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SENATE BILL NO. 1250

Offered January 13, 2021

Prefiled January 11, 2021

A BILL to amend and reenact § 18.2-308.2:2, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to criminal history record information check required for firearm rentals; penalty.

Patrons—Deeds and McClellan

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.2:2, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.2:2. (Effective until July 1, 2021) 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; (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, 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, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 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

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59 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing
60 that the original date of issue of the driver's license was more than 30 days prior to the attempted
61 purchase.

62 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any
63 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
64 residence.

65 Upon receipt of the request for a criminal history record information check, the State Police shall (a)
66 review its criminal history record information, *including a review of the Central Criminal Records*
67 *Exchange if federal law does not authorize a National Instant Criminal Background Check System*
68 *(NICS) check for such transfer*, to determine if the buyer or transferee is prohibited from possessing or
69 transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer
70 or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

71 2. The State Police shall provide its response to the requesting dealer during the dealer's request or
72 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the
73 State Police that a response will not be available by the end of the dealer's third business day may
74 immediately complete the sale or transfer and shall not be deemed in violation of this section with
75 respect to such sale or transfer.

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

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

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

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

97 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
98 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of
99 subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to
100 applicable federal law unless he has first obtained from the Department of State Police a report
101 indicating that a search of all available criminal history record information has not disclosed that the
102 person is prohibited from possessing or transporting a firearm under state or federal law.

103 To establish personal identification and dual resident eligibility for purposes of this subsection, a
104 dealer shall require any prospective purchaser to present one photo-identification form issued by a
105 governmental agency of the prospective purchaser's state of legal residence and other documentation of
106 dual residence within the Commonwealth. The other documentation of dual residence in the
107 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
108 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
109 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
110 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
111 residence determined to be acceptable by the Department of Criminal Justice Services and that
112 corroborates that the prospective purchaser currently resides in Virginia.

113 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
114 exercise his right of access to and review and correction of criminal history record information under
115 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within
116 30 days of such denial.

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

121 F. For purposes of this section:

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

124 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

164 "Rent" includes a temporary change in dominion or control of a firearm for use at or on the
165 premises of a dealer's business location in exchange for money or other consideration.

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

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

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

179 J. All licensed firearms dealers shall collect a fee of \$2 for every transaction for which a criminal
180 history record information check is required pursuant to this section, except that a fee of \$5 shall be
181 collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the

182 Department of State Police by the last day of the month following the sale for deposit in a special fund
183 for use by the State Police to offset the cost of conducting criminal history record information checks
184 under the provisions of this section.

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

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

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

195 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
196 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise
197 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the
198 Commonwealth to be resold or otherwise provided to another person who the transferor knows is
199 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to
200 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection
201 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory
202 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the
203 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to
204 § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,
205 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

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

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

220 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
221 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
222 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
223 a handgun purchased from such seller by the same person seeking the exchange or replacement within
224 the 30-day period immediately preceding the date of exchange or replacement. A violation of this
225 subsection is punishable as a Class 1 misdemeanor.

226 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an
227 enhanced background check, as described in this subsection, by special application to the Department of
228 State Police listing the number and type of handguns to be purchased and transferred for lawful business
229 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
230 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
231 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
232 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
233 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
234 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
235 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
236 the limit.

237 Upon being satisfied that these requirements have been met, the Department of State Police shall
238 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
239 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
240 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection
241 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local
242 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such
243 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the

244 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and
245 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.
246 The Department of State Police shall make available to local law-enforcement agencies all records
247 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B
248 3.

- 249 2. The provisions of this subsection shall not apply to:
- 250 a. A law-enforcement agency;
- 251 b. An agency duly authorized to perform law-enforcement duties;
- 252 c. A state or local correctional facility;
- 253 d. A private security company licensed to do business within the Commonwealth;
- 254 e. The purchase of antique firearms;
- 255 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
256 be replaced immediately. Such person may purchase another handgun, even if the person has previously
257 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer
258 with a copy of the official police report or a summary thereof, on forms provided by the Department of
259 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the
260 official police report or summary thereof contains the name and address of the handgun owner, a
261 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date
262 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as
263 reflected on the official police report or summary thereof occurred within 30 days of the person's
264 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or
265 summary thereof to the original copy of the Virginia firearms transaction report completed for the
266 transaction and retain it for the period prescribed by the Department of State Police;
- 267 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of
268 the same transaction, provided that no more than one transaction of this nature is completed per day;
- 269 h. A person who holds a valid Virginia permit to carry a concealed handgun;
- 270 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
271 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
272 for the enhancement of a personal collection of curios or relics or who sells all or part of such
273 collection of curios and relics; or
- 274 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any
275 employee of a police department or sheriff's office that is part of or administered by the Commonwealth
276 or any political subdivision thereof and who is responsible for the prevention and detection of crime and
277 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

278 **§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required for**
279 **the transfer of certain firearms.**

280 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
281 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
282 information. Such form shall include only the written consent; the name, birth date, gender, race,
283 citizenship, and social security number and/or any other identification number; the number of firearms
284 by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the
285 following questions: (i) has the applicant been convicted of a felony offense or found guilty or
286 adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent
287 act that would be a felony if committed by an adult; (ii) is the applicant subject to a court order
288 restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner,
289 or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever
290 been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a
291 firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been
292 adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and
293 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any
294 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to
295 outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3
296 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention
297 order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805;
298 and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered
299 pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a
300 firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

301 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
302 person who is a resident of Virginia until he has (i) obtained written consent and the other information
303 on the consent form specified in subsection A, and provided the Department of State Police with the
304 name, birth date, gender, race, citizenship, and social security and/or any other identification number and

305 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
306 criminal history record information by a telephone call to or other communication authorized by the
307 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish
308 personal identification and residence in Virginia for purposes of this section, a dealer must require any
309 prospective purchaser to present one photo-identification form issued by a governmental agency of the
310 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
311 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
312 purchase, residency of a member of the armed forces shall include both the state in which the member's
313 permanent duty post is located and any nearby state in which the member resides and from which he
314 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
315 by the Department of Defense does not have a Virginia address may establish his Virginia residency
316 with such photo identification and either permanent orders assigning the purchaser to a duty post,
317 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo
318 identification presented to a dealer by the prospective purchaser is a driver's license or other photo
319 identification issued by the Department of Motor Vehicles, and such identification form contains a date
320 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by
321 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until
322 30 days after the date of issue of an original or duplicate driver's license unless the prospective
323 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing
324 that the original date of issue of the driver's license was more than 30 days prior to the attempted
325 purchase.

326 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any
327 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
328 residence.

329 Upon receipt of the request for a criminal history record information check, the State Police shall (a)
330 review its criminal history record information, *including a review of the Central Criminal Records*
331 *Exchange if federal law does not authorize a National Instant Criminal Background Check System*
332 *(NICS) check for such transfer*, to determine if the buyer or transferee is prohibited from possessing or
333 transporting a firearm by state or federal law, (b) inform the dealer if its record indicates that the buyer
334 or transferee is so prohibited, and (c) provide the dealer with a unique reference number for that inquiry.

335 2. The State Police shall provide its response to the requesting dealer during the dealer's request or
336 by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the
337 State Police that a response will not be available by the end of the dealer's third business day may
338 immediately complete the sale or transfer and shall not be deemed in violation of this section with
339 respect to such sale or transfer.

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

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

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

359 6. For the purposes of this subsection, the phrase "dealer's third business day" does not include
360 December 25.

361 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
362 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of
363 subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to
364 applicable federal law unless he has first obtained from the Department of State Police a report
365 indicating that a search of all available criminal history record information has not disclosed that the
366 person is prohibited from possessing or transporting a firearm under state or federal law.

367 To establish personal identification and dual resident eligibility for purposes of this subsection, a
 368 dealer shall require any prospective purchaser to present one photo-identification form issued by a
 369 governmental agency of the prospective purchaser's state of legal residence and other documentation of
 370 dual residence within the Commonwealth. The other documentation of dual residence in the
 371 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
 372 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
 373 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
 374 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
 375 residence determined to be acceptable by the Department of Criminal Justice Services and that
 376 corroborates that the prospective purchaser currently resides in Virginia.

377 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
 378 exercise his right of access to and review and correction of criminal history record information under
 379 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within
 380 30 days of such denial.

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 382 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
 383 disseminate criminal history record information except as authorized in this section, shall be guilty of a
 384 Class 2 misdemeanor.

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 387 other such firearm transaction records as may be required by federal law.

388 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

428 *"Rent" includes a temporary change in dominion or control of a firearm for use at or on the*
429 *premises of a dealer's business location in exchange for money or other consideration.*

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

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

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

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

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

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

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

459 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
460 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise
461 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the
462 Commonwealth to be resold or otherwise provided to another person who the transferor knows is
463 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to
464 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection
465 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory
466 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the
467 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to §
468 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,
469 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

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

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

484 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
485 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
486 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
487 a handgun purchased from such seller by the same person seeking the exchange or replacement within
488 the 30-day period immediately preceding the date of exchange or replacement. A violation of this
489 subsection is punishable as a Class 1 misdemeanor.

490 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an
 491 enhanced background check, as described in this subsection, by special application to the Department of
 492 State Police listing the number and type of handguns to be purchased and transferred for lawful business
 493 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
 494 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
 495 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
 496 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
 497 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
 498 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
 499 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
 500 the limit.

501 Upon being satisfied that these requirements have been met, the Department of State Police shall
 502 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
 503 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
 504 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection
 505 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local
 506 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such
 507 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the
 508 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and
 509 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.
 510 The Department of State Police shall make available to local law-enforcement agencies all records
 511 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B
 512 3.

- 513 2. The provisions of this subsection shall not apply to:
- 514 a. A law-enforcement agency;
 - 515 b. An agency duly authorized to perform law-enforcement duties;
 - 516 c. A state or local correctional facility;
 - 517 d. A private security company licensed to do business within the Commonwealth;
 - 518 e. The purchase of antique firearms;
 - 519 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
 520 be replaced immediately. Such person may purchase another handgun, even if the person has previously
 521 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer
 522 with a copy of the official police report or a summary thereof, on forms provided by the Department of
 523 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the
 524 official police report or summary thereof contains the name and address of the handgun owner, a
 525 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date
 526 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as
 527 reflected on the official police report or summary thereof occurred within 30 days of the person's
 528 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or
 529 summary thereof to the original copy of the Virginia firearms transaction report completed for the
 530 transaction and retain it for the period prescribed by the Department of State Police;
 - 531 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of
 532 the same transaction, provided that no more than one transaction of this nature is completed per day;
 - 533 h. A person who holds a valid Virginia permit to carry a concealed handgun;
 - 534 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
 535 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
 536 for the enhancement of a personal collection of curios or relics or who sells all or part of such
 537 collection of curios and relics; or
 - 538 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any
 539 employee of a police department or sheriff's office that is part of or administered by the Commonwealth
 540 or any political subdivision thereof and who is responsible for the prevention and detection of crime and
 541 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

542 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 543 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
 544 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
 545 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**
 546 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**
 547 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**
 548 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**