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SENATE BILL NO. 35

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on February 21, 2020)

(Patrons Prior to Substitute—Senators Surovell, Edwards [SBs 450, 505, and 506], and Deeds [SB 615])

A *BILL to amend and reenact §§ 15.2-915 and 15.2-915.5 of the Code of Virginia and to repeal § 15.2-915.1 of the Code of Virginia, relating to control of firearms by localities.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-915 and 15.2-915.5 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-915. Control of firearms; applicability to authorities and local governmental agencies.

A. No locality shall adopt or enforce any ordinance, resolution, or motion, as permitted by § 15.2-1425, and no agent of such locality shall take any administrative action, governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. For purposes of this section, a statute that does not refer to firearms, ammunition, or components or combination thereof, shall not be construed to provide express authorization.

Nothing in this section shall prohibit a locality from adopting workplace rules relating to terms and conditions of employment of the workforce. However, no locality shall adopt any workplace rule, other than for the purposes of a community services board or behavioral health authority as defined in § 37.2-100, that prevents an employee of that locality from storing at that locality's workplace a lawfully possessed firearm and ammunition in a locked private motor vehicle. Nothing in this section shall prohibit a law-enforcement officer, as defined in § 9.1-101, from acting within the scope of his duties.

The provisions of this section applicable to a locality shall also apply to any authority or to a local governmental entity, including a department or agency, but not including any local or regional jail, juvenile detention facility, or state-governed entity, department, or agency.

B. Any local ordinance, resolution, or motion adopted prior to July 1, 2004, governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms, ammunition, or components or combination thereof, other than those expressly authorized by statute, is invalid.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action challenging (i) an ordinance, resolution, or motion as being in conflict with this section or (ii) an administrative action taken in bad faith as being in conflict with this section.

D. For purposes of this section, "workplace" means "workplace of the locality."

E. *Notwithstanding the provisions of this section, a locality may adopt an ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof (i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) in any public park owned by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality; or (iv) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose.*

Any such ordinance may include security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, or public streets, roads, alleys, or sidewalks or public rights-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit by a person with any firearms, ammunition, or components or combination thereof, such as the use of metal detectors and increased use of security personnel.

F. Notice of any ordinance adopted pursuant to subsection E shall be posted (i) at all entrances of any building, or part thereof, owned or used by the locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) at all entrances of any public park owned by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) at all entrances of any recreation or community center facilities operated by the locality, or by any authority or local governmental entity created or controlled by the locality; and (iv) at all entrances or other appropriate places of ingress and egress to any public street, road, alley, or

60 sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is
61 being used by or is adjacent to a permitted event or an event that would otherwise require a permit.

62 **§ 15.2-915.5. Disposition of firearms acquired by localities.**

63 A. No locality or agent of such locality may participate in any program in which individuals are
64 given a thing of value provided by another individual or other entity in exchange for surrendering a
65 firearm to the locality or agent of such locality unless the governing body of the locality has enacted an
66 ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality
67 in such program.

68 B. Any ordinance enacted pursuant to this section shall require that any firearm received, except a
69 firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited by
70 federal law, shall be *destroyed by the locality unless the person surrendering the firearm requests in*
71 *writing that the firearm be* offered for sale by public auction or sealed bids to a person licensed as a
72 dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the date, time, and place of *any sale conducted*
73 *pursuant to this subsection* shall be given by advertisement in at least two newspapers published and
74 having general circulation in the Commonwealth, at least one of which shall have general circulation in
75 the locality in which the property to be sold is located. At least 30 days shall elapse between publication
76 of the notice and the auction or the date on which sealed bids will be opened. Any firearm remaining in
77 possession of the locality or agent of the locality after attempts to sell at public auction or by sealed
78 bids shall be disposed of in a manner the locality deems proper, which may include destruction of the
79 firearm or, subject to any registration requirements of federal law, sale of the firearm to a licensed
80 dealer.

81 **2. That § 15.2-915.1 of the Code of Virginia is repealed.**