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**HOUSE BILL NO. 364**

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact §§ 54.1-4200 and 54.1-4201.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-308.2:4 and 54.1-4201.2, relating to firearm sales; criminal history record information checks; penalties.*

Patrons—McClellan, Carr, Hope and Kory

Referred to Committee on Militia, Police and Public Safety

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

**1. That §§ 54.1-4200 and 54.1-4201.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-308.2:4 and 54.1-4201.2 as follows:**

*§ 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 has been 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, as provided in accordance with subsection B of § 54.1-4201.2, shall provide a means by which vendors may obtain the approval or denial of 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 gathering or exhibition, open to the public, not occurring on the permanent premises of a dealer in firearms, conducted principally for the purposes of exchanging, selling, or trading firearms as defined in § 18.2-308.2:2.*

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

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59 *which to exhibit, sell, offer for sale, transfer, or exchange any firearm.*

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

62 § 54.1-4201.1. Notification by sponsor of firearms show to State Police and local law-enforcement  
63 authorities required; records; penalty.

64 A. No promoter of a firearms show shall hold such show without giving notice at least 30 days prior  
65 to the show to the State Police and the sheriff or chief of police of the locality in which the firearms  
66 show will be held. The notice shall be given on a form provided by the State Police. A separate notice  
67 shall be required for each firearms show.

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

70 The promoter shall maintain for the duration of the show a list of all vendors or exhibitors in the  
71 show for immediate inspection by any law-enforcement authorities, and within five days after the  
72 conclusion of the show, by mail, by hand, by email, or by fax, transmit a copy of the complete vendor  
73 or exhibitor list to the law-enforcement authorities to which the 30-day prior notice was required. The  
74 vendor or exhibitor list shall contain the full name and residence address and the business name and  
75 address, if any, of the vendors or exhibitors.

76 B. A willful violation of this section shall be a Class 3 misdemeanor.

77 C. The provisions of this section shall not apply to firearms shows held in any town with a  
78 population of not less than 1,995 and not more than 2,010, according to the 1990 United States census.

79 § 54.1-4201.2. Duties of promoter; verification of vendor identity; records; penalty.

80 A. *Before the start of the firearms show, the promoter shall verify the identity of each participating*  
81 *firearms show vendor by examining a photo identification issued by the Virginia Department of Motor*  
82 *Vehicles or a similar agency in the vendor's state of residence if the vendor is not a Virginia resident*  
83 *and require the vendor to sign a ledger with identifying information concerning the vendor. Also, before*  
84 *the start of the firearms show, the promoter shall provide each vendor with a notice advising the vendor*  
85 *of the obligations of the vendor under this chapter and § 18.2-308.2:4. The promoter shall maintain a*  
86 *copy of the records described in this subsection at the permanent place of business of the firearms show*  
87 *promoter for four years from the date of the firearms show.*

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

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

94 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
95 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**  
96 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**  
97 **890 of the Acts of Assembly of 2011 requires the Virginia Criminal Sentencing Commission to**  
98 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**  
99 **necessary appropriation is \$0 for periods of commitment to the custody of the Department of**  
100 **Juvenile Justice.**