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SENATE BILL NO. 1439

Offered January 13, 2017

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-308.1:01, relating to transfers of firearms; penalties.*

Patron—Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-308.1:01 as follows:

§ 18.2-308.1:01. Firearm transfers; penalties.

A. Any person other than a licensed dealer who sells, rents, trades, or transfers any firearm to any person other than a licensed dealer is guilty of a Class 2 misdemeanor.

B. Any person other than a licensed dealer who buys, rents, trades, or transfers any firearm from any person other than a licensed dealer is guilty of a Class 2 misdemeanor.

C. If neither party to a prospective firearm transfer is a licensed dealer, the parties to the transaction shall complete the transfer through a licensed dealer.

D. Notwithstanding subsection A, B, or C, unless otherwise prohibited by state or federal law, any person may transfer a firearm to any other person if:

1. The transfer is a bona fide gift made by or to a member of a person's immediate family as defined in § 6.2-1300;

2. The transfer occurs by operation of law;

3. The transferor is an executor or administrator of an estate or is a trustee of a trust created by a will;

4. The transfer occurs at a firearms show, as defined in § 54.1-4200, and the transferor has received a determination from the Department of State Police that the transferee is not prohibited under state or federal law from possessing a firearm in accordance with § 54.1-4201.2;

5. The transfer is temporary and is necessary to prevent imminent death or great bodily harm; or

6. The transfer is temporary and occurs within the continuous presence of the owner of the firearm.

§ 54.1-4201.2. Firearm transactions by persons other than dealers; voluntary background checks.

A. The Department of State Police shall be available at every firearms show held in the Commonwealth to make determinations in accordance with the procedures set out in § 18.2-308.2:2 of whether a prospective purchaser or transferee is prohibited under state or federal law from possessing a firearm. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police.

~~Unless otherwise required by state or federal law, any party involved in the transaction may decide whether or not to have such a determination made.~~

The Department of State Police may charge a reasonable fee for the determination.

B. The promoter, as defined in § 54.1-4201.1, shall give the Department of State Police notice of the time and location of a firearms show at least 30 days prior to the show. The promoter shall provide the Department of State Police with adequate space, at no charge, to conduct such prohibition determinations. The promoter shall ensure that a notice that such determinations are available is prominently displayed at the show.

C. No person who sells or transfers a firearm at a firearms show after receiving a determination from the Department of State Police that the purchaser or transferee is not prohibited by state or federal law from possessing a firearm shall be liable for selling or transferring a firearm to such person.

D. The provisions of § 18.2-308.2:2, including definitions, procedures, and prohibitions, shall apply, mutatis mutandis, to the provisions of this section.

INTRODUCED

SB1439