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HOUSE BILL NO. 1992

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on January 27, 2021)

(Patron Prior to Substitute—Delegate Murphy)

A BILL to amend and reenact §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.1:8, relating to purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.1:8 as follows:

§ 18.2-308.09. Disqualifications for a concealed handgun permit.

The following persons shall be deemed disqualified from obtaining a permit:

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, ~~or~~ 18.2-308.1:7, or 18.2-308.1:8 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a restoration order may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic cannabinoids, or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn, written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief

60 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such  
61 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the  
62 specific acts, or upon a written statement made under oath before a notary public of a competent person  
63 having personal knowledge of the specific acts.

64 14. An individual who has been convicted of any assault, assault and battery, sexual battery,  
65 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation  
66 of § 18.2-282 within the three-year period immediately preceding the application.

67 15. An individual who has been convicted of stalking.

68 16. An individual whose previous convictions or adjudications of delinquency were based on an  
69 offense that would have been at the time of conviction a felony if committed by an adult under the laws  
70 of any state, the District of Columbia, the United States or its territories. For purposes of this  
71 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the  
72 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or  
73 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall  
74 not apply to an individual with previous adjudications of delinquency who has completed a term of  
75 service of no less than two years in the Armed Forces of the United States and, if such person has been  
76 discharged from the Armed Forces of the United States, received an honorable discharge.

77 17. An individual who has a felony charge pending or a charge pending for an offense listed in  
78 subdivision 14 or 15.

79 18. An individual who has received mental health treatment or substance abuse treatment in a  
80 residential setting within five years prior to the date of his application for a concealed handgun permit.

81 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period  
82 immediately preceding the application for the permit, was found guilty of any criminal offense set forth  
83 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession  
84 or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any  
85 state, the District of Columbia, or the United States or its territories.

86 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the  
87 three-year period immediately preceding the application, upon a charge of any criminal offense set forth  
88 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or  
89 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any  
90 state, the District of Columbia, or the United States or its territories, the trial court found that the facts  
91 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the  
92 substantially similar law of any other state, the District of Columbia, or the United States or its  
93 territories.

94 **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery**  
95 **of a family or household member; penalty.**

96 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm  
97 following a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the  
98 offense of assault and battery of a family or household member or (ii) an offense substantially similar to  
99 clause (i) under the laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

100 B. For the purposes of this section, "family or household member" means (i) the person's spouse,  
101 whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or  
102 not he resides in the same home with the person; (iii) the person's parents, stepparents, or guardian,  
103 regardless of whether such persons reside in the same home with the person; (iv) any individual who  
104 has a child in common with the person, whether or not the person and that individual have been  
105 married or have resided together at any time; or (v) any individual who cohabits or who, within the  
106 previous 12 months, cohabited with the person, and any children of either of them then residing in the  
107 same home with the person.

108 **§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain**  
109 **persons.**

110 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with  
111 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited  
112 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,  
113 subsection B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B of  
114 § 18.2-308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be  
115 applicable when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted  
116 by reason of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been  
117 granted relief pursuant to subsection B of § 18.2-308.1:1, or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been  
118 pardoned or had his political disabilities removed in accordance with subsection B of § 18.2-308.2; or  
119 (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United  
120 States.

121 **§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain**

122 persons; penalties.

123 A. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control  
124 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is  
125 prohibited from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or  
126 18.2-308.1:3, subsection B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B  
127 of § 18.2-308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be  
128 applicable when the person convicted of the felony *or misdemeanor*, adjudicated delinquent, or acquitted  
129 by reason of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been  
130 granted relief pursuant to subsection B of § 18.2-308.1:1 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been  
131 pardoned or had his political disabilities removed in accordance with subsection B of § 18.2-308.2; or  
132 (iii) obtained a permit to ship, transport, possess, or receive firearms pursuant to the laws of the United  
133 States.

134 B. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control  
135 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is  
136 prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:7 is guilty of a  
137 Class 1 misdemeanor.

138 **§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check required**  
139 **for the transfer of certain firearms.**

140 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
141 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
142 information. Such form shall include only the written consent; the name, birth date, gender, race,  
143 citizenship, and social security number and/or any other identification number; the number of firearms  
144 by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the  
145 following questions: (i) has the applicant been convicted of a felony offense *or a misdemeanor offense*  
146 *listed in § 18.2-308.1:8* or found guilty or adjudicated delinquent as a juvenile 14 years of age or older  
147 at the time of the offense of a delinquent act that *if committed by an adult* would be a felony ~~if~~  
148 ~~committed by an adult~~ *or a misdemeanor listed in § 18.2-308.1:8*; (ii) is the applicant subject to a court  
149 order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate  
150 partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant  
151 ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a  
152 firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been  
153 adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
154 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any  
155 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to  
156 outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3  
157 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention  
158 order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805;  
159 and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered  
160 pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a  
161 firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

162 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
163 person who is a resident of Virginia until he has (i) obtained written consent and the other information  
164 on the consent form specified in subsection A, and provided the Department of State Police with the  
165 name, birth date, gender, race, citizenship, and social security and/or any other identification number and  
166 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested  
167 criminal history record information by a telephone call to or other communication authorized by the  
168 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish  
169 personal identification and residence in Virginia for purposes of this section, a dealer must require any  
170 prospective purchaser to present one photo-identification form issued by a governmental agency of the  
171 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
172 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
173 purchase, residency of a member of the armed forces shall include both the state in which the member's  
174 permanent duty post is located and any nearby state in which the member resides and from which he  
175 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
176 by the Department of Defense does not have a Virginia address may establish his Virginia residency  
177 with such photo identification and either permanent orders assigning the purchaser to a duty post,  
178 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo  
179 identification presented to a dealer by the prospective purchaser is a driver's license or other photo  
180 identification issued by the Department of Motor Vehicles, and such identification form contains a date  
181 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by  
182 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until

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183 30 days after the date of issue of an original or duplicate driver's license unless the prospective  
184 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing  
185 that the original date of issue of the driver's license was more than 30 days prior to the attempted  
186 purchase.

187 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any  
188 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent  
189 residence.

190 Upon receipt of the request for a criminal history record information check, the State Police shall (a)  
191 review its criminal history record information to determine if the buyer or transferee is prohibited from  
192 possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates  
193 that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number  
194 for that inquiry.

195 2. The State Police shall provide its response to the requesting dealer during the dealer's request or  
196 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the  
197 State Police that a response will not be available by the end of the dealer's third business day may  
198 immediately complete the sale or transfer and shall not be deemed in violation of this section with  
199 respect to such sale or transfer.

200 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer  
201 than 30 days, except for multiple handgun transactions for which records shall be maintained for 12  
202 months, from any dealer's request for a criminal history record information check pertaining to a buyer  
203 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or  
204 federal law. However, the log on requests made may be maintained for a period of 12 months, and such  
205 log shall consist of the name of the purchaser, the dealer identification number, the unique approval  
206 number, and the transaction date.

207 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or  
208 deliver the written consent form required by subsection A to the Department of State Police. The State  
209 Police shall immediately initiate a search of all available criminal history record information to  
210 determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal  
211 law. If the search discloses information indicating that the buyer or transferee is so prohibited from  
212 possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in  
213 the jurisdiction where the sale or transfer occurred and the dealer without delay.

214 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by  
215 persons who are citizens of the United States or persons lawfully admitted for permanent residence but  
216 residents of other states under the terms of subsections A and B upon furnishing the dealer with one  
217 photo-identification form issued by a governmental agency of the person's state of residence and one  
218 other form of identification determined to be acceptable by the Department of Criminal Justice Services.

219 6. For the purposes of this subsection, the phrase "dealer's third business day" shall not include  
220 December 25.

221 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the  
222 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of  
223 subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to  
224 applicable federal law unless he has first obtained from the Department of State Police a report  
225 indicating that a search of all available criminal history record information has not disclosed that the  
226 person is prohibited from possessing or transporting a firearm under state or federal law.

227 To establish personal identification and dual resident eligibility for purposes of this subsection, a  
228 dealer shall require any prospective purchaser to present one photo-identification form issued by a  
229 governmental agency of the prospective purchaser's state of legal residence and other documentation of  
230 dual residence within the Commonwealth. The other documentation of dual residence in the  
231 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a  
232 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)  
233 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as  
234 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of  
235 residence determined to be acceptable by the Department of Criminal Justice Services and that  
236 corroborates that the prospective purchaser currently resides in Virginia.

237 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
238 exercise his right of access to and review and correction of criminal history record information under  
239 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within  
240 30 days of such denial.

241 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history  
242 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
243 disseminate criminal history record information except as authorized in this section shall be guilty of a  
244 Class 2 misdemeanor.

245 F. For purposes of this section:

246 "Actual buyer" means a person who executes the consent form required in subsection B or C, or  
247 other such firearm transaction records as may be required by federal law.

248 "Antique firearm" means:

249 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of  
250 ignition system) manufactured in or before 1898;

251 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not  
252 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire  
253 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that  
254 is not readily available in the ordinary channels of commercial trade;

255 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use  
256 black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this  
257 subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame  
258 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon  
259 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any  
260 combination thereof; or

261 4. Any curio or relic as defined in this subsection.

262 "Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple  
263 projectiles by action of an explosion of a combustible material and is equipped at the time of the  
264 offense with a magazine which will hold more than 20 rounds of ammunition or designed by the  
265 manufacturer to accommodate a silencer or equipped with a folding stock.

266 "Curios or relics" means firearms that are of special interest to collectors by reason of some quality  
267 other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To  
268 be recognized as curios or relics, firearms must fall within one of the following categories:

269 1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or  
270 conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is  
271 not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

272 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits  
273 firearms to be curios or relics of museum interest; and

274 3. Any other firearms that derive a substantial part of their monetary value from the fact that they  
275 are novel, rare, bizarre, or because of their association with some historical figure, period, or event.  
276 Proof of qualification of a particular firearm under this category may be established by evidence of  
277 present value and evidence that like firearms are not available except as collectors' items, or that the  
278 value of like firearms available in ordinary commercial channels is substantially less.

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

280 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be  
281 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

282 "Handgun" means any pistol or revolver or other firearm originally designed, made and intended to  
283 fire single or multiple projectiles by means of an explosion of a combustible material from one or more  
284 barrels when held in one hand.

285 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the  
286 privilege of residing permanently in the United States as an immigrant in accordance with the  
287 immigration laws, such status not having changed.

288 G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,  
289 confidentiality and security of all records and data provided by the Department of State Police pursuant  
290 to this section.

291 H. The provisions of this section shall not apply to (i) transactions between persons who are licensed  
292 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)  
293 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth  
294 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of  
295 Chapter 8 of Title 23.1; or (iii) antique firearms, curios or relics.

296 I. The provisions of this section shall not apply to restrict purchase, trade or transfer of firearms by a  
297 resident of Virginia when the resident of Virginia makes such purchase, trade or transfer in another  
298 state, in which case the laws and regulations of that state and the United States governing the purchase,  
299 trade or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)  
300 check shall be performed prior to such purchase, trade or transfer of firearms.

301 J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal  
302 history record information check is required pursuant to this section, except that a fee of \$5 shall be  
303 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the  
304 Department of State Police by the last day of the month following the sale for deposit in a special fund  
305 for use by the State Police to offset the cost of conducting criminal history record information checks

306 under the provisions of this section.

307 K. Any person willfully and intentionally making a materially false statement on the consent form  
308 required in subsection B or C or on such firearm transaction records as may be required by federal law,  
309 shall be guilty of a Class 5 felony.

310 L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades  
311 or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

312 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or  
313 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and  
314 intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not  
315 apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the  
316 performance of his official duties, or other person under his direct supervision.

317 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
318 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
319 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
320 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
321 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to  
322 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection  
323 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory  
324 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the  
325 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to  
326 § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,  
327 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

328 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the  
329 Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of  
330 a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

331 O. Any mandatory minimum sentence imposed under this section shall be served consecutively with  
332 any other sentence.

333 P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating  
334 whether the driver's license is an original, duplicate or renewed driver's license.

335 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his  
336 inventory to any other person, a dealer may require such other person to consent to have the dealer  
337 obtain criminal history record information to determine if such other person is prohibited from  
338 possessing or transporting a firearm by state or federal law. The Department of State Police shall  
339 establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to  
340 be made by the Department of State Police, and the processes established for making such  
341 determinations shall conform to the provisions of this section.

342 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a  
343 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes  
344 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for  
345 a handgun purchased from such seller by the same person seeking the exchange or replacement within  
346 the 30-day period immediately preceding the date of exchange or replacement. A violation of this  
347 subsection is punishable as a Class 1 misdemeanor.

348 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an  
349 enhanced background check, as described in this subsection, by special application to the Department of  
350 State Police listing the number and type of handguns to be purchased and transferred for lawful business  
351 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar  
352 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
353 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
354 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
355 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
356 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
357 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
358 the limit.

359 Upon being satisfied that these requirements have been met, the Department of State Police shall  
360 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from  
361 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to  
362 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection  
363 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
364 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
365 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
366 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and  
367 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.

368 The Department of State Police shall make available to local law-enforcement agencies all records  
 369 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B  
 370 3.

371 2. The provisions of this subsection shall not apply to:

372 a. A law-enforcement agency;

373 b. An agency duly authorized to perform law-enforcement duties;

374 c. A state or local correctional facility;

375 d. A private security company licensed to do business within the Commonwealth;

376 e. The purchase of antique firearms;

377 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
 378 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
 379 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer  
 380 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
 381 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
 382 official police report or summary thereof contains the name and address of the handgun owner, a  
 383 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
 384 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
 385 reflected on the official police report or summary thereof occurred within 30 days of the person's  
 386 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
 387 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
 388 transaction and retain it for the period prescribed by the Department of State Police;

389 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of  
 390 the same transaction, provided that no more than one transaction of this nature is completed per day;

391 h. A person who holds a valid Virginia permit to carry a concealed handgun;

392 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private  
 393 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms  
 394 for the enhancement of a personal collection of curios or relics or who sells all or part of such  
 395 collection of curios and relics; or

396 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any  
 397 employee of a police department or sheriff's office that is part of or administered by the Commonwealth  
 398 or any political subdivision thereof and who is responsible for the prevention and detection of crime and  
 399 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

400 **§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required for**  
 401 **the transfer of certain firearms.**

402 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
 403 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
 404 information. Such form shall include only the written consent; the name, birth date, gender, race,  
 405 citizenship, and social security number and/or any other identification number; the number of firearms  
 406 by category intended to be sold, rented, traded, or transferred; and answers to the applicant to the  
 407 following questions: (i) has the applicant been convicted of a felony offense *or a misdemeanor offense*  
 408 *listed in § 18.2-308.1:8* or found guilty or adjudicated delinquent as a juvenile 14 years of age or older  
 409 at the time of the offense of a delinquent act that *if committed by an adult* would be a felony ~~if~~  
 410 ~~committed by an adult~~ *or a misdemeanor listed in § 18.2-308.1:8*; (ii) is the applicant subject to a court  
 411 order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate  
 412 partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant  
 413 ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a  
 414 firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been  
 415 adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
 416 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any  
 417 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to  
 418 outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3  
 419 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention  
 420 order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805;  
 421 and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered  
 422 pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a  
 423 firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

424 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
 425 person who is a resident of Virginia until he has (i) obtained written consent and the other information  
 426 on the consent form specified in subsection A, and provided the Department of State Police with the  
 427 name, birth date, gender, race, citizenship, and social security and/or any other identification number and  
 428 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested

429 criminal history record information by a telephone call to or other communication authorized by the  
430 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish  
431 personal identification and residence in Virginia for purposes of this section, a dealer must require any  
432 prospective purchaser to present one photo-identification form issued by a governmental agency of the  
433 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
434 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
435 purchase, residency of a member of the armed forces shall include both the state in which the member's  
436 permanent duty post is located and any nearby state in which the member resides and from which he  
437 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
438 by the Department of Defense does not have a Virginia address may establish his Virginia residency  
439 with such photo identification and either permanent orders assigning the purchaser to a duty post,  
440 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo  
441 identification presented to a dealer by the prospective purchaser is a driver's license or other photo  
442 identification issued by the Department of Motor Vehicles, and such identification form contains a date  
443 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by  
444 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until  
445 30 days after the date of issue of an original or duplicate driver's license unless the prospective  
446 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing  
447 that the original date of issue of the driver's license was more than 30 days prior to the attempted  
448 purchase.

449 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any  
450 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent  
451 residence.

452 Upon receipt of the request for a criminal history record information check, the State Police shall (a)  
453 review its criminal history record information to determine if the buyer or transferee is prohibited from  
454 possessing or transporting a firearm by state or federal law, (b) inform the dealer if its record indicates  
455 that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number  
456 for that inquiry.

457 2. The State Police shall provide its response to the requesting dealer during the dealer's request or  
458 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the  
459 State Police that a response will not be available by the end of the dealer's third business day may  
460 immediately complete the sale or transfer and shall not be deemed in violation of this section with  
461 respect to such sale or transfer.

462 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer  
463 than 30 days, except for multiple handgun transactions for which records shall be maintained for 12  
464 months, from any dealer's request for a criminal history record information check pertaining to a buyer  
465 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or  
466 federal law. However, the log on requests made may be maintained for a period of 12 months, and such  
467 log shall consist of the name of the purchaser, the dealer identification number, the unique approval  
468 number, and the transaction date.

469 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or  
470 deliver the written consent form required by subsection A to the Department of State Police. The State  
471 Police shall immediately initiate a search of all available criminal history record information to  
472 determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal  
473 law. If the search discloses information indicating that the buyer or transferee is so prohibited from  
474 possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in  
475 the jurisdiction where the sale or transfer occurred and the dealer without delay.

476 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by  
477 persons who are citizens of the United States or persons lawfully admitted for permanent residence but  
478 residents of other states under the terms of subsections A and B upon furnishing the dealer with one  
479 photo-identification form issued by a governmental agency of the person's state of residence and one  
480 other form of identification determined to be acceptable by the Department of Criminal Justice Services.

481 6. For the purposes of this subsection, the phrase "dealer's third business day" does not include  
482 December 25.

483 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the  
484 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of  
485 subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to  
486 applicable federal law unless he has first obtained from the Department of State Police a report  
487 indicating that a search of all available criminal history record information has not disclosed that the  
488 person is prohibited from possessing or transporting a firearm under state or federal law.

489 To establish personal identification and dual resident eligibility for purposes of this subsection, a  
490 dealer shall require any prospective purchaser to present one photo-identification form issued by a

491 governmental agency of the prospective purchaser's state of legal residence and other documentation of  
 492 dual residence within the Commonwealth. The other documentation of dual residence in the  
 493 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a  
 494 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)  
 495 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as  
 496 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of  
 497 residence determined to be acceptable by the Department of Criminal Justice Services and that  
 498 corroborates that the prospective purchaser currently resides in Virginia.

499 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
 500 exercise his right of access to and review and correction of criminal history record information under  
 501 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within  
 502 30 days of such denial.

503 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history  
 504 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
 505 disseminate criminal history record information except as authorized in this section, shall be guilty of a  
 506 Class 2 misdemeanor.

507 F. For purposes of this section:

508 "Actual buyer" means a person who executes the consent form required in subsection B or C, or  
 509 other such firearm transaction records as may be required by federal law.

510 "Antique firearm" means:

511 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of  
 512 ignition system) manufactured in or before 1898;

513 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not  
 514 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire  
 515 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that  
 516 is not readily available in the ordinary channels of commercial trade;

517 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to use  
 518 black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of this  
 519 subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame  
 520 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon  
 521 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any  
 522 combination thereof; or

523 4. Any curio or relic as defined in this subsection.

524 "Assault firearm" means any semi-automatic center-fire rifle or pistol which expels single or multiple  
 525 projectiles by action of an explosion of a combustible material and is equipped at the time of the  
 526 offense with a magazine which will hold more than 20 rounds of ammunition or designed by the  
 527 manufacturer to accommodate a silencer or equipped with a folding stock.

528 "Curios or relics" means firearms that are of special interest to collectors by reason of some quality  
 529 other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To  
 530 be recognized as curios or relics, firearms must fall within one of the following categories:

531 1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or  
 532 conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is  
 533 not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

534 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits  
 535 firearms to be curios or relics of museum interest; and

536 3. Any other firearms that derive a substantial part of their monetary value from the fact that they  
 537 are novel, rare, bizarre, or because of their association with some historical figure, period, or event.  
 538 Proof of qualification of a particular firearm under this category may be established by evidence of  
 539 present value and evidence that like firearms are not available except as collectors' items, or that the  
 540 value of like firearms available in ordinary commercial channels is substantially less.

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

542 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be  
 543 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

544 "Handgun" means any pistol or revolver or other firearm originally designed, made and intended to  
 545 fire single or multiple projectiles by means of an explosion of a combustible material from one or more  
 546 barrels when held in one hand.

547 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the  
 548 privilege of residing permanently in the United States as an immigrant in accordance with the  
 549 immigration laws, such status not having changed.

550 G. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,  
 551 confidentiality, and security of all records and data provided by the Department of State Police pursuant

552 to this section.

553 H. The provisions of this section shall not apply to (i) transactions between persons who are licensed  
554 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)  
555 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth  
556 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of  
557 Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

558 I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms by  
559 a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another  
560 state, in which case the laws and regulations of that state and the United States governing the purchase,  
561 trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)  
562 check shall be performed prior to such purchase, trade, or transfer of firearms.

563 J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal  
564 history record information check is required pursuant to this section, except that a fee of \$5 shall be  
565 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the  
566 Department of State Police by the last day of the month following the sale for deposit in a special fund  
567 for use by the State Police to offset the cost of conducting criminal history record information checks  
568 under the provisions of this section.

569 K. Any person willfully and intentionally making a materially false statement on the consent form  
570 required in subsection B or C or on such firearm transaction records as may be required by federal law  
571 shall be guilty of a Class 5 felony.

572 L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents,  
573 trades, or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

574 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or  
575 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and  
576 intentionally aids or abets such person, shall be guilty of a Class 6 felony. This subsection shall not  
577 apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the  
578 performance of his official duties, or other person under his direct supervision.

579 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
580 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
581 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
582 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
583 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced  
584 to a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection  
585 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory  
586 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the  
587 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to  
588 § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,  
589 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

590 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the  
591 Commonwealth who solicits, employs, or assists any person in violating subsection M shall be guilty of  
592 a Class 4 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

593 O. Any mandatory minimum sentence imposed under this section shall be served consecutively with  
594 any other sentence.

595 P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating  
596 whether the driver's license is an original, duplicate, or renewed driver's license.

597 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his  
598 inventory to any other person, a dealer may require such other person to consent to have the dealer  
599 obtain criminal history record information to determine if such other person is prohibited from  
600 possessing or transporting a firearm by state or federal law. The Department of State Police shall  
601 establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to  
602 be made by the Department of State Police, and the processes established for making such  
603 determinations shall conform to the provisions of this section.

604 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a  
605 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes  
606 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for  
607 a handgun purchased from such seller by the same person seeking the exchange or replacement within  
608 the 30-day period immediately preceding the date of exchange or replacement. A violation of this  
609 subsection is punishable as a Class 1 misdemeanor.

610 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an  
611 enhanced background check, as described in this subsection, by special application to the Department of  
612 State Police listing the number and type of handguns to be purchased and transferred for lawful business  
613 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar

614 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
 615 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
 616 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
 617 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
 618 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
 619 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
 620 the limit.

621 Upon being satisfied that these requirements have been met, the Department of State Police shall  
 622 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from  
 623 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to  
 624 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection  
 625 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
 626 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
 627 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
 628 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and  
 629 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.  
 630 The Department of State Police shall make available to local law-enforcement agencies all records  
 631 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B  
 632 3.

633 2. The provisions of this subsection shall not apply to:

- 634 a. A law-enforcement agency;
- 635 b. An agency duly authorized to perform law-enforcement duties;
- 636 c. A state or local correctional facility;
- 637 d. A private security company licensed to do business within the Commonwealth;
- 638 e. The purchase of antique firearms;

639 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
 640 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
 641 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer  
 642 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
 643 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
 644 official police report or summary thereof contains the name and address of the handgun owner, a  
 645 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
 646 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
 647 reflected on the official police report or summary thereof occurred within 30 days of the person's  
 648 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
 649 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
 650 transaction and retain it for the period prescribed by the Department of State Police;

651 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of  
 652 the same transaction, provided that no more than one transaction of this nature is completed per day;

653 h. A person who holds a valid Virginia permit to carry a concealed handgun;

654 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private  
 655 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms  
 656 for the enhancement of a personal collection of curios or relics or who sells all or part of such  
 657 collection of curios and relics; or

658 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any  
 659 employee of a police department or sheriff's office that is part of or administered by the Commonwealth  
 660 or any political subdivision thereof and who is responsible for the prevention and detection of crime and  
 661 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

662 **§ 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for employees**  
 663 **of a gun dealer to transfer firearms; exemptions; penalties.**

664 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C.  
 665 § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent,  
 666 temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be  
 667 prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B  
 668 of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or  
 669 is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or  
 670 § 18.2-308.1:5.

671 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement  
 672 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit  
 673 the applicant's fingerprints and personal descriptive information to the Central Criminal Records  
 674 Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining

675 national criminal history record information regarding the applicant.

676 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons  
677 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from  
678 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000,  
679 the dealer shall submit the employee's fingerprints and personal descriptive information to the Central  
680 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the  
681 purpose of obtaining national criminal history record information regarding the request.

682 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
683 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
684 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
685 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
686 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
687 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
688 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid  
689 FFL number, state the name of each person requesting the exemption, together with each person's  
690 identifying information, including their social security number and the following statement: "I hereby  
691 swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each  
692 person requesting an exemption in this affidavit has been subjected to a fingerprint identification check  
693 by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms  
694 subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I  
695 understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5  
696 felony and that in addition to any other penalties imposed by law, a conviction under this section shall  
697 result in the forfeiture of my federal firearms license."

698 D. The Department of State Police, upon receipt of an individual's record or notification that no  
699 record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant  
700 beginning his duties for new employees or within 30 days of the applicant's birthday for a person  
701 employed prior to July 1, 2000.

702 E. If any applicant is denied employment because of information appearing on the criminal history  
703 record and the applicant disputes the information upon which the denial was based, the Central Criminal  
704 Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a  
705 copy of the criminal history record from the Federal Bureau of Investigation. The information provided  
706 to the dealer shall not be disseminated except as provided in this section.

707 F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his  
708 option, decides to pay such cost.

709 G. Upon receipt of the request for a criminal history record information check, the State Police shall  
710 establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's  
711 signature, firearm seller's number and the dealer's identification number shall be on all firearm  
712 transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is  
713 discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the  
714 firearm seller for a potentially disqualifying crime.

715 H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at  
716 any event required to be registered as a gun show.

717 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history  
718 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
719 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,  
720 shall be guilty of a Class 2 misdemeanor.

721 J. Any person willfully and intentionally making a materially false statement on the personal  
722 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who  
723 offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any  
724 dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of  
725 this section shall be guilty of a Class 1 misdemeanor.

726 K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee  
727 of a firearm lawfully transferred pursuant to this section.

728 L. The provisions of this section requiring a seller's background check shall not apply to a licensed  
729 dealer.

730 M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in  
731 subdivision C 1 shall be guilty of a Class 5 felony.

732 N. For purposes of this section:

733 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C.  
734 § 921 et seq.

735 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be  
736 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

737 "Place of business" means any place or premises where a dealer may lawfully transfer firearms.

738 "Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent  
739 of a dealer, who may lawfully transfer firearms and who actually performs the criminal background  
740 check in accordance with the provisions of § 18.2-308.2:2.

741 "Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer  
742 ownership or permanent possession of a firearm at the place of business of a dealer.

743 **§ 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees of a**  
744 **gun dealer to transfer firearms; exemptions; penalties.**

745 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C.  
746 § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent,  
747 temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be  
748 prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B  
749 of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an  
750 illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of  
751 § 18.2-308.1:4 or § 18.2-308.1:5.

752 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement  
753 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit  
754 the applicant's fingerprints and personal descriptive information to the Central Criminal Records  
755 Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining  
756 national criminal history record information regarding the applicant.

757 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons  
758 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from  
759 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000,  
760 the dealer shall submit the employee's fingerprints and personal descriptive information to the Central  
761 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the  
762 purpose of obtaining national criminal history record information regarding the request.

763 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
764 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
765 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
766 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
767 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
768 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
769 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid  
770 FFL number, state the name of each person requesting the exemption, together with each person's  
771 identifying information, including their social security number and the following statement: "I hereby  
772 swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each  
773 person requesting an exemption in this affidavit has been subjected to a fingerprint identification check  
774 by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms  
775 subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I  
776 understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5  
777 felony and that in addition to any other penalties imposed by law, a conviction under this section shall  
778 result in the forfeiture of my federal firearms license."

779 D. The Department of State Police, upon receipt of an individual's record or notification that no  
780 record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant  
781 beginning his duties for new employees or within 30 days of the applicant's birthday for a person  
782 employed prior to July 1, 2000.

783 E. If any applicant is denied employment because of information appearing on the criminal history  
784 record and the applicant disputes the information upon which the denial was based, the Central Criminal  
785 Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a  
786 copy of the criminal history record from the Federal Bureau of Investigation. The information provided  
787 to the dealer shall not be disseminated except as provided in this section.

788 F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his  
789 option, decides to pay such cost.

790 G. Upon receipt of the request for a criminal history record information check, the State Police shall  
791 establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's  
792 signature, firearm seller's number and the dealer's identification number shall be on all firearm  
793 transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is  
794 discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the  
795 firearm seller for a potentially disqualifying crime.

796 H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at  
797 any event required to be registered as a gun show.

798 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history  
799 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
800 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,  
801 shall be guilty of a Class 2 misdemeanor.

802 J. Any person willfully and intentionally making a materially false statement on the personal  
803 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who  
804 offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any  
805 dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of  
806 this section shall be guilty of a Class 1 misdemeanor.

807 K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee  
808 of a firearm lawfully transferred pursuant to this section.

809 L. The provisions of this section requiring a seller's background check shall not apply to a licensed  
810 dealer.

811 M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in  
812 subdivision C 1 shall be guilty of a Class 5 felony.

813 N. For purposes of this section:

814 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C.  
815 § 921 et seq.

816 "Firearm" means any handgun, shotgun, or rifle that will or is designed to or may readily be  
817 converted to expel single or multiple projectiles by action of an explosion of a combustible material.

818 "Place of business" means any place or premises where a dealer may lawfully transfer firearms.

819 "Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent  
820 of a dealer, who may lawfully transfer firearms and who actually performs the criminal background  
821 check in accordance with the provisions of § 18.2-308.2:2.

822 "Transfer" means any act performed with intent to sell, rent, barter, or trade or otherwise transfer  
823 ownership or permanent possession of a firearm at the place of business of a dealer.

824 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**  
825 **violation of law.**

826 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,  
827 transported or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3,  
828 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7,  
829 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

830 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
831 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
832 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
833 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**  
834 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**  
835 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**  
836 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**