

LD1681260

HOUSE BILL NO. 1189

Offered January 25, 1994

A BILL to amend and reenact § 18.2-308.8 of the Code of Virginia, relating to a prohibition against the possession, purchase, sale, etc., of assault firearms; penalty.

Patrons—Cunningham, Almand, Barlow, Christian, Cohen, Connally, Cooper, Crittenden, Darner, Heilig, Hull, Jones, D.C., Jones, J.C., Keating, Mayer, Melvin, Moss, Plum, Puller, Rhodes, Robinson and Spruill; Senators: Lambert, Marsh and Miller, Y.B.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.8 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.8. Importation, purchase, ownership, sale, possession, transfer or transport of assault firearms prohibited: penalty; forfeiture.

A. It shall be unlawful for any person to import, ~~purchase, sell, possess or, transfer the following firearms: the Striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding twelve shotgun shells.~~ A violation of this section shall be punishable as a Class 6 felony. ~~or transport an assault firearm, except as provided in this section. A violation of this section shall be punishable as a Class 6 felony. Any assault firearm imported, purchased, possessed, owned, sold, transferred, or transported in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in § 18.2-310.~~

B. As used in this section an "assault firearm" shall mean:

1. Any of the firearms listed below:

A.A. Arms Model AP-9 Pistols

A.A. Arms Model AR-9 Rifles

Avtomat: Kalashnikov Rifles (AK-47, Type 56, & 56s)

Calico Model M-900 Assault Rifles

Calico Model M-950 Pistols

Calico Model M-951 Rifles

Calico Model M-110

Intratec TEC-9 Pistols

Intratec TEC-22 Pistols

S.W.D., Inc. Cobray M-11/9mm

S.W.D., Inc. M-12 Pistols

SAP M-10 Pistols

SM 11 A1 Pistols

UZI Semi-automatic Firearms

Striker 12 and "Streetsweeper" Shotguns;

2. Any semi-automatic firearm which is a replica, duplicate or copy of the assault firearms listed in subdivision B 1, regardless of name, caliber or manufacturer;

3. Any semi-automatic pistol that is originally designed for, or is equipped with, a magazine that will accommodate twenty or more cartridges of the caliber for which the firearm is designed; any semi-automatic center fire rifle that is originally designed for, or is equipped with, a magazine that will accommodate nine or more cartridges of the caliber for which the firearm is designed; or any shotgun that is originally designed for, or is equipped with, a magazine or cylinder that will accommodate seven or more 2.75 inch, or longer, shot shells. A firearm shall be presumed to be equipped with such a magazine when empty or loaded magazines with a capacity that equals or exceeds that specified above, and which have been or may be used in the firearm, are found in the immediate vicinity thereof; or

4. Any semi-automatic firearm that was originally designed for, or is equipped with, two or more of the following characteristics: (i) a folding, collapsible, or telescoping stock; (ii) a flash suppressor; (iii) a barrel threaded to accommodate a flash suppressor or silencer; (iv) a pistol-type fore grip; or, (v) a shroud that is attached to, or partially or completely encircles the barrel.

C. The term "assault firearm" shall not include any:

1. Firearm that has been rendered permanently inoperable;

2. .22 caliber rimfire semi-automatic rifle, except as described in subdivision B 2;

3. Assault firearm used or intended to be used for competitive target shooting for which a certificate of possession has been issued by the Department of State Police under the provisions of this section, provided the person to whom a certificate of possession is issued is in compliance with the conditions

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HB1189

60 thereof;

61 4. "Antique firearm" as defined in this title;

62 5. "Curio" or "relic" firearms as defined in federal regulation 27 CFR 178.11; or

63 6. Firearms owned by law-enforcement agencies, agencies authorized to perform law-enforcement
64 duties, correctional institutions and agencies, or military units of the Commonwealth or the United
65 States and/or firearms under the control of the sworn personnel of these agencies, institutions, and units
66 when on official duty and their use is within the scope of the duties of such sworn personnel.

67 D. Any person who, as of July 1, 1994, lawfully possesses an assault firearm as defined in this
68 section shall, by January 1, 1995, do one of the following:

69 1. Render the assault firearm permanently inoperable pursuant to such procedures as the Department
70 of State Police shall establish;

71 2. Relinquish the assault firearm to law-enforcement authorities pursuant to regulations issued by the
72 Department of State Police;

73 3. Remove the firearm from the Commonwealth; or

74 4. Obtain, by satisfying the requirements of subsection E, a certificate of possession for the assault
75 firearm for use in competitive target shooting.

76 E. Application for a certificate of possession for an assault firearm for use in competitive target
77 shooting shall be submitted to the Department of State Police on forms required by the Superintendent.
78 Upon being satisfied that (i) the assault firearm is commonly used and generally recognized as suited
79 for competitive target shooting and (ii) the applicant is not prohibited by § 18.2-308.2:2 or § 18.2-308.7
80 from possessing, owning or transporting a firearm as defined in this title and is or will be the lawful
81 owner of the assault firearm, the Superintendent or his designee shall issue a certificate of possession to
82 the applicant. The certificate of possession shall contain a description of the assault firearm, including
83 without limitation the make, model, caliber, serial number and any other information as required by the
84 Department of State Police. The certificate of possession shall not be transferable, except to the executor
85 or administrator of the estate of the applicant until the assault firearm is distributed or disposed of by
86 the estate. The certificate of possession shall remain valid as long as the owner remains the same,
87 unless during the time of ownership the applicant is found not to be in compliance with the conditions
88 specified in subsection F or the applicant no longer satisfies the requirements for the issuance of a
89 certificate of possession. Upon transferring a firearm coming under the provisions of this section, the
90 transferor shall forthwith notify the Superintendent in writing, setting forth the date of transfer and the
91 name and address of the transferee. Failure to give the required notification shall constitute a Class 3
92 misdemeanor. Certificate of possession data shall not be subject to inspection by the public.

93 F. A person issued a certificate of possession, as provided in this section, may possess an assault
94 firearm, but only when such certificate is on his person and only when one of the following conditions
95 exists:

96 1. While in his home or on his property or while on the property of another who has provided prior
97 permission, provided the person has the landowner's written permission on his person while on such
98 property;

99 2. While on the target range of a public or private club or organization whose members have
100 organized for the purpose of practicing shooting targets or competing in target shooting matches;

101 3. While on a target range whose owners hold a regulatory or business license for the purpose of
102 practicing shooting targets or conducting target shooting matches;

103 4. While on the premises of a licensed shooting club;

104 5. While attending any exhibition, display or educational project which is about firearms and which
105 is sponsored by, conducted under the auspices of, or approved by a law-enforcement agency or an entity
106 recognized nationally or statewide as an organization that fosters proficiency in, or promotes education
107 about, firearms; or,

108 6. While transporting the assault firearm between any of the places aforementioned in this
109 subsection, or to any licensed firearms dealer, as defined in § 18.2-308.2:2 for sale, servicing or repair
110 provided the assault firearm is unloaded and securely wrapped while being transported.

111 G. Any person who voluntarily relinquishes ownership or possession of an assault firearm to a
112 law-enforcement agency on or after January 1, 1995, shall not be deemed to have violated this section,
113 provided such person has given prior notification to the agency receiving the assault firearm of intent to
114 relinquish the assault firearm to the agency. The transfer of the assault firearm shall be made in
115 compliance with guidelines established by the Superintendent of State Police.

116 H. The provisions of this section shall not apply to a licensed firearms dealer, as defined in this title,
117 with respect to a specific transaction involving the transfer of an assault firearm to a person who
118 presents a valid certificate of possession issued pursuant to this section for the particular assault
119 firearm being transferred or involving the transfer of an assault firearm to those entities listed in
120 subdivision C 6 of this section.

121 I. The provisions of this section shall not apply to officers, directors and bona fide employees of

firearms manufacturing companies licensed by the Department of Treasury, Bureau of Alcohol, Tobacco and Firearms while in possession of assault firearms owned by such manufacturing companies for the purposes of sales, displays, delivery to, or receipt of such firearms from persons or entities lawfully entitled to possess such firearms.

J. Any person who obtains, by bequest, intestate succession, or by virtue of being an executor or administrator of an estate not exempted by subsection K, ownership of an assault firearm shall within twenty-four hours of receiving title to such weapon (i) apply for a certificate of possession for the firearm pursuant to this section, (ii) render the firearm permanently inoperable, (iii) transfer the firearm to a person who has obtained and possesses a certificate of possession for the firearm pursuant to this section, (iv) relinquish the firearm to law-enforcement authorities as provided for in this section, or (v) remove the firearm from the Commonwealth.

K. The provisions of this section shall not apply to a person who is the executor or administrator of an estate in probate that includes a lawfully owned assault firearm for which a certificate of possession has been issued and such certificate of possession shall transfer to the executor or administrator during such probate until the assault firearm is distributed or disposed of as provided for by law.

L. The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.), for the administration of the provisions of this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$250,000.