329 official police report or summary thereof contains the name and address of the handgun owner, the  
330 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
331 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
332 reflected on the official police report or summary thereof occurred within thirty days of the person's  
333 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
334 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
335 transaction and retain it for the period prescribed by the Department of State Police; or

336 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of  
337 the same transaction, provided that no more than one transaction of this nature is completed per day.

338 3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a  
339 handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange  
340 or replacement within the thirty-day period immediately preceding the date of exchange or replacement.

341 § 18.2-308.2:3. Criminal background check required for employees of a gun dealer to transfer  
342 firearms; exemptions; penalties.

343 A. No person, corporation or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921  
344 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,  
345 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited  
346 from possessing a firearm under §§ 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.2, or  
347 § 18.2-308.2:01 or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant  
348 to § 18.2-308.1:4 or § 18.2-308.1:5.

349 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement  
350 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit  
351 the applicant's fingerprints and personal descriptive information to the Central Criminal Records  
352 Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining  
353 national criminal history record information regarding the applicant.

354 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons  
355 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from  
356 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000,  
357 the dealer shall submit the employee's fingerprints and personal descriptive information to the Central  
358 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the  
359 purpose of obtaining national criminal history record information regarding the request.

360 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
361 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
362 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
363 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
364 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
365 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
366 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid

FFL number, state the name of each person requesting the exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

D. The Department of State Police, upon receipt of an individual's record or notification that no record exists, shall submit an eligibility report to the requesting dealer within thirty days of the applicant beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed prior to July 1, 2000.

E. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the dealer shall not be disseminated except as provided in this section.

F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his option, decides to pay such cost.

G. Upon receipt of the request for a criminal history record information check, the State Police shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller for a potentially disqualifying crime.

H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at any event required to be registered as a gun show.

I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2, *is shall be* guilty of a Class 2 misdemeanor.

J. Any person willfully and intentionally making a materially false statement on the personal descriptive information required in this section *is shall be* guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section *is shall be* guilty of a Class 1 misdemeanor. Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this section *is shall be* guilty of a Class 1 misdemeanor.

K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee of a firearm lawfully transferred pursuant to this section.

L. The provisions of this section requiring a seller's background check shall not apply to a licensed dealer.

M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in subdivision C 1 *is shall be* guilty of a Class 5 felony.

N. For purposes of this section:

"Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any handgun, shotgun, or rifle, ~~which expels a projectile that will or is designed to~~ *or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.*

"Place of business" means any place or premises where a dealer may lawfully transfer firearms.

"Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background check in accordance with the provisions of § 18.2-308.2:2.

"Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer ownership or permanent possession of a firearm at the place of business of a dealer.

§ 18.2-308.7. Possession or transportation of certain firearms by persons under the age of eighteen; penalty.

It shall be unlawful for any person under eighteen years of age to knowingly and intentionally possess or transport a handgun or assault firearm anywhere in the Commonwealth. For the purposes of this section, "handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire a ~~projectile~~ *single or multiple projectiles by means of an explosion of a combustible*

428 *material* from one or more barrels when held in one hand and "assault firearm" means any (i)  
429 semi-automatic centerfire rifle or pistol which expels a ~~projectile~~ *single or multiple projectiles* by action  
430 of an explosion *of a combustible material* and is equipped at the time of the offense with a magazine  
431 which will hold more than twenty rounds of ammunition or designed by the manufacturer to  
432 accommodate a silencer or equipped with a folding stock or (ii) shotgun with a magazine which will  
433 hold more than seven rounds of the longest ammunition for which it is chambered. A violation of this  
434 section shall be a Class 1 misdemeanor. Any handgun possessed or transported in violation of this  
435 section shall be forfeited to the Commonwealth and disposed of as provided in § 18.2-310.

436 This section shall not apply to:

437 1. Any person (i) while in his home or on his property; (ii) while in the home or on the property of  
438 his parent, grandparent, or legal guardian; or (iii) while on the property of another who has provided  
439 prior permission, and with the prior permission of his parent or legal guardian if the person has the  
440 landowner's written permission on his person while on such property;

441 2. Any person who, while accompanied by an adult, is at, or going to and from, a lawful shooting  
442 range or firearms educational class, provided that the weapons are unloaded while being transported;

443 3. Any person actually engaged in lawful hunting or going to and from a hunting area or preserve,  
444 provided that the weapons are unloaded while being transported; and

445 4. Any person while carrying out his duties in the armed forces of the United States or the National  
446 Guard of this Commonwealth or any other state.

447 § 18.2-433.1. Definitions.

448 As used in this article:

449 "Civil disorder" means any public disturbance within the United States or any territorial possessions  
450 thereof involving acts of violence by assemblages of three or more persons, which causes an immediate  
451 danger of or results in damage or injury to the property or person of any other individual.

452 "Explosive or incendiary device" means (i) dynamite and all other forms of high explosives, (ii) any  
453 explosive bomb, grenade, missile, or similar device, or (iii) any incendiary bomb or grenade, fire bomb,  
454 or similar device, including any device which consists of or includes a breakable container including a  
455 flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of  
456 igniting such flammable liquid or compound, and can be carried or thrown by one individual acting  
457 alone.

458 "Firearm" means any weapon ~~which~~ *that will or* is designed to or may readily be converted to expel  
459 ~~any projectile~~ *single or multiple projectiles* by the action of an ~~explosive~~ *explosion of a combustible*  
460 *material*; or the frame or receiver of any such weapon.

461 "Law-enforcement officer" means any officer as defined in subdivision 9 of § 9.1-101 or any such  
462 officer or member of the armed forces of the United States, any state, any political subdivision of a  
463 state, or the District of Columbia, and such term shall specifically include, but shall not be limited to,  
464 members of the National Guard, as defined in § 101 (9) of Title 10, United States Code, members of the  
465 organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the  
466 District of Columbia, not included within the definition of National Guard as defined by such § 101 (9),  
467 and members of the armed forces of the United States.

468 § 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

469 A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free  
470 Schools Act of 1994), a school board shall expel from school attendance for a period of not less than  
471 one year any student whom such school board has determined, in accordance with the procedures set  
472 forth in this article, to have brought a firearm onto school property or to a school-sponsored activity as  
473 prohibited by § 18.2-308.1, or to have brought a firearm as defined in subsection D on school property  
474 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school  
475 board may, however, determine, based on the facts of a particular situation, that special circumstances  
476 exist and no disciplinary action or another disciplinary action or another term of expulsion is  
477 appropriate. A school board may promulgate guidelines for determining what constitutes special  
478 circumstances. In addition, a school board may, by regulation, authorize the division superintendent or  
479 his designee to conduct a preliminary review of such cases to determine whether a disciplinary action  
480 other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that  
481 another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in  
482 accordance with the procedures set forth in this article.

483 B. The Board of Education is designated as the state education agency to carry out the provisions of  
484 the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated  
485 to the Commonwealth under this act.

486 C. Each school board shall revise its standards of student conduct no later than three months after the  
487 date on which this act becomes effective. Local school boards requesting moneys apportioned to the  
488 Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the  
489 Department of Education an application requesting such assistance. Applications for assistance shall



include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" shall not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device.

"Firearm" means any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, or (i) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel a ~~projectile~~ *single or multiple projectiles* by the action of an ~~explosive~~ *explosion of a combustible material*; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device. *"Firearm" shall not include any weapon in which ammunition may be discharged by pneumatic pressure.*

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

E. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

F. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.