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HOUSE BILL NO. 2251

Offered January 15, 2013

A *BILL to amend and reenact § 19.2-386.29 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-309.1, relating to prohibition of sale, transfer, etc., of certain firearms magazines; penalty.*

Patrons—Lopez and Filler-Corn

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-386.29 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-309.1 as follows:

§ 18.2-309.1. Sale, transfer, etc., of certain firearms magazines prohibited; penalty.

A. As used in this section, unless the context requires a different meaning:

"Large capacity magazine" means any ammunition feeding device with the capacity to accept more than 20 rounds, or any conversion kit, part, or combination of parts from which such a device can be assembled if those parts are in the possession or under the control of the same person, but shall not be construed to include (i) a feeding device that has been permanently altered so that it cannot accommodate more than 20 rounds, (ii) a 22-caliber tube ammunition feeding device, or (iii) a tubular magazine that is contained in a lever-action firearm.

B. Any person, corporation, or other entity that manufactures, imports, possesses, purchases, sells, or transfers any large capacity magazine shall be subject to a fine of \$1,000.

C. The provisions of subsection B shall not apply to (i) any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to acquire or possess a large capacity magazine and does so while acting within the scope of his duties; (ii) the manufacture of a large capacity magazine by a firearms manufacturer for the purpose of sale to any branch of the armed forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of a large capacity magazine by a licensed dealer to any branch of the armed forces of the United States or to a law-enforcement agency for use by that agency in the Commonwealth or its employees for law-enforcement purposes; or (iv) any individual who lawfully possesses a large capacity magazine if he is the lawful owner of a firearm for which no magazine that holds 20 or fewer rounds of ammunition is compatible, if both the magazine and the firearm were obtained prior to July 1, 2013. Such magazine may be possessed solely for use with the firearm, and no individual may possess more than three large capacity magazines. Possession must be properly registered pursuant to subsection D.

D. Any person who, prior to July 1, 2013, was legally in possession of a large capacity magazine shall have 120 days following July 1, 2013, to (i) remove the firearm or large capacity magazine from the Commonwealth; (ii) sell the large capacity magazine to a licensed dealer; (iii) surrender the large capacity magazine to any law-enforcement agency for destruction; or (iv) if eligible, register possession of the large capacity magazine in accordance with subsection E.

E. Any person seeking to register or reregister possession of a large capacity magazine shall (i) submit to a criminal history record information check in accordance with subsection F and (ii) unless otherwise prohibited by law from possessing ammunition, immediately register his possession of no more than three large capacity magazines with the Department of State Police and dispose of any remaining large capacity magazines in his possession pursuant to this section.

F. The Department of State Police shall provide a means by which persons seeking to register in accordance with subsection E may obtain from designated licensed dealers the approval or denial of registration based on criminal history record information checks. 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*. Any person willfully and intentionally making a materially false statement on the consent form required by the processes established for the criminal history record information checks under this subsection, or on such firearm transaction records as may be required by federal law, is guilty of a Class 5 felony. The designated dealer shall collect and disseminate the fees prescribed 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 registrants.

G. A registered owner of a large capacity magazine shall (i) safely and securely store the large

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59 capacity magazine pursuant to regulations adopted by the Department of State Police and shall make
60 such storage available for inspection by the Department of State Police; (ii) reregister annually in
61 accordance with subsection E; (iii) possess any registered large capacity magazine only on property
62 owned or immediately controlled by the person, or while on the premises of a licensed firearms dealer
63 or of a licensed gunsmith for the purpose of lawful repair, or while engaged in the legal use of the
64 large capacity magazine at a duly licensed firing range, or while transporting the weapon or magazine
65 in compliance with 18 U.S.C. § 926A; and (iv) report the loss or theft of a large capacity magazine to
66 any law-enforcement agency no more than 48 hours after the discovery of the loss or theft was made.

67 H. Registered large capacity magazines may not be purchased, sold, or transferred except for
68 transfer to a licensed dealer, transfer to a licensed gunsmith for the purpose of lawful repair, or
69 transfer to the appropriate law-enforcement agency for the purpose of surrendering the firearm or large
70 capacity magazine for destruction pursuant to subsection D.

71 I. Persons acquiring a large capacity magazine by inheritance, bequest, or succession shall, no more
72 than 120 days following acquisition of title, (i) surrender the large capacity magazine to any
73 law-enforcement agency for destruction or (ii) transfer the large capacity magazine to a licensed dealer.

74 J. Any large capacity magazines that are the subject of any violation of this section shall be forfeited
75 to the Commonwealth and may be seized by an officer as forfeited and disposed of as provided in
76 § 19.2-386.29.

77 **§ 19.2-386.29. Forfeiture of certain weapons used in commission of criminal offense.**

78 All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors,
79 slingshots, brass or metal knucks, blackjacks, stun weapons, and other weapons used by any person in
80 the commission of a criminal offense, or any large capacity magazine that is the subject of any
81 violation of § 18.2-309.1, shall, upon conviction of such person, be forfeited to the Commonwealth by
82 order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry
83 of an order of record. Such disposition may include the destruction of the weapons or, subject to any
84 registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in
85 accordance with the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) regarding sale of property forfeited
86 to the Commonwealth.

87 The court may authorize the seizing law-enforcement agency to use the weapon for a period of time
88 as specified in the order. When the seizing agency ceases to so use the weapon, it shall be disposed of
89 as otherwise provided in this section.

90 However, upon petition to the court and notice to the attorney for the Commonwealth, the court,
91 upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all
92 relevant proceedings if such owner (i) did not know and had no reason to know of the conduct giving
93 rise to the forfeiture and (ii) is not otherwise prohibited by law from possessing the weapon. The owner
94 shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has
95 retaken possession of the weapon involved.

96 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
97 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
98 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
99 **3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing**
100 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated**
101 **amount of the necessary appropriation cannot be determined for periods of commitment to the**
102 **custody of the Department of Juvenile Justice.**