

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall*  
 3 *become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective,*  
 4 *18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code*  
 5 *of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.1:8, relating*  
 6 *to purchase, possession, or transportation of firearms following conviction for assault and battery of*  
 7 *a family or household member; penalties.*

8 [H 1992]  
 9 Approved

10 **Be it enacted by the General Assembly of Virginia:**

11 **1. That §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective,**  
 12 **18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is**  
 13 **currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia are**  
 14 **amended and reenacted and that the Code of Virginia is amended by adding a section numbered**  
 15 **18.2-308.1:8 as follows:**

16 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

17 The following persons shall be deemed disqualified from obtaining a permit:

18 1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to  
 19 § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other  
 20 state or of the United States.

21 1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to  
 22 § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, ~~or~~ 18.2-308.1:7, *or 18.2-308.1:8* or the  
 23 substantially similar law of any other state or of the United States.

24 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was  
 25 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before  
 26 the date of his application for a concealed handgun permit.

27 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose  
 28 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his  
 29 application for a concealed handgun permit.

30 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released  
 31 from commitment less than five years before the date of this application for a concealed handgun  
 32 permit.

33 5. An individual who is subject to a restraining order, or to a protective order and prohibited by  
 34 § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

35 6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except  
 36 that a restoration order may be obtained in accordance with subsection C of that section.

37 7. An individual who has been convicted of two or more misdemeanors within the five-year period  
 38 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the  
 39 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1.  
 40 Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this  
 41 disqualification.

42 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic  
 43 cannabinoids, or any controlled substance.

44 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local  
 45 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other  
 46 state, the District of Columbia, the United States, or its territories within the three-year period  
 47 immediately preceding the application.

48 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

49 11. An individual who has been discharged from the armed forces of the United States under  
 50 dishonorable conditions.

51 12. An individual who is a fugitive from justice.

52 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by  
 53 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief  
 54 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement  
 55 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based  
 56 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is

57 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief  
 58 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such  
 59 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the  
 60 specific acts, or upon a written statement made under oath before a notary public of a competent person  
 61 having personal knowledge of the specific acts.

62 14. An individual who has been convicted of any assault, assault and battery, sexual battery,  
 63 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation  
 64 of § 18.2-282 within the three-year period immediately preceding the application.

65 15. An individual who has been convicted of stalking.

66 16. An individual whose previous convictions or adjudications of delinquency were based on an  
 67 offense that would have been at the time of conviction a felony if committed by an adult under the laws  
 68 of any state, the District of Columbia, the United States or its territories. For purposes of this  
 69 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the  
 70 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or  
 71 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall  
 72 not apply to an individual with previous adjudications of delinquency who has completed a term of  
 73 service of no less than two years in the Armed Forces of the United States and, if such person has been  
 74 discharged from the Armed Forces of the United States, received an honorable discharge.

75 17. An individual who has a felony charge pending or a charge pending for an offense listed in  
 76 subdivision 14 or 15.

77 18. An individual who has received mental health treatment or substance abuse treatment in a  
 78 residential setting within five years prior to the date of his application for a concealed handgun permit.

79 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period  
 80 immediately preceding the application for the permit, was found guilty of any criminal offense set forth  
 81 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession  
 82 or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any  
 83 state, the District of Columbia, or the United States or its territories.

84 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the  
 85 three-year period immediately preceding the application, upon a charge of any criminal offense set forth  
 86 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or  
 87 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any  
 88 state, the District of Columbia, or the United States or its territories, the trial court found that the facts  
 89 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the  
 90 substantially similar law of any other state, the District of Columbia, or the United States or its  
 91 territories.

92 **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and battery**  
 93 **of a family or household member; penalty.**

94 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm  
 95 following a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the  
 96 offense of assault and battery of a family or household member or (ii) an offense substantially similar to  
 97 clause (i) under the laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

98 B. For the purposes of this section, "family or household member" means (i) the person's spouse,  
 99 whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or  
 100 not he resides in the same home with the person; or (iii) any individual who has a child in common  
 101 with the person, whether or not the person and that individual have been married or have resided  
 102 together at any time.

103 C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to  
 104 subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for three years  
 105 following the date of the conviction at which point the person convicted of such offense shall no longer  
 106 be prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A. Such  
 107 person shall have his firearms rights restored, unless such person receives another disqualifying  
 108 conviction, is subject to a protective order that would restrict his rights to carry a firearm, or is  
 109 otherwise prohibited by law from purchasing, possessing, or transporting a firearm.

110 **§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain**  
 111 **persons.**

112 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with  
 113 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited  
 114 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,  
 115 subsection B of § 18.2-308.1:4, § 18.2-308.1:6 or 18.2-308.2, subsection B of § 18.2-308.2:01, or  
 116 § 18.2-308.7 is guilty of a Class 4 felony.

117 Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with

118 *the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited*  
119 *from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:8 is guilty of a Class 1*  
120 *misdemeanor.*

121 However, this prohibition shall not be applicable when the person convicted of the felony *or*  
122 *misdemeanor*, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit  
123 pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of  
124 § 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  
125 removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport,  
126 possess or receive firearms pursuant to the laws of the United States.

127 **§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain**  
128 **persons; penalties.**

129 ~~A. Any person who sells, barters, gives, or furnishes, or has in his possession or under his control~~  
130 ~~with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is~~  
131 ~~prohibited from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or~~  
132 ~~18.2-308.1:3, subsection B of § 18.2-308.1:4, § 18.2-308.1:6 or 18.2-308.2, subsection B of~~  
133 ~~§ 18.2-308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony.~~

134 *Any person who sells, barters, gives, or furnishes, or has in his possession or under his control with*  
135 *the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited*  
136 *from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:7 or 18.2-308.1:8 is*  
137 *guilty of a Class 1 misdemeanor.*

138 However, this prohibition shall not be applicable when the person convicted of the felony *or*  
139 *misdemeanor*, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit  
140 pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of  
141 § 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  
142 removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport,  
143 possess, or receive firearms pursuant to the laws of the United States.

144 ~~B. Any person who sells, barters, gives, or furnishes, or has in his possession or under his control~~  
145 ~~with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is~~  
146 ~~prohibited from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:7 is guilty of a~~  
147 ~~Class 4 misdemeanor.~~

148 **§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check required**  
149 **for the transfer of certain firearms.**

150 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
151 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
152 information. Such form shall include only the written consent; the name, birth date, gender, race,  
153 citizenship, and social security number and/or any other identification number; the number of firearms  
154 by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the  
155 following questions: (i) has the applicant been convicted of a felony offense *or a misdemeanor offense*  
156 *listed in § 18.2-308.1:8* or found guilty or adjudicated delinquent as a juvenile 14 years of age or older  
157 at the time of the offense of a delinquent act that *if committed by an adult* would be a felony ~~if~~  
158 ~~committed by an adult~~ *or a misdemeanor listed in § 18.2-308.1:8*; (ii) is the applicant subject to a court  
159 order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate  
160 partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant  
161 ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a  
162 firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been  
163 adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
164 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any  
165 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to  
166 outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3  
167 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention  
168 order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805;  
169 and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered  
170 pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a  
171 firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

172 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
173 person who is a resident of Virginia until he has (i) obtained written consent and the other information  
174 on the consent form specified in subsection A, and provided the Department of State Police with the  
175 name, birth date, gender, race, citizenship, and social security and/or any other identification number and  
176 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested  
177 criminal history record information by a telephone call to or other communication authorized by the  
178 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish

179 personal identification and residence in Virginia for purposes of this section, a dealer must require any  
180 prospective purchaser to present one photo-identification form issued by a governmental agency of the  
181 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
182 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
183 purchase, residency of a member of the armed forces shall include both the state in which the member's  
184 permanent duty post is located and any nearby state in which the member resides and from which he  
185 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
186 by the Department of Defense does not have a Virginia address may establish his Virginia residency  
187 with such photo identification and either permanent orders assigning the purchaser to a duty post,  
188 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo  
189 identification presented to a dealer by the prospective purchaser is a driver's license or other photo  
190 identification issued by the Department of Motor Vehicles, and such identification form contains a date  
191 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by  
192 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until  
193 30 days after the date of issue of an original or duplicate driver's license unless the prospective  
194 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing  
195 that the original date of issue of the driver's license was more than 30 days prior to the attempted  
196 purchase.

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

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

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

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

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

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

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

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

237 To establish personal identification and dual resident eligibility for purposes of this subsection, a  
238 dealer shall require any prospective purchaser to present one photo-identification form issued by a  
239 governmental agency of the prospective purchaser's state of legal residence and other documentation of

240 dual residence within the Commonwealth. The other documentation of dual residence in the  
 241 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a  
 242 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)  
 243 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as  
 244 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of  
 245 residence determined to be acceptable by the Department of Criminal Justice Services and that  
 246 corroborates that the prospective purchaser currently resides in Virginia.

247 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
 248 exercise his right of access to and review and correction of criminal history record information under  
 249 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within  
 250 30 days of such denial.

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

255 F. For purposes of this section:

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

258 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

327 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
328 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
329 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
330 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
331 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to  
332 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection  
333 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory  
334 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the  
335 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to  
336 § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,  
337 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

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

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

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

358 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an  
359 enhanced background check, as described in this subsection, by special application to the Department of  
360 State Police listing the number and type of handguns to be purchased and transferred for lawful business  
361 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar

362 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
 363 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
 364 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
 365 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
 366 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
 367 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
 368 the limit.

369 Upon being satisfied that these requirements have been met, the Department of State Police shall  
 370 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from  
 371 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to  
 372 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection  
 373 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
 374 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
 375 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
 376 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and  
 377 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.  
 378 The Department of State Police shall make available to local law-enforcement agencies all records  
 379 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B  
 380 3.

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

382 a. A law-enforcement agency;

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

384 c. A state or local correctional facility;

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

386 e. The purchase of antique firearms;

387 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
 388 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
 389 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer  
 390 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
 391 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
 392 official police report or summary thereof contains the name and address of the handgun owner, a  
 393 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
 394 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
 395 reflected on the official police report or summary thereof occurred within 30 days of the person's  
 396 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
 397 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
 398 transaction and retain it for the period prescribed by the Department of State Police;

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

401 h. A person who holds a valid Virginia permit to carry a concealed handgun;

402 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private  
 403 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms  
 404 for the enhancement of a personal collection of curios or relics or who sells all or part of such  
 405 collection of curios and relics; or

406 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any  
 407 employee of a police department or sheriff's office that is part of or administered by the Commonwealth  
 408 or any political subdivision thereof and who is responsible for the prevention and detection of crime and  
 409 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

410 **§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required for**  
 411 **the transfer of certain firearms.**

412 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
 413 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
 414 information. Such form shall include only the written consent; the name, birth date, gender, race,  
 415 citizenship, and social security number and/or any other identification number; the number of firearms  
 416 by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the  
 417 following questions: (i) has the applicant been convicted of a felony offense *or a misdemeanor offense*  
 418 *listed in § 18.2-308.1:8* or found guilty or adjudicated delinquent as a juvenile 14 years of age or older  
 419 at the time of the offense of a delinquent act that *if committed by an adult* would be a felony ~~if~~  
 420 ~~committed by an adult~~ *or a misdemeanor listed in § 18.2-308.1:8*; (ii) is the applicant subject to a court  
 421 order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate  
 422 partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant

423 ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a  
424 firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been  
425 adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
426 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any  
427 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to  
428 outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3  
429 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention  
430 order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805;  
431 and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered  
432 pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a  
433 firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

434 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
435 person who is a resident of Virginia until he has (i) obtained written consent and the other information  
436 on the consent form specified in subsection A, and provided the Department of State Police with the  
437 name, birth date, gender, race, citizenship, and social security and/or any other identification number and  
438 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested  
439 criminal history record information by a telephone call to or other communication authorized by the  
440 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish  
441 personal identification and residence in Virginia for purposes of this section, a dealer must require any  
442 prospective purchaser to present one photo-identification form issued by a governmental agency of the  
443 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
444 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
445 purchase, residency of a member of the armed forces shall include both the state in which the member's  
446 permanent duty post is located and any nearby state in which the member resides and from which he  
447 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
448 by the Department of Defense does not have a Virginia address may establish his Virginia residency  
449 with such photo identification and either permanent orders assigning the purchaser to a duty post,  
450 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo  
451 identification presented to a dealer by the prospective purchaser is a driver's license or other photo  
452 identification issued by the Department of Motor Vehicles, and such identification form contains a date  
453 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by  
454 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until  
455 30 days after the date of issue of an original or duplicate driver's license unless the prospective  
456 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing  
457 that the original date of issue of the driver's license was more than 30 days prior to the attempted  
458 purchase.

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

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

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

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

479 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or  
480 deliver the written consent form required by subsection A to the Department of State Police. The State  
481 Police shall immediately initiate a search of all available criminal history record information to  
482 determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal  
483 law. If the search discloses information indicating that the buyer or transferee is so prohibited from



484 possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in  
485 the jurisdiction where the sale or transfer occurred and the dealer without delay.

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

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

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

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

509 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
510 exercise his right of access to and review and correction of criminal history record information under  
511 § 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within  
512 30 days of such denial.

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

517 F. For purposes of this section:

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

520 "Antique firearm" means:

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

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

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

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

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

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

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

544 2. Firearms that are certified by the curator of a municipal, state, or federal museum that exhibits

545 firearms to be curios or relics of museum interest; and

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

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

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

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

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

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

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

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

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

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

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

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

589 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
590 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise  
591 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the  
592 Commonwealth to be resold or otherwise provided to another person who the transferor knows is  
593 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to  
594 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection  
595 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory  
596 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the  
597 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to  
598 § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,  
599 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

605 P. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating

606 whether the driver's license is an original, duplicate, or renewed driver's license.

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

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

620 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of an  
621 enhanced background check, as described in this subsection, by special application to the Department of  
622 State Police listing the number and type of handguns to be purchased and transferred for lawful business  
623 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar  
624 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
625 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
626 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
627 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
628 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
629 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
630 the limit.

631 Upon being satisfied that these requirements have been met, the Department of State Police shall  
632 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from  
633 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to  
634 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection  
635 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local  
636 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such  
637 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the  
638 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and  
639 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.  
640 The Department of State Police shall make available to local law-enforcement agencies all records  
641 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B  
642 3.

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

- 644 a. A law-enforcement agency;
- 645 b. An agency duly authorized to perform law-enforcement duties;
- 646 c. A state or local correctional facility;
- 647 d. A private security company licensed to do business within the Commonwealth;
- 648 e. The purchase of antique firearms;
- 649 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
650 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
651 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer  
652 with a copy of the official police report or a summary thereof, on forms provided by the Department of  
653 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the  
654 official police report or summary thereof contains the name and address of the handgun owner, a  
655 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date  
656 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as  
657 reflected on the official police report or summary thereof occurred within 30 days of the person's  
658 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or  
659 summary thereof to the original copy of the Virginia firearms transaction report completed for the  
660 transaction and retain it for the period prescribed by the Department of State Police;

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

663 h. A person who holds a valid Virginia permit to carry a concealed handgun;

664 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private  
665 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms  
666 for the enhancement of a personal collection of curios or relics or who sells all or part of such

667 collection of curios and relics; or

668 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any  
669 employee of a police department or sheriff's office that is part of or administered by the Commonwealth  
670 or any political subdivision thereof and who is responsible for the prevention and detection of crime and  
671 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

672 **§ 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for employees**  
673 **of a gun dealer to transfer firearms; exemptions; penalties.**

674 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C.  
675 § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent,  
676 temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be  
677 prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B  
678 of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or  
679 is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or  
680 § 18.2-308.1:5.

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

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

692 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
693 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
694 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
695 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
696 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
697 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
698 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid  
699 FFL number, state the name of each person requesting the exemption, together with each person's  
700 identifying information, including their social security number and the following statement: "I hereby  
701 swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each  
702 person requesting an exemption in this affidavit has been subjected to a fingerprint identification check  
703 by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms  
704 subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I  
705 understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5  
706 felony and that in addition to any other penalties imposed by law, a conviction under this section shall  
707 result in the forfeiture of my federal firearms license."

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

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

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

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

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

727 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history

728 record information under false pretenses, or who willfully and intentionally disseminates or seeks to  
729 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,  
730 shall be guilty of a Class 2 misdemeanor.

731 J. Any person willfully and intentionally making a materially false statement on the personal  
732 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who  
733 offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any  
734 dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of  
735 this section shall be guilty of a Class 1 misdemeanor.

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

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

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

742 N. For purposes of this section:

743 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C.  
744 § 921 et seq.

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

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

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

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

753 **§ 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees of a**  
754 **gun dealer to transfer firearms; exemptions; penalties.**

755 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C.  
756 § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent,  
757 temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be  
758 prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B  
759 of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an  
760 illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of  
761 § 18.2-308.1:4 or § 18.2-308.1:5.

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

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

773 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
774 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a  
775 sworn and notarized affidavit to the Department of State Police on a form provided by the Department,  
776 stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was  
777 issued by the ATF. The affidavit may also contain the names of any employees that have been subjected  
778 to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL  
779 was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid  
780 FFL number, state the name of each person requesting the exemption, together with each person's  
781 identifying information, including their social security number and the following statement: "I hereby  
782 swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each  
783 person requesting an exemption in this affidavit has been subjected to a fingerprint identification check  
784 by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms  
785 subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I  
786 understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5  
787 felony and that in addition to any other penalties imposed by law, a conviction under this section shall  
788 result in the forfeiture of my federal firearms license."

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

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

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

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

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

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

812 J. Any person willfully and intentionally making a materially false statement on the personal  
 813 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who  
 814 offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any  
 815 dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of  
 816 this section shall be guilty of a Class 1 misdemeanor.

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

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

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

823 N. For purposes of this section:

824 "Dealer" means any person, corporation or proprietorship licensed as a dealer pursuant to 18 U.S.C.  
 825 § 921 et seq.

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

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

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

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

834 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**  
 835 **violation of law.**

836 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,  
 837 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,  
 838 18.2-308.1:4, 18.2-308.1:8, 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,  
 839 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

840 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
 841 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
 842 **necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and**  
 843 **cannot be determined for periods of commitment to the custody of the Department of Juvenile**  
 844 **Justice.**