

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB961

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Levine

3. Committee: Public Safety

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

5. Summary: The bill prohibits a person from importing, selling, transferring, manufacturing, purchasing, possessing, or transporting an assault firearm. A violation is a Class 6 felony. Exemptions are provided for (i) any government officer, agency, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire or possess 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; or (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. The bill further expands the definition of “assault firearm” to include:

- (i) a semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 10 rounds;
- (ii) a semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a detachable magazine and has one of the following characteristics: (a) a folding or telescoping stock; (b) a pistol grip that protrudes conspicuously beneath the action of the rifle; (c) a thumbhole stock; (d) a second handgrip or a protruding grip that can be held by the non-trigger hand; (e) a bayonet mount; (f) a grenade launcher; (g) a flare launcher; (h) a silencer; (i) a flash suppressor; (j) a muzzle brake; (k) a muzzle compensator; (l) a threaded barrel capable of accepting a silencer, a flash suppressor, a muzzle brake, a muzzle compensator, or any characteristic of like kind as enumerated in clauses (a) through (l);
- (iii) a semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 10 rounds;
- (iv) a semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a

- detachable magazine and has one of the following characteristics: (a) a folding or telescoping stock; (b) a thumbhole stock; (c) a second handgrip or a protruding grip that can be held by the non-trigger hand; (d) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip; (e) 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; (f) a manufactured weight of 50 ounces or more when the pistol is unloaded; (g) a threaded barrel capable of accepting a silencer, a flash suppressor, a barrel extender, a forward handgrip, or any characteristic of like kind as enumerated in clauses (a) through (g);
- (v) a shotgun with a revolving cylinder that expels single or multiple projectiles by action of an explosion of a combustible material; or
 - (vi) a semi-automatic shotgun that expels single or multiple projectiles by action of a combustible material that has one of the following characteristics: (a) a folding or telescoping stock; (b) a thumbhole stock; (c) a pistol grip that protrudes conspicuously beneath the action of the shotgun; (d) the ability to accept a detachable magazine; (e) a fixed magazine capacity in excess of seven rounds, or (f) any characteristic of like kind as enumerated in clauses (a) through (e).
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- “Assault firearm” also includes any part or combination of parts designed or intended to convert, modify, or otherwise alter a firearm into an assault firearm, or any combination of parts that may be readily assembled into an assault firearm, according to the provisions of the bill.

The bill removes a provision pertaining to automatic weapons and clarifies that it is prohibited to carry a loaded shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered anywhere in the Commonwealth. Currently, this section prohibits the carrying of such weapons only in certain localities. The bill also removes a provision that exempts concealed handgun permit holders from carrying a loaded shotgun in public. A violation is a Class 1 misdemeanor.

The bill removes a provision making it unlawful for persons who are not United States citizens and who are not lawfully admitted for permanent residence to possess or transport a firearm.

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

The bill defines a “large-capacity firearm magazine” as any firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition, including any such device with a removable floor plate or end plate if the device can be readily extended to accept more than 10 rounds of ammunition. The bill provides that it is unlawful for any person to import, sell, transfer, manufacture, purchase, possess, or transport a large-capacity firearm magazine. A violation is a Class 6 felony.

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

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

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

The bill provides for an assault firearm permit process through VSP. The application must be on a form prescribed by VSP and shall include a certification statement to be signed by the applicant that such applicant is the lawful owner of the assault firearm and the information presented is true and correct. VSP may charge a fee not to exceed \$50 to cover the cost of the issuance of the permit. The bill describes the information about the applicant and the assault firearm that must be contained on the permit. Such permit shall remain valid as long as the applicant issued the permit remains the owner of the assault firearm, unless during the time of ownership the applicant is found to not be in compliance with the conditions set forth, or the applicant no longer satisfies the requirements for issuance of a permit.

The bill provides that VSP must review the criminal history record information for each person who has applied for an assault weapons permit on or before January 1, 2026, to determine whether such person is prohibited from possessing or transporting a firearm by state or federal law. VSP shall revoke such permit and notify the person of the revocation if such person is later found to be prohibited from possessing or transporting a firearm.

The bill stipulates that any person issued a permit to possess an assault firearm may possess such firearm only under the following conditions: (i) while in his home or on his property or while on the property of another who has provided prior permission, provided that the person has the landowner’s written permission on his person while on such property; (ii) while at a shooting range, shooting gallery, or other area designated for the

purpose of target shooting or the target range of a public or private club or organization whose members have organized for the purpose of practicing shooting targets or competing in target shooting matches; (iii) while engaged in lawful hunting; or (iv) while surrendering the assault firearm to a state or local law enforcement agency.

The bill provides that a person issued a permit to possess an assault firearm may transport it between any of these locations provided the assault firearm is unloaded and secured within a closed container while being transported. A person shall have the permit on his person at all times while transporting the assault firearm, and shall display the permit and photo identification upon demand by a law enforcement officer. Failure to do so is punishable by a \$25 civil penalty, paid into the state treasury.

The bill provides that a permit to possess an assault firearm may be transferred to the executor or administrator of an estate that includes such firearm for which a permit has been issued, provided the executor or administrator is not prohibited by law from possessing it. The bill provides for a process by which such executor or administrator must notify VSP within 24 hours of the transfer, and requires that the executor or administrator render the weapon inoperable, remove it from the Commonwealth, or obtain his own permit to possess it.

The bill provides that VSP shall enter the name and description of a person issued a permit to possess an assault firearm in the Virginia Criminal Information Network (VCIN) so that the permit's existence and current status shall be made known to law enforcement personnel accessing VCIN for investigative purposes. The bill requires that information about assault weapon permit holders be withheld from public disclosure, but not be withheld from law enforcement, or from any entity that has a valid contract with a law enforcement agency for the purpose of performing official duties of the law enforcement agency. The bill also requires the Superintendent of State Police to promulgate regulations for the administration of the provisions of this section.

6. **Budget Amendment Necessary:** Yes. See line 8. While funding for this proposed legislation was included in Items 402 and 425 of the Governor's introduced budget (HB30/SB30), additional funding may be required in Item 425 to meet the requirements of the proposed legislation. The Governor has submitted an executive amendment to address these additional information technology costs.
7. **Fiscal Impact Estimates:** Preliminary. See below.
8. **Fiscal Implications:** This bill would prohibit assault firearms, as defined in the bill, large-capacity firearm magazines, silencers, and trigger activators. It would prohibit the carrying of loaded shotguns with a magazine that will hold more than seven rounds of the longest ammunition for which they are chambered anywhere in the Commonwealth, and prohibit the possession of a shotgun with a magazine with more than seven rounds of the longest ammunition for which it is chambered by individuals under the age of 18. It provides for a give-back program with state and local law enforcement agencies for owners to surrender assault firearms, large-capacity firearm magazines, silencers, and trigger activators if they are

not transferred outside of the Commonwealth by January 1, 2021. The bill also provides for a permit process by which individuals who lawfully possess assault firearms on July 1, 2020, may apply to legally retain them.

The bill would require the Department of State Police (VSP) to: a) accept any surrendered weapons during a six-month surrender period; b) issue permits to assault firearms holders who wish to legally retain their weapons; c) perform background checks on all individuals who have applied for an assault firearms permit by January 1, 2026, to confirm they are not prohibited from possessing a weapon; d) enter the names of all permit holders into the Virginia Criminal Information Network (VCIN) so they are accessible for law enforcement purposes; and e) promulgate regulations related to these Code sections.

VSP estimates that millions of firearms in Virginia would be subject to being banned under this proposal. However, it is not possible to estimate the number of permits that VSP would be required to issue under the provisions of this bill at this time because it is unknown how many individuals possess such weapons and would apply to retain them legally, rather than surrendering them to a law enforcement agency or moving them out of state. To comply with the provisions of the proposed legislation, VSP estimates it would need 18 positions to assist with processing criminal background checks of all assault weapons permit holders by January 1, 2026. VSP also would need office space, furniture, and information technology costs for these positions. The Governor's introduced budget (HB30/SB30) included \$2,412,825 the first year and \$1,587,203 the second year for these positions and associated expenses.

VSP also estimates that it would need additional funding for an information technology (IT) project to develop an assault weapons permitting program, as described in the bill. The total cost to implement the IT project is \$466,700 the first year and \$125,870 the second year. Executive amendments to the introduced budget (HB30/SB30) provided additional supplemental funding in Item 425 (Amendment #27) to support this bill. While the bill allows VSP to collect a \$50 fee to cover the cost of permit issuance, it is not known how many permit applications VSP would receive to cover the cost to administer this program, including information technology costs.

This bill also would make it a Class 1 misdemeanor to carry a loaded shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered anywhere in the Commonwealth. It also would be a Class 1 misdemeanor for an individual under age 18 to possess such a shotgun, according to the provisions of the bill. Therefore, this bill could increase the number of people sentenced to local or regional jails. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. Any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. According to the

Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

Under the provisions of the bill, it would be a Class 6 felony to unlawfully import, sell, transfer, manufacture, purchase, possess, or transport a large-capacity firearm magazine, a silencer, or a trigger activator. Additionally, the Class 1 misdemeanors provided for in the bill would be punishable as a Class 6 felony for a third or subsequent offense. The bill also expands the applicability of existing offenses, including § 18.2-308.2:2(L) (pertaining to firearms dealers who sell or transfer a firearm, a Class 6 felony) and § 18.2-308.8 (pertaining to importing, possessing, or transferring specified semi-automatic folding stock shotguns capable of holding more than 12 shells). For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to 12 months in jail, or one to five years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill. Funding for this fiscal impact on DOC was provided in the Governor's introduced budget for the 2020-2022 biennium.

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

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

This bill also provides for a \$25 civil penalty, payable to the state treasury, for individuals who fail to furnish their assault weapons permit and photo identification to a law enforcement officer upon request. Any potential revenue resulting from this provision is indeterminate at this time.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.