

2003 RECONVENED SESSION

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HB1856ER2

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 18.2-282, 18.2-284, 18.2-287.4, 18.2-308.1, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.7, 18.2-433.1 and 22.1-277.07 of the Code of Virginia, relating to the definition of firearms.

[H 1856]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-282, 18.2-284, 18.2-287.4, 18.2-308.1, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.7, 18.2-433.1 and 22.1-277.07 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-282. Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance; penalty.

A. It shall be unlawful for any person to point, hold or brandish any firearm, as hereinafter described, or any air or gas operated weapon or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm or any air or gas operated weapon in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor or, if the violation occurs upon any public, private or parochial elementary, middle or high school, including buildings and grounds or upon public property within 1,000 feet of such school property, he shall be guilty of a Class 6 felony.

B. Any police officer in the performance of his duty, in making an arrest under the provisions of this section, shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm or air or gas operated weapon, or object which that was similar in appearance to a firearm, with intent to induce fear in the mind of another.

C. For purposes of this section, the word "firearm" shall mean means any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material. The word "ammunition," as used herein, shall mean a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

§ 18.2-284. Selling or giving toy firearms.

No person shall sell, barter, exchange, furnish, or dispose of by purchase, gift or in any other manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by means of powder or other explosive action of an explosion of a combustible material, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense.

Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

§ 18.2-287.4. Carrying loaded firearms in public areas prohibited; penalty.

It shall be unlawful for any person to carry a loaded firearm on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public (i) in any city with a population of 160,000 or more or (ii) in any county having an urban county executive form of government or any county or city surrounded thereby or adjacent thereto or in any county having a county manager form of government. The provisions of this section shall not apply to law-enforcement officers, licensed security guards, military personnel in the performance of their lawful duties, or any person having a valid permit to carry such firearm or to any person actually engaged in lawful hunting or lawful recreational shooting activities at an established shooting range or shooting contest. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

For purposes of this section, "firearm" means any (i) semi-automatic center-fire rifle or pistol which that expels a projectile single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than twenty 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (ii) shotgun with a magazine which will hold more than seven rounds of the longest ammunition for which it is chambered.

57 Any firearm carried in violation of this section may be forfeited to the Commonwealth pursuant to  
58 the provisions of § 18.2-310.

59 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.  
60 § 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited.

61 A. If any person possesses any (i) stun weapon or taser as defined in this section, (ii) knife, except a  
62 pocket knife having a folding metal blade of less than three inches, or (iii) weapon, including a weapon  
63 of like kind, designated in subsection A of § 18.2-308, other than a firearm, upon (i) *a* the property of  
64 any public, private or parochial elementary, middle or high school, including buildings and grounds, (ii)  
65 *b* that portion of any property open to the public used for school-sponsored functions or extracurricular  
66 activities while such functions or activities are taking place, or (iii) *c* any school bus owned or operated  
67 by any such school, he shall be guilty of a Class 1 misdemeanor.

68 B. If any person possesses any firearm designed or intended to ~~propel a missile of any kind~~ *expel a*  
69 *projectile by action of an explosion of a combustible material* while such person is upon (i) any public,  
70 private or parochial elementary, middle or high school, including buildings and grounds, (ii) that portion  
71 of any property open to the public used for school-sponsored functions or extracurricular activities while  
72 such functions or activities are taking place, or (iii) any school bus owned or operated by any such  
73 school, he shall be guilty of a Class 6 felony; however, if the person possesses any firearm within a  
74 public, private or parochial elementary, middle or high school building and intends to use, or attempts to  
75 use, such firearm, or displays such weapon in a threatening manner, such person shall not be eligible for  
76 probation and shall be sentenced to a minimum, mandatory term of imprisonment of five years, which  
77 shall not be suspended in whole or in part and which shall be served consecutively with any other  
78 sentence.

79 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.  
80 The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a  
81 part of the school's curriculum or activities, (ii) a person possessing a knife customarily used for food  
82 preparation or service and using it for such purpose, (iii) persons who possess such weapon or weapons  
83 as a part of any program sponsored or facilitated by either the school or any organization authorized by  
84 the school to conduct its programs either on or off the school premises, (iv) any law-enforcement officer  
85 while engaged in his duties as such, (v) any person who possesses a knife or blade which he uses  
86 customarily in his trade, or (vi) a person who possesses an unloaded firearm ~~which~~ *that* is in a closed  
87 container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle  
88 in a firearms rack in or upon a motor vehicle. For the purposes of this paragraph, "weapon" includes a  
89 knife having a metal blade of three inches or longer.

90 As used in this section:

91 "Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other  
92 type of charge that exceeds the equivalency of a five milliamp ~~sixty~~ 60 hertz shock and (ii) used for the  
93 purpose of temporarily incapacitating a person; and

94 "Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of  
95 charge or shock through the use of a projectile and (ii) used for the purpose of temporarily  
96 incapacitating a person.

97 § 18.2-308.2:01. Possession or transportation of certain firearms by aliens.

98 It shall be unlawful for any person who is not a citizen of the United States or who is not a person  
99 lawfully admitted for permanent residence to knowingly and intentionally possess or transport any  
100 assault firearm or to knowingly and intentionally carry about his person, hidden from common  
101 observation, an assault firearm. A violation of this section shall be punishable as a Class 6 felony. Any  
102 firearm possessed, transported or carried in violation of this section shall be forfeited to the  
103 Commonwealth and disposed of as provided in § 18.2-310.

104 For purposes of this section, "assault firearm" means any semi-automatic center-fire rifle or pistol  
105 ~~which that expels a projectile~~ *single or multiple projectiles* by action of an explosion of a combustible  
106 *material* and is equipped at the time of the offense with a magazine which will hold more than ~~twenty~~  
107 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with  
108 a folding stock.

109 § 18.2-308.2:2. Criminal history record information check required for the transfer of certain  
110 firearms; firearm safety information to be provided.

111 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
112 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
113 information. Such form shall include only, in addition to the information required by subdivision B 1,  
114 the identical information required to be included on the firearms transaction record required by  
115 regulations administered by the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the  
116 Treasury, except that the copies of such forms mailed or delivered to the Department of State Police  
117 shall not include any information related to the firearm purchased or transferred.

118 B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other  
 119 person who is a resident of Virginia until he has (i) obtained written consent as specified in subsection  
 120 A, and provided the Department of State Police with the name, birth date, gender, race, and social  
 121 security and/or any other identification number and the number of firearms by category intended to be  
 122 sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone  
 123 call to the State Police and is authorized by subdivision B 2 of this section to complete the sale or other  
 124 such transfer. To establish personal identification and residence in Virginia for purposes of this section,  
 125 a dealer must require any prospective purchaser to present one photo-identification form issued by a  
 126 governmental agency of the Commonwealth or by the United States Department of Defense, and other  
 127 documentation of residence. Except where the photo-identification was issued by the United States  
 128 Department of Defense, the other documentation of residence shall show an address identical to that  
 129 shown on the photo-identification form, such as evidence of currently paid personal property tax or real  
 130 estate tax, or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check,  
 131 (e) passport, (f) automobile registration, or (g) hunting or fishing license; other current identification  
 132 allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and  
 133 ATF Ruling 79-7; or other documentation of residence determined to be acceptable by the Department  
 134 of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in  
 135 Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders  
 136 may be used as documentation of residence. Additionally, when the photo-identification presented to a  
 137 dealer by the prospective purchaser is a driver's license or other photo-identification issued by the  
 138 Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall  
 139 not, except for a renewed driver's license or other photo-identification issued by the Department of  
 140 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until ~~thirty~~ 30 days  
 141 after the date of issue of an original or duplicate driver's license unless the prospective purchaser also  
 142 presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original  
 143 date of issue of the driver's license was more than ~~thirty~~ 30 days prior to the attempted purchase.

144 In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any  
 145 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent  
 146 residence. To establish citizenship or lawful admission for a permanent residence for purposes of  
 147 purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth  
 148 certificate or a certificate of birth abroad issued by the United States State Department, a certificate of  
 149 citizenship or a certificate of naturalization issued by the Immigration and Naturalization Service, an  
 150 unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a  
 151 current selective service registration card, or an immigrant visa or other documentation of status as a  
 152 person lawfully admitted for permanent residence issued by the Immigration and Naturalization Service.

153 Upon receipt of the request for a criminal history record information check, the State Police shall (1)  
 154 review its criminal history record information to determine if the buyer or transferee is prohibited from  
 155 possessing or transporting a firearm by state or federal law, (2) inform the dealer if its record indicates  
 156 that the buyer or transferee is so prohibited, and (3) provide the dealer with a unique reference number  
 157 for that inquiry.

158 2. The State Police shall provide its response to the requesting dealer during the dealer's call, or by  
 159 return call without delay. If the criminal history record information check indicates the prospective  
 160 purchaser or transferee has a criminal record or has been acquitted by reason of insanity and committed  
 161 to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse  
 162 Services, the State Police shall have until the end of the dealer's next business day to advise the dealer  
 163 if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by  
 164 state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has  
 165 fulfilled the requirements of subdivision B 1 of this subsection may immediately complete the sale or  
 166 transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case  
 167 of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be  
 168 advised immediately of the reason for such delay and be given an estimate of the length of such delay.  
 169 After such notification, the State Police shall, as soon as possible but in no event later than the end of  
 170 the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee  
 171 is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the  
 172 requirements of subdivision B 1 of this subsection and is told by the State Police that a response will  
 173 not be available by the end of the dealer's next business day may immediately complete the sale or  
 174 transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

175 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer  
 176 than ~~thirty~~ 30 days, except for multiple handgun transactions for which records shall be maintained for  
 177 ~~twelve~~ 12 months, from any dealer's request for a criminal history record information check pertaining  
 178 to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm

179 under state or federal law. However, the log on requests made may be maintained for a period of ~~twelve~~  
180 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the  
181 unique approval number and the transaction date.

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

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

195 6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include  
196 December 25.

197 C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, other than a rifle or a  
198 shotgun, to any person who is not a resident of Virginia unless he has first obtained from the  
199 Department of State Police a report indicating that a search of all available criminal history record  
200 information has not disclosed that the person is prohibited from possessing or transporting a firearm  
201 under state or federal law. The dealer shall obtain the required report by mailing or delivering the  
202 written consent form required under subsection A to the State Police within ~~twenty-four~~ 24 hours of its  
203 execution. If the dealer has complied with the provisions of this subsection and has not received the  
204 required report from the State Police within ~~ten~~ 10 days from the date the written consent form was  
205 mailed to the Department of State Police, he shall not be deemed in violation of this section for  
206 thereafter completing the sale or transfer.

207 D. Nothing herein shall prevent a resident of this Commonwealth, at his option, from buying, renting  
208 or receiving a firearm from a dealer by obtaining a criminal history record information check through  
209 the dealer as provided in subsection C.

210 E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
211 exercise his right of access to and review and correction of criminal history record information under  
212 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within  
213 ~~thirty~~ 30 days of such denial.

214 F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history  
215 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
216 disseminate criminal history record information except as authorized in this section shall be guilty of a  
217 Class 2 misdemeanor.

218 G. For purposes of this section:

219 "Antique firearm" means any firearm, including those with a matchlock, flintlock, percussion cap, or  
220 similar type of ignition system, manufactured in or before 1898 and any replica of such a firearm if  
221 such replica (i) is not designed or redesigned for using rimfire or conventional center-fire fixed  
222 ammunition or (ii) uses rimfire or conventional center-fire fixed ammunition which is no longer  
223 manufactured in the United States and which is not readily available in the ordinary channels of  
224 commercial trade.

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

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

230 "Firearm" means any handgun, shotgun, or rifle ~~which expels a projectile that will or is designed to~~  
231 *or may readily be converted to expel single or multiple projectiles* by action of an explosion *of a*  
232 *combustible material*.

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

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

239 H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity,

240 confidentiality and security of all records and data provided by the Department of State Police pursuant  
241 to this section.

242 I. The provisions of this section shall not apply to (i) transactions between persons who are licensed  
243 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq., (ii)  
244 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth  
245 or any local government, (iii) antique firearms, or (iv) transactions in any county, city or town that has a  
246 local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer,  
247 ownership, conveyance or transportation of firearms which is more stringent than this section.

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

254 K. Any person willfully and intentionally making a materially false statement on the consent form  
255 required in subsection B or C shall be guilty of a Class 5 felony.

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

258 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
259 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
260 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
261 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
262 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 5 felony. However, if the  
263 violation of this subsection involves such a transfer of more than one firearm, the person shall be  
264 sentenced to a mandatory minimum term of imprisonment of five years, which shall not be suspended in  
265 whole or in part nor shall the person be eligible for parole during that period.

266 N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the  
267 Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of  
268 a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years,  
269 which shall not be suspended in whole or in part nor shall the person be eligible for parole during that  
270 period.

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

273 P. The Department of Education, in conjunction with the Department of Game and Inland Fisheries,  
274 shall develop a standard informational form and posted notice to be furnished to each licensed firearms  
275 dealer in the Commonwealth at no cost to the dealer. The form and notice shall provide basic  
276 information of the laws governing the purchase, possession and use of firearms by juveniles and adults.

277 Copies of the form shall be made available by the dealer whenever a firearm is purchased.

278 Every firearms dealer shall conspicuously post the written notice which shall be at least eight and  
279 one-half inches by eleven inches in size and printed in boldface type of a minimum size of ~~ten~~ 10  
280 points. A licensed firearms dealer shall not be liable for damages for injuries resulting from the  
281 discharge of a firearm purchased from the dealer if, at the time of the purchase, the dealer failed to  
282 provide the form or failed to post the written notice.

283 Q. Except as provided in subdivisions 1, 2 and 3 of this subsection, it shall be unlawful for any  
284 person who is not a licensed firearms dealer to purchase more than one handgun within any ~~thirty~~  
285 30-day period. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

286 1. Purchases in excess of one handgun within a ~~thirty~~ 30-day period may be made upon completion  
287 of an enhanced background check, as described herein, by special application to the Department of State  
288 Police listing the number and type of handguns to be purchased and transferred for lawful business or  
289 personal use, in a collector series, for collections, as a bulk purchase from estate sales and for similar  
290 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
291 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
292 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
293 report required by the Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State  
294 Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for  
295 the implementation of an application process for purchases of handguns above the limit.

296 Upon being satisfied that these requirements have been met, the Department of State Police shall  
297 forthwith issue to the applicant a nontransferable certificate which shall be valid for seven days from the  
298 date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the  
299 consummation of such sale and shall be kept on file at the dealer's place of business for inspection as  
300 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local

301 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
302 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
303 Department of State Police, issue certificates forthwith pursuant to this subsection. Applications and  
304 certificates issued under this subsection shall be maintained as records as provided in subdivision 3 of  
305 subsection B. The Department of State Police shall make available to local law-enforcement agencies all  
306 records concerning certificates issued pursuant to this subsection and all records provided for in  
307 subdivision 3 of subsection B.

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

309 a. A law-enforcement agency;

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

311 c. State and local correctional facilities;

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

313 e. The purchase of antique firearms as herein defined;

314 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
315 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
316 purchased a handgun within a ~~thirty~~ 30-day period, provided (i) the person provides the firearms dealer  
317 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
318 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
319 official police report or summary thereof contains the name and address of the handgun owner, the  
320 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
321 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
322 reflected on the official police report or summary thereof occurred within ~~thirty~~ 30 days of the person's  
323 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
324 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
325 transaction and retain it for the period prescribed by the Department of State Police; or

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

328 3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a  
329 handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange  
330 or replacement within the ~~thirty~~ 30-day period immediately preceding the date of exchange or  
331 replacement.

332 § 18.2-308.2:3. Criminal background check required for employees of a gun dealer to transfer  
333 firearms; exemptions; penalties.

334 A. No person, corporation or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921  
335 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,  
336 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited  
337 from possessing a firearm under §§ 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.2, or  
338 § 18.2-308.2:01 or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant  
339 to § 18.2-308.1:4 or § 18.2-308.1:5.

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

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

351 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
352 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
353 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
354 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
355 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
356 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
357 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid  
358 FFL number, state the name of each person requesting the exemption, together with each person's  
359 identifying information, including their social security number and the following statement: "I hereby  
360 swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each  
361 person requesting an exemption in this affidavit has been subjected to a fingerprint identification check

362 by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms  
 363 subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I  
 364 understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5  
 365 felony and that in addition to any other penalties imposed by law, a conviction under this section shall  
 366 result in the forfeiture of my federal firearms license."

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

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

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

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

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

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

390 J. Any person willfully and intentionally making a materially false statement on the personal  
 391 descriptive information required in this section *is shall be* guilty of a Class 5 felony. Any person who  
 392 offers for transfer any firearm in violation of this section *is shall be* guilty of a Class 1 misdemeanor.  
 393 Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in  
 394 violation of this section *is shall be* guilty of a Class 1 misdemeanor.

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

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

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

401 N. For purposes of this section:

402 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C.  
 403 § 921 et seq.

404 "Firearm" means any handgun, shotgun, or rifle, ~~which expels a projectile that will or is designed to~~  
 405 *or may readily be converted to expel single or multiple projectiles* by action of an explosion of a  
 406 *combustible material.*

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

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

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

413 § 18.2-308.7. Possession or transportation of certain firearms by persons under the age of 18; penalty.

414 It shall be unlawful for any person under ~~eighteen~~ 18 years of age to knowingly and intentionally  
 415 possess or transport a handgun or assault firearm anywhere in the Commonwealth. For the purposes of  
 416 this section, "handgun" means any pistol or revolver or other firearm originally designed, made and  
 417 intended to fire a ~~projectile~~ *single or multiple projectiles* by means of an explosion of a *combustible*  
 418 *material* from one or more barrels when held in one hand and "assault firearm" means any (i)  
 419 semi-automatic centerfire rifle or pistol which expels a ~~projectile~~ *single or multiple projectiles* by action  
 420 of an explosion of a *combustible material* and is equipped at the time of the offense with a magazine  
 421 which will hold more than ~~twenty~~ 20 rounds of ammunition or designed by the manufacturer to  
 422 accommodate a silencer or equipped with a folding stock or (ii) shotgun with a magazine which will

423 hold more than seven rounds of the longest ammunition for which it is chambered. A violation of this  
 424 section shall be a Class 1 misdemeanor. Any handgun possessed or transported in violation of this  
 425 section shall be forfeited to the Commonwealth and disposed of as provided in § 18.2-310.

426 This section shall not apply to:

427 1. Any person (i) while in his home or on his property; (ii) while in the home or on the property of  
 428 his parent, grandparent, or legal guardian; or (iii) while on the property of another who has provided  
 429 prior permission, and with the prior permission of his parent or legal guardian if the person has the  
 430 landowner's written permission on his person while on such property;

431 2. Any person who, while accompanied by an adult, is at, or going to and from, a lawful shooting  
 432 range or firearms educational class, provided that the weapons are unloaded while being transported;

433 3. Any person actually engaged in lawful hunting or going to and from a hunting area or preserve,  
 434 provided that the weapons are unloaded while being transported; and

435 4. Any person while carrying out his duties in the armed forces of the United States or the National  
 436 Guard of this Commonwealth or any other state.

437 § 18.2-433.1. Definitions.

438 As used in this article:

439 "Civil disorder" means any public disturbance within the United States or any territorial possessions  
 440 thereof involving acts of violence by assemblages of three or more persons, which causes an immediate  
 441 danger of or results in damage or injury to the property or person of any other individual.

442 "Explosive or incendiary device" means (i) dynamite and all other forms of high explosives, (ii) any  
 443 explosive bomb, grenade, missile, or similar device, or (iii) any incendiary bomb or grenade, fire bomb,  
 444 or similar device, including any device which consists of or includes a breakable container including a  
 445 flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of  
 446 igniting such flammable liquid or compound, and can be carried or thrown by one individual acting  
 447 alone.

448 "Firearm" means any weapon ~~which~~ *that will or is* designed to or may readily be converted to expel  
 449 ~~any projectile single or multiple projectiles~~ by the action of an ~~explosive explosion of a combustible~~  
 450 ~~material~~; or the frame or receiver of any such weapon.

451 "Law-enforcement officer" means any officer as defined in subdivision 9 of § 9.1-101 or any such  
 452 officer or member of the armed forces of the United States, any state, any political subdivision of a  
 453 state, or the District of Columbia, and such term shall specifically include, but shall not be limited to,  
 454 members of the National Guard, as defined in § 101 (9) of Title 10, United States Code, members of the  
 455 organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the  
 456 District of Columbia, not included within the definition of National Guard as defined by such § 101 (9),  
 457 and members of the armed forces of the United States.

458 § 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

459 A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free  
 460 Schools Act of 1994), a school board shall expel from school attendance for a period of not less than  
 461 one year any student whom such school board has determined, in accordance with the procedures set  
 462 forth in this article, to have brought a firearm onto school property or to a school-sponsored activity as  
 463 prohibited by § 18.2-308.1, or to have brought a firearm as defined in subsection D on school property  
 464 or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school  
 465 board may, however, determine, based on the facts of a particular situation, that special circumstances  
 466 exist and no disciplinary action or another disciplinary action or another term of expulsion is  
 467 appropriate. A school board may promulgate guidelines for determining what constitutes special  
 468 circumstances. In addition, a school board may, by regulation, authorize the division superintendent or  
 469 his designee to conduct a preliminary review of such cases to determine whether a disciplinary action  
 470 other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that  
 471 another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in  
 472 accordance with the procedures set forth in this article.

473 B. The Board of Education is designated as the state education agency to carry out the provisions of  
 474 the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated  
 475 to the Commonwealth under this act.

476 C. Each school board shall revise its standards of student conduct no later than three months after the  
 477 date on which this act becomes effective. Local school boards requesting moneys apportioned to the  
 478 Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the  
 479 Department of Education an application requesting such assistance. Applications for assistance shall  
 480 include:

481 1. Documentation that the local school board has adopted and implemented student conduct policies  
 482 in compliance with this section; and

483 2. A description of the circumstances pertaining to expulsions imposed under this section, including

484 (i) the schools from which students were expelled under this section, (ii) the number of students  
485 expelled from each such school in the school division during the school year, and (iii) the types of  
486 firearms involved in the expulsions.

487 D. As used in this section:

488 "Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket  
489 having a propellant charge of more than four ounces, missile having an explosive or incendiary charge  
490 of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a  
491 shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name  
492 known that will, or may be readily converted to, expel a projectile by the action of an explosive or  
493 other propellant, and that has any barrel with a bore of more than one-half inch in diameter; and (iii)  
494 any combination of parts either designed or intended for use in converting any device into any  
495 destructive device described in this subsection and from which a destructive device may be readily  
496 assembled. "Destructive device" shall not include any device that is not designed or redesigned for use  
497 as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a  
498 signaling, pyrotechnic, line-throwing, safety, or other similar device.

499 "Firearm" means any weapon prohibited on school property or at a school-sponsored activity  
500 pursuant to § 18.2-308.1, or (i) any weapon, including a starter gun, that will, or is designed or may  
501 readily be converted to, expel a ~~projectile~~ *single or multiple projectiles* by the action of an ~~explosive~~  
502 *explosion of a combustible material*; (ii) the frame or receiver of any such weapon; (iii) any firearm  
503 muffler or firearm silencer; or (iv) any destructive device. *"Firearm" shall not include any weapon in*  
504 *which ammunition may be discharged by pneumatic pressure.*

505 "One year" means 365 calendar days as required in federal regulations.

506 "School property" means any real property owned or leased by the school board or any vehicle  
507 owned or leased by the school board or operated by or on behalf of the school board.

508 E. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, mutatis mutandis,  
509 to the provisions of this section. The provisions of this section shall not apply to persons who possess  
510 such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the  
511 school division or any organization permitted by the school to use its premises or to any  
512 law-enforcement officer while engaged in his duties as such.

513 F. This section shall not be construed to diminish the authority of the Board of Education or the  
514 Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the  
515 federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate  
516 and provide policy direction on official communications between the Commonwealth and the United  
517 States government.