



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### House Bill No. 260 (Patron – Lopez)

**LD#:** 20101640

**Date:** 12/11/2019

**Topic:** Firearm transfers by dealers

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Direct Care:**  
None (\$0) \*
- **Juvenile Detention Facilities:**  
None (\$0) \*

\* Provided by the Department of Juvenile Justice

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#### Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 of the *Code of Virginia*, relating to the purchase and sale of firearms.

Currently, under § 18.2-308.2:2, licensed firearms dealers must receive a report from the Department of State Police that a person is not prohibited from possessing or transporting a firearm under state or federal law prior to selling, renting, transferring, etc., a firearm. However, § 18.2-308.2:2 (B,2) permits dealers to transfer a firearm without this confirmation if they have not received a response from State Police by the end of the dealer's next business day. Under federal law (18 US Code § 922(t)(1)(b)), the dealer must wait three business days for a response. The proposal modifies § 18.2-308.2:2 (B,2) to require dealers to wait up to five business days and removes the provision that allows for the immediate sale, etc., of a firearm if notified by the State Police that a response will not be available by the end of the dealer's next business day.

Currently, subsection L of § 18.2-308.2:2 makes it a Class 6 felony for any firearms dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of this section.

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#### Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 through FY2019, no firearms dealers were convicted of a Class 6 felony under § 18.2-308.2:2(L) for selling or transferring a firearm in violation of § 18.2-308.2:2. Although one felony conviction appeared to involve a dealer, additional analysis showed that the actual offense was likely to be that of an ineligible person who solicited another to purchase a firearm on his or her behalf, a violation of subsection N of § 18.2-308.2:2.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** According to the Virginia State Police, firearms dealers must currently wait up to three business days to transfer a firearm due to the federal restrictions. The proposal would require dealers to wait up to five business days to transfer a firearm. Since there were no felony convictions under § 18.2-308.2:2(L) during the most recent six-year period, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

**Local adult correctional facilities.** Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

**Adult community corrections programs.** The proposal is not expected to increase the need for adult community corrections resources.

**Virginia's sentencing guidelines.** Felony convictions under § 18.2-308.2:2(L) are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, such a conviction may augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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