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SENATE BILL NO. 377

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 22, 2014)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-308.2:4, relating to firearm transfers to dealers; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-308.2:4 as follows:

§ 18.2-308.2:4. Firearm verification check; penalty.

A. For the purposes of this section:

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

"Department" means the Department of State Police.

"Firearm" means any handgun, shotgun, or rifle 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.

B. A dealer who is receiving by sale, transfer, or trade a firearm from a person who is not a dealer may choose to obtain a verification check from the Department to determine if the firearm has been reported to a law-enforcement agency as lost or stolen. If a dealer chooses to obtain a verification check, the procedures in this section shall be followed.

C. The person selling, transferring, or trading the firearm to the dealer shall present a valid photo identification issued by a state or federal governmental agency and shall consent in writing, on a form to be provided by the Department, to have the dealer obtain a verification check to determine if the firearm has been reported to a law-enforcement agency as lost or stolen. Such form shall include only the written consent; the name, address, birth date, gender, race, and verifiable government identification number on the photo identification presented by the person selling, transferring, or trading the firearm; and the serial number, caliber, make, and, if available, model of the firearm.

D. A dealer shall (i) obtain written consent and identifying information on the consent form specified in subsection C; (ii) provide the Department with the serial number, caliber, make, and, if available, model of the firearm intended to be sold, traded, or transferred to the dealer; (iii) request a verification check by telephone or other manner authorized by the Department; and (iv) receive information from the Department as to whether the firearm has been reported to a law-enforcement agency as lost or stolen.

To establish personal identification and residence for purposes of this section, a dealer shall require a prospective transferee to present one photo-identification form containing a verifiable identification number issued by a governmental agency of the Commonwealth, a similar photo-identification form from another state government or by the U.S. Department of Defense, or other documentation of residence determined acceptable by the Department.

E. Upon receipt of the request for a verification check, the Department shall (i) query firearms databases to determine if the firearm has been reported to a law-enforcement agency as lost or stolen, (ii) inform the dealer if the firearm has been reported to a law-enforcement agency as lost or stolen, and (iii) provide the dealer with a unique response for that inquiry.

The Department shall provide its response to the requesting dealer electronically or by return call without delay. If the verification check discloses that the firearm cannot be lawfully sold, transferred, or traded, the Department shall have until the end of the dealer's next business day to advise the dealer that its records indicate the firearm cannot be lawfully sold, transferred, or traded pursuant to state or federal law.

In the case of electronic failure or other circumstances beyond the control of the Department, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the Department shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if the firearm cannot be lawfully sold, transferred, or traded pursuant to state or federal law.

F. The Department shall maintain a log of requests made for a period of 12 months from the date the request was made, consisting of the serial number, caliber, make, and, if available, model of the firearm; the dealer identification number; and the transaction date.

G. The dealer shall maintain the consent form for a period of 12 months from the date of the transaction if the firearm is determined to be lost or stolen.

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

I. The provisions of this section shall not apply to transactions between persons who are licensed as

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60 *firearms importers, manufacturers, or dealers pursuant to 18 U.S.C. § 921 et seq.*

61 *J. Any person who willfully and intentionally makes a material false statement on the consent form is*
62 *guilty of a Class 1 misdemeanor.*

63 **2. That the provisions of this act shall be effective January 1, 2015.**

64 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**
65 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**
66 **for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment**
67 **to the custody of the Department of Juvenile Justice.**