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HOUSE BILL NO. 961

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety)

(Patron Prior to Substitute—Delegate Levine)

House Amendments in [ ] - February 10, 2020

A BILL to amend and reenact §§ 16.1-278.9, 18.2-287.4, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.7, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-308.9 through 18.2-308.13, relating to prohibiting the sale, transport, etc., of assault firearms, certain firearms magazines, trigger activators, and silencers; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-278.9, 18.2-287.4, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.7, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-308.9 through 18.2-308.13 as follows:

§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.

A. If a court has found facts ~~which~~ *that* would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town~~,~~*;* (ii) a refusal to take a breath test in violation of § 18.2-268.2~~,~~*;* (iii) a felony violation of § 18.2-248, 18.2-248.1, or 18.2-250~~,~~*;* (iv) a misdemeanor violation of § 18.2-248, 18.2-248.1, or 18.2-250 or a violation of § 18.2-250.1~~,~~*;* (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309~~,~~*;* (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town~~,~~*;* (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined ~~below~~ *in this section, or an assault firearm as defined in § 18.2-308.9;* or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi), the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F ~~of this section~~. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun ~~or~~, a 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 12 shotgun shells, *or an assault firearm as defined in § 18.2-308.9,* in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth, and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii), or (vi) of subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii), or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt, but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi), or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

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

It ~~shall be~~ *is* unlawful for any person to carry a loaded (a) semi-automatic center-fire rifle or pistol that expels 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 that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (b) shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it

is chambered on or about his person on any public street, road, alley, *or* sidewalk, *on any* public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William.

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 concealed handgun permit 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~~ *is* guilty of a Class 1 misdemeanor.

The exemptions set forth in §§ 18.2-308 and 18.2-308.016 shall apply, mutatis mutandis, to the provisions of this section.

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

A. It ~~shall be~~ *is* unlawful for any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence to knowingly and intentionally possess or transport any assault firearm *as defined in § 18.2-308.9* or to knowingly and intentionally carry about his person, hidden from common observation, an assault firearm.

~~B.~~ It ~~shall be~~ *is* unlawful for any person who is not a citizen of the United States and who is not lawfully present in the United States to knowingly and intentionally possess or transport any firearm or to knowingly and intentionally carry about his person, hidden from common observation, any firearm.

C. A violation of this section ~~shall be~~ *is* punishable as a Class 6 felony.

~~C. For purposes of this section, "assault firearm" means any semi-automatic center-fire rifle or pistol that expels 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 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.~~

§ 18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain persons.

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

§ 18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; and (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction.

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

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

In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm ~~to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence~~ *as defined in § 18.2-308.9*.

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

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

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

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

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

other form of identification determined to be acceptable by the Department of Criminal Justice Services.

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

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5 to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

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

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

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

G. For purposes of this section:

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

"Antique firearm" means:

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

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

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

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

"Assault firearm" means ~~any semi-automatic center-fire rifle or pistol which expels 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 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock~~ *the same as that term is defined in § 18.2-308.9.*

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

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

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

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

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

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

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

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

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

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

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

J1. All licensed firearms dealers shall collect a fee of $2 for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of $5 shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

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

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

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

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

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

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

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

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

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

It ~~shall be~~ *is* unlawful for any person under 18 years of age to knowingly and intentionally possess or transport a handgun ~~or~~, assault firearm *as defined in § 18.2-308.9, or shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered* anywhere in the Commonwealth. For the purposes of this section, "handgun" means any pistol or revolver or other firearm originally designed, made, and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand ~~and "assault firearm" means any (i) semi-automatic centerfire rifle or pistol which expels 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 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~~. A violation of this section ~~shall be~~ *is* a Class 1 misdemeanor.

This section shall not apply to:

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

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

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

4. Any person while carrying out his duties in the Armed Forces of the United States or the National Guard of this Commonwealth or any other state.

§ 18.2-308.9. Importation, sale, transfer, etc., of assault firearms prohibited; penalty.

A. For purposes of this section:

"Assault firearm" means:

1. 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;

2. 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: (i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the rifle; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) a grenade launcher; (v) a flare launcher, (vi) a silencer; (vii) a flash suppressor; (viii) a muzzle brake; (ix) a muzzle compensator; (x) a threaded barrel capable of accepting (a) a silencer, (b) a flash suppressor, (c) a muzzle brake, or (d) a muzzle compensator; or (xi) any characteristic of like kind as enumerated in clauses (i) through (x).

3. 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;

4. 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: (i) a folding or telescoping stock; (ii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iii) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip; (iv) 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; (v) a manufactured weight of 50 ounces or more when the pistol is unloaded; (vi) a threaded barrel capable of accepting (a) a silencer, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip; or (vii) any characteristic of like kind as enumerated in clauses (i) through (vi).

5. A shotgun with a revolving cylinder that expels single or multiple projectiles by action of an explosion of a combustible material; or

6. A semi-automatic shotgun that expels single or multiple projectiles by action of an explosion of a combustible material that has one of the following characteristics: (i) a folding or telescoping stock, (ii) a pistol grip that protrudes conspicuously beneath the action of the shotgun, (iii) the ability to accept a detachable magazine, (iv) a fixed magazine capacity in excess of seven rounds; or (v) any characteristic of like kind as enumerated in clauses (i) through (iv).

"Assault firearm" 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. "Assault firearm" does not include (i) a firearm that has been rendered permanently inoperable, (ii) an antique firearm as defined in § 18.2-308.2:2, or (iii) a curio or relic as defined in § 18.2-308.2:2.

B. It is unlawful for any person to import, sell, transfer, manufacture, or purchase an assault firearm, provided that a person may transfer an assault firearm to another person if:

1. The transfer is a bona fide gift made by or to a member of a transferor's immediate family as defined in § 6.2-1300;

2. The transfer occurs by operation of law;

3. 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;

4. 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;

5. The transfer is temporary and is necessary to prevent imminent death or great bodily harm;

6. The transfer is temporary and occurs within the continuous presence of the owner of the firearm;

7. 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;

8. The transfer is of an antique firearm as defined in § 18.2-308.2:2; or

9. 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.

C. A violation of this section is punishable as a Class 6 felony.

D. The provisions of this section shall not apply to (i) any government officer, agent, 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; (iv) the purchase by any person of his service handgun pursuant to § 59.1-148.3.

§ 18.2-308.10. Import, sale, possession, etc., of certain firearms magazines; penalty.

A. For purposes of this section, "large-capacity firearm magazine" means 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. "Large-capacity firearm magazine" does not include (i) a magazine, belt, drum, feed strip, or similar device that has been permanently altered so that it cannot accept more than 12 rounds of ammunition or (ii) an attached tubular device designed to accept and only capable of operating with .22 caliber rimfire ammunition.

B. It is unlawful for any person to import, sell, transfer, manufacture, purchase, [~~*possess,*~~] *or transport any large-capacity firearms magazine. A violation of this* [~~*section*~~ *subsection*] *is punishable as a Class 6 felony.*

C. [*It is unlawful for any person to possess any large-capacity firearm magazine. A violation of this subsection is punishable as a Class 1 misdemeanor.*

D.] *The provisions of this section shall not apply to (i) any government officer, agent, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire or possess a large-capacity firearm magazine and does so while acting within the scope of his duties; (ii) the manufacture of a large-capacity firearm magazine 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 a large-capacity firearm magazine 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) any large-capacity magazine transferred to a person as part of such person's purchase of his service handgun pursuant to § 59.1-148.3.*

§ 18.2-308.11. Import, sale, transfer, etc., of silencers; penalty.

A. For purposes of this section, "silencer" means 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.

B. 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 (26 U.S.C. § 5801 et seq.). A violation of this section is punishable as a Class 6 felony.

C. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire a silencer and does so while acting within the scope of his duties; (ii) the manufacture of a

silencer 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; or (iii) the sale or transfer of a silencer 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.

§ 18.2-308.12. Import, sale, possession, etc., of trigger activators prohibited; penalty.

A. For purposes of this section, "trigger activator" means 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 rests and continues firing without additional physical manipulation of the trigger by the shooter.

B. It is unlawful for any person to import, sell, transfer, manufacture, purchase, possess, or transport any trigger activator. A violation of this section is punishable as a Class 6 felony.

§ 18.2-308.13. Surrender, etc., of prohibited firearm magazine and trigger activator.

A. Except as provided in subsection B, any person who legally owns a large-capacity firearm magazine, as defined in § 18.2-308.10, or trigger activator, as defined in § 18.2-308.12, on July 1, 2020, may retain possession of such large-capacity firearm magazine or trigger activator until January 1, 2021. During this time period, such person shall (i) render the large-capacity firearm magazine or trigger activator permanently inoperable; (ii) remove the large-capacity firearm magazine or trigger activator from the Commonwealth; (iii) transfer the large-capacity firearm magazine or trigger activator to a person outside the Commonwealth who is not prohibited from possessing the large-capacity firearm magazine or trigger activator; or (iv) surrender the large-capacity firearm magazine or trigger activator to a state or local law-enforcement agency.

B. 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 serving outside of the United States as a member of the diplomatic service of the United States appointed under the Foreign Service Act of 1946, (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 clause (i), (ii), or (iii) may retain possession of such large-capacity firearm magazine or trigger activator until 30 days from the date such person is no longer serving outside of the United States. During this 30-day period, such person shall comply with clause (i), (ii), (iii), or (iv) of subsection A.

C. The provisions of § 15.2-915.5 shall not apply to any large-capacity firearm magazine or trigger activator surrendered to a local law-enforcement agency pursuant to this section.

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

Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon, *magazine, silencer, or trigger activator* concealed, possessed, 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, 18.2-308.1:4, 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, ~~or~~ 18.2-308.8, *18.2-308.9, 18.2-308.10, 18.2-308.11, or 18.2-308.12* shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.