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SENATE BILL NO. 827

Offered January 10, 2007

Prefiled January 5, 2007

A BILL to amend and reenact § 54.1-4200 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-226.12, 18.2-308.2:4, and 54.1-4201.2, relating to firearm sales; civil immunity; criminal history record information checks; penalties.

Patron—Devolites Davis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-4200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-226.12, 18.2-308.2:4, and 54.1-4201.2 as follows:

§ 8.01-226.12. Civil immunity for sellers in firearms.

Any person who sells, transfers, or trades a firearm shall not be liable for any claim arising from, or in any way related to, the use of the firearm by the purchaser or transferee in the commission of any crime, provided that the seller has obtained a criminal history record information check as set out in § 18.2-308.2:2 that shows that the purchaser or transferee is not prohibited from possessing or transferring a firearm by state or federal law, in absence of gross negligence or willful misconduct on the part of the seller.

§ 18.2-308.2:4. Criminal history record information check required to obtain firearm from firearms show vendor; penalties.

No firearms show vendor as defined in § 54.1-4200 shall transfer a firearm at a firearms show as defined in § 54.1-4200, unless the firearms show vendor has obtained verification from a dealer in firearms that information on the prospective purchaser or transferee has been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and a determination is received from the Department of State Police that the prospective purchaser or transferee is not prohibited under state or federal law from possessing a firearm. The firearms show promoter's designated dealer shall provide a means by which vendors may obtain the approval or denial of their firearm transfer requests based on criminal history record information checks. The Department of State Police shall provide a means by which the firearms show promoter's designated dealer may obtain criminal history record information. The processes established shall conform to the provisions of § 18.2-308.2:2, and the definitions and provisions of § 18.2-308.2:2 regarding criminal history record information checks shall apply to this section mutatis mutandis. The firearms show promoter's designated dealer shall collect and disseminate the fees described in § 18.2-308.2:2 as required by that section. The dealer may charge and retain an additional fee not to exceed \$15 for obtaining criminal history record information checks for vendors.

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 law is guilty of a Class 2 misdemeanor.

Any person who willfully and intentionally makes a materially false statement on the consent form required by § 18.2-308.2:2 is guilty of a Class 5 felony.

Any person who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of this section is guilty of a Class 6 felony.

§ 54.1-4200. Definitions.

For the purpose of this chapter, unless the context requires a different meaning:

"Dealer in firearms" means (i) any person, firm, partnership, or corporation engaged in the business of selling, trading or transferring firearms at wholesale or retail; (ii) any person, firm, partnership, or corporation engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or (iii) any person, firm, partnership, or corporation that is a pawnbroker.

"Engaged in business" means as applied to a dealer in firearms a person, firm, partnership, or corporation that devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through repetitive purchase or resale of firearms, but such term shall not involve a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

"Firearms show" means *the entire premises, including but not limited to parking areas, of any*

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59 gathering or exhibition, open to the public, not occurring on the permanent premises of a dealer in
60 firearms, conducted principally for the purposes of exchanging, selling or trading 25 or more firearms as
61 defined in § 18.2-308.2:2.

62 *"Firearms show vendor" means any person not licensed as a Virginia dealer pursuant to 18 U.S.C.*
63 *§ 921 et seq. who exhibits, sells, offers for sale, transfers, or exchanges any firearm at a firearms show,*
64 *regardless of whether the person arranges with a firearms show promoter for a fixed location from*
65 *which to exhibit, sell, offer for sale, transfer, or exchange any firearm.*

66 *"Promoter" means a person, firm, corporation, club, association, or organization holding a firearms*
67 *show in the Commonwealth.*

68 § 54.1-4201.2. Duties of promoter; verification of vendor identity; records; penalty.

69 A. Prior to the commencement of the firearms show, the promoter shall verify the identity of each
70 participating firearms show vendor by examining a photo identification issued by the Virginia
71 Department of Motor Vehicles or a similar agency in the vendor's state of residence if the vendor is not
72 a Virginia resident and require the vendor to sign a ledger with identifying information concerning the
73 vendor. Also, prior to the commencement of the firearms show, the promoter shall provide each vendor
74 with a notice advising the vendor of the obligations of the vendor under this chapter and § 18.2-308.2:4.
75 The promoter shall maintain a copy of the records described in this subsection at the permanent place
76 of business of the firearms show promoter for four years from the date of the firearms show.

77 B. The promoter shall make available to firearms show vendors one or more Virginia dealers
78 licensed pursuant to 18 U.S.C. § 921 et seq. to conduct the criminal history record information check
79 required by §§ 18.2-308.2:2 and 18.2-308.2:4.

80 C. The promoter shall post in a prominent location at the firearms show a notice, in a form to be
81 prescribed by the Department of State Police, setting forth the requirement for a criminal history record
82 information check.

83 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
84 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
85 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
86 **periods of commitment to the custody of the Department of Juvenile Justice.**