

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** HB961EH1

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Levine

3. **Committee:** Public Safety

4. **Title:** Prohibiting sale, transport, etc., of assault firearms, certain firearm magazines, silencers.

5. **Summary:** The bill prohibits a person from importing, selling, transferring, manufacturing, or purchasing an assault firearm. A violation is a Class 6 felony. A person may transfer an assault firearm if: (i) the transfer is a bona fide gift made by or to a member of a transferor's immediate family, as defined in the Code; (ii) the transfer occurs by operation of law; (iii) the person receiving the assault firearm is an executor or administrator of an estate or is a trustee of a trust created by a will, and the assault firearm to be transferred is property of such estate or trust; (iv) the transferor is an executor or administrator of an estate or is a trustee of a trust created by a will, and the assault firearm to be transferred is the property of such estate or trust; (v) the transfer is temporary and is necessary to prevent imminent death or great bodily harm; (vi) the transfer is temporary and occurs within the continuous presence of the owner of the firearm; (vii) the sale or transfer of an assault firearm is to an authorized representative of the Commonwealth or any subdivision thereof as part of an authorized voluntary gun buy-back or give-back program; (viii) the transfer is of an antique firearm; or (ix) the transfer occurs at a shooting range, shooting gallery, or other area designated for the purpose of target shooting, for use during target practice, a firearms safety or training course or class, a shooting competition, or any similar lawful activity.

The bill also provides exemptions for (i) any government officer, agency, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire an assault firearm and does so while acting within the scope of his duties; (ii) the manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of the Armed Forces of the United States or to a law enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed Forces of the United States or to a law enforcement agency in the Commonwealth for use by that agency or its employees; or (iv) the purchase by a law enforcement officer of his service handgun. These exemptions also apply to large-capacity firearm magazines and silencers, according to the provisions of the bill. The bill further expands the definition of "assault firearm" to include:

- (i) a semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 12 rounds;
- (ii) a semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a detachable magazine and has one of the following characteristics: (a) a folding or telescoping stock; (b) a pistol grip that protrudes conspicuously beneath the action of the rifle; (c) a second handgrip or a protruding grip that can be held by the non-trigger hand; (d) a grenade launcher; (e) a flare launcher; (f) a silencer; (g) a flash suppressor; (h) a muzzle brake; (i) a muzzle compensator; (j) a threaded barrel capable of accepting a silencer, a flash suppressor, a muzzle brake, a muzzle compensator, or any characteristic of like kind as enumerated in clauses (a) through (j);
- (iii) a semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 12 rounds;
- (iv) a semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a detachable magazine and has one of the following characteristics: (a) a folding or telescoping stock; (b) a second handgrip or a protruding grip that can be held by the non-trigger hand; (c) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip; (d) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned; (e) a manufactured weight of 50 ounces or more when the pistol is unloaded; (f) a threaded barrel capable of accepting a silencer, a flash suppressor, a barrel extender, a forward handgrip, or any characteristic of like kind as enumerated in clauses (a) through (f);
- (v) a shotgun with a revolving cylinder that expels single or multiple projectiles by action of an explosion of a combustible material; or
- (vi) a semi-automatic shotgun that expels single or multiple projectiles by action of a combustible material that has one of the following characteristics: (a) a folding or telescoping stock; (b) a pistol grip that protrudes conspicuously beneath the action of the shotgun; (c) the ability to accept a detachable magazine; (d) a fixed magazine capacity in excess of seven rounds, or (e) any characteristic of like kind as enumerated in clauses (a) through (d).
- “Assault firearm” also includes any part or combination of parts designed or intended to convert, modify, or otherwise alter a firearm into an assault firearm, or any combination of parts that may be readily assembled into an assault firearm, according to the provisions of the bill.

The bill also removes a provision that exempts concealed handgun permit holders from carrying a loaded shotgun in public. A violation is a Class 1 misdemeanor.

The bill prohibits persons under the age of 18 from possessing a shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered. A violation is a Class 1 misdemeanor.

The bill defines a “large-capacity firearm magazine” as any firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 12 rounds of ammunition. The bill provides that it is unlawful for any person to import, sell, transfer, manufacture, purchase, or transport a large-capacity firearm magazine. A violation is a Class 6 felony.

The bill defines a “silencer” as any device for silencing, muffling, or diminishing the report of a firearm, including any part or combination of parts designed or intended for use in assembling or fabricating such a device. The bill provides that it is unlawful for any person to import, sell, transfer, manufacture, or purchase a silencer, provided that a person may transfer a silencer in accordance with the provisions of the National Firearms Act. A violation is a Class 6 felony.

The bill defines a “trigger activator” as any device that allows a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of any semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter. The bill provides that it is unlawful for any person to import, sell, transfer, manufacture, purchase, possess, or transport any trigger activator. A violation is a Class 6 felony.

The bill provides that any person who legally owns a large-capacity firearm magazine or a trigger activator on July 1, 2020, may retain possession of such weapon until January 1, 2021. During this time, such person must: (i) render the weapon permanently inoperable; (ii) remove it from the Commonwealth; (iii) transfer it to a person outside the Commonwealth who is not prohibited from possessing it; or (iv) surrender it to a state or local law enforcement agency.

Any person who legally owns a large-capacity firearm magazine or trigger activator on July 1, 2020, and who, on January 1, 2021, (i) is serving outside of the United States in the armed services of the United States, (ii) is service outside of the United States as a member of the diplomatic service of the United States, (iii) is serving outside of the United States as a civilian employee of the United States government or any agency or contractor thereof, or (iv) is a spouse or dependent of any person listed in clauses (i), (ii), or (iii), may retain possession of such weapon until 30 days from the date such person is no longer serving outside of the United States. During this 30-day period, such person must comply with the surrendering requirements provided in this bill.

6. **Budget Amendment Necessary:** No. The introduced budget (HB30/SB30) provided \$50,000 “Woodrum” funding for the Department of Corrections pursuant to § 30-19.1:4.
7. **Fiscal Impact Estimates:** Preliminary. See below.

- 8. Fiscal Implications:** This bill would prohibit assault firearms, as defined in the bill, large-capacity firearm magazines, silencers, and trigger activators, and provides for exemptions. It removes a provision allowing concealed weapons holders to carry a loaded shotgun in public in certain localities, and prohibits the possession of a shotgun with a magazine with more than seven rounds of the longest ammunition for which it is chambered by individuals under the age of 18. It provides for a process by which persons who own large-capacity firearm magazines or trigger activators on July 1, 2020 to render them inoperable, remove them outside of the Commonwealth, or surrender them to a law enforcement agency by January 1, 2021. Exemptions to this requirement are provided for persons serving abroad in the military or in the Foreign Service; such persons must surrender these weapons or remove them from the Commonwealth within 30 days of their return to the United States.

The Department of State Police (VSP) administers the Commonwealth's Firearms Transaction Center (FTC). According to VSP, there is no anticipated fiscal impact on agency operations as a result of the provisions of this bill.

The proposed legislation expands the applicability of an existing Class 1 misdemeanor concerning carrying a loaded shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it was chambered in certain localities, to include concealed weapons permit holders. It would also be a Class 1 misdemeanor for an individual under age 18 to possess such a shotgun, according to the provisions of the bill. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. Any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

Under the provisions of the bill, it would be a Class 6 felony to unlawfully possess an assault firearm, a large-capacity firearm magazine, a silencer, or a trigger activator. Additionally, the Class 1 misdemeanors provided for in the bill would be punishable as a Class 6 felony for a third or subsequent offense. The bill also expands the applicability of existing offenses, including § 18.2-308.2:2(L) (pertaining to firearms dealers who unlawfully sell or transfer a firearm, a Class 6 felony) and § 18.2-308.8 (pertaining to importing, possessing, or transferring specified semi-automatic folding stock shotguns capable of holding more than 12 shells). For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to 12 months in jail, or one to five years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill. Funding for this fiscal impact on

the Department of Corrections was provided in the Governor's introduced budget for the 2020-2022 biennium.

Any potential fiscal impact on the Department of Juvenile Justice (DJJ) is indeterminate at this time.

This bill would require local law enforcement agencies to act as collection points for individuals who possess certain banned weapons types and are required to surrender them. However, any- potential fiscal impact on local law enforcement agencies as a result of the provisions of this bill is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, Department of Juvenile Justice, Courts, Local and regional jails, Local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.