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HOUSE BILL NO. 2240

Offered January 11, 2023

Prefiled January 11, 2023

A BILL to amend and reenact §§ 16.1-278.9, 18.2-287.4, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.7, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-308.9 through 18.2-308.12, relating to prohibiting the sale, transport, etc., of assault firearms, certain firearm magazines, and silencers; penalties.

Patrons—Helmer, Bennett-Parker, Willett and Lopez

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-278.9, 18.2-287.4, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.7, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-308.9 through 18.2-308.12 as follows:

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

A. If a court has found facts ~~which~~ *that* would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined ~~below in this section, or an assault firearm as defined in § 18.2-308.9;~~ or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v), or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun ~~or~~ a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, *or an assault firearm as defined in § 18.2-308.9*, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

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

If the court finds a second or subsequent such offense, it may order the denial of a driver's license

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59 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the
60 child's ability to apply for a driver's license for a period of one year following the date he reaches the
61 age of 16 and three months, as may be appropriate.

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

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

70 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
71 which shall preserve a record thereof. The report and the record shall include a statement as to whether
72 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
73 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title
74 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth
75 and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles
76 unless the proceeding results in an adjudication of guilt pursuant to subsection F.

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

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

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

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

105 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection
106 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's
107 license has been restored, the court shall or, in the event the violation resulted in the injury or death of
108 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
109 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
110 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
111 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
112 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves
113 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed
114 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or
115 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of
116 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
117 under § 16.1-278.8.

118 **§ 18.2-287.4. Carrying loaded firearms in public areas prohibited; penalty.**

119 It shall be unlawful for any person to carry a loaded (a) semi-automatic center-fire rifle or pistol
120 that expels single or multiple projectiles by action of an explosion of a combustible material and is

equipped at the time of the offense with a magazine that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (b) shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered on or about his person on any public street, road, alley, sidewalk, *or* public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William.

The provisions of this section shall not apply to law-enforcement officers, licensed security guards, military personnel in the performance of their lawful duties, or ~~any person having a valid concealed handgun permit~~ or to any person actually engaged in lawful hunting or lawful recreational shooting activities at an established shooting range or shooting contest. Any person violating the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

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

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

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

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

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

~~C. For purposes of this section, "assault firearm" means any semi-automatic center-fire rifle or pistol that expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.~~

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

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

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

However, this prohibition shall not be applicable when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of § 18.2-308.1:1 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport, possess, or receive firearms pursuant to the laws of the United States.

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

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 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 if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (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,

182 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
183 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially
184 similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to
185 § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the
186 applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to §
187 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm
188 pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

189 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
190 person who is a resident of Virginia until he has (i) obtained written consent and the other information
191 on the consent form specified in subsection A, and provided the Department of State Police with the
192 name, birth date, gender, race, citizenship, and social security and/or any other identification number and
193 the number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
194 criminal history record information by a telephone call to or other communication authorized by the
195 State Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish
196 personal identification and residence in Virginia for purposes of this section, a dealer must require any
197 prospective purchaser to present one photo-identification form issued by a governmental agency of the
198 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
199 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
200 purchase, residency of a member of the armed forces shall include both the state in which the member's
201 permanent duty post is located and any nearby state in which the member resides and from which he
202 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
203 by the Department of Defense does not have a Virginia address may establish his Virginia residency
204 with such photo identification and either permanent orders assigning the purchaser to a duty post,
205 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo
206 identification presented to a dealer by the prospective purchaser is a driver's license or other photo
207 identification issued by the Department of Motor Vehicles, and such identification form contains a date
208 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by
209 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until
210 30 days after the date of issue of an original or duplicate driver's license unless the prospective
211 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing
212 that the original date of issue of the driver's license was more than 30 days prior to the attempted
213 purchase.

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

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

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

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

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

241 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by
242 persons who are citizens of the United States or persons lawfully admitted for permanent residence but
243 residents of other states under the terms of subsections A and B upon furnishing the dealer with one

photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

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

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

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

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

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

F. For purposes of this section:

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

"Antique firearm" means:

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

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

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

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

"Assault firearm" means ~~any semi-automatic center-fire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock the same as that term is defined in § 18.2-308.9.~~

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

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

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

3. Any other firearms that derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of

305 present value and evidence that like firearms are not available except as collectors' items, or that the
306 value of like firearms available in ordinary commercial channels is substantially less.

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

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

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

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

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

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

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

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

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

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

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

345 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
346 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise
347 receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the
348 Commonwealth to be resold or otherwise provided to another person who the transferor knows is
349 ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to
350 a mandatory minimum term of imprisonment of one year. However, if the violation of this subsection
351 involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory
352 minimum term of imprisonment of five years. The prohibitions of this subsection shall not apply to the
353 purchase of a firearm by a person for the lawful use, possession, or transport thereof, pursuant to §
354 18.2-308.7, by his child, grandchild, or individual for whom he is the legal guardian if such child,
355 grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

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

363 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his
364 inventory to any other person, a dealer may require such other person to consent to have the dealer
365 obtain criminal history record information to determine if such other person is prohibited from
366 possessing or transporting a firearm by state or federal law. The Department of State Police shall

establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

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

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

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

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

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;
- f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;
- g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the same transaction, provided that no more than one transaction of this nature is completed per day;
- h. A person who holds a valid Virginia permit to carry a concealed handgun;
- i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios and relics; or
- j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

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

It shall be unlawful for any person under 18 years of age to knowingly and intentionally possess or transport a handgun or, assault firearm as defined in § 18.2-308.9, or shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered anywhere in the Commonwealth. For the purposes of this section, "handgun" means any pistol or revolver or other firearm originally designed, made, and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand and "assault firearm" means any (i) semi-automatic centerfire rifle or pistol which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (ii) shotgun with a magazine which will hold more than seven rounds of the longest ammunition for which it is chambered. A violation of this section shall be is a Class 1 misdemeanor.

This section shall not apply to:

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

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

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

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

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

A. For purposes of this section:

"Assault firearm" means:

1. A semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 12 rounds;

2. A semi-automatic center-fire rifle that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a detachable magazine and has one of the following characteristics: (i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the rifle; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) a grenade launcher; (v) a flare launcher; (vi) a silencer; (vii) a flash suppressor; (viii) a muzzle brake; (ix) a muzzle compensator; (x) a threaded barrel capable of accepting (a) a silencer, (b) a flash suppressor, (c) a muzzle brake, or (d) a muzzle compensator; or (xi) any characteristic of like kind as enumerated in clauses (i) through (x);

3. A semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material with a fixed magazine capacity in excess of 12 rounds;

4. A semi-automatic center-fire pistol that expels single or multiple projectiles by action of an explosion of a combustible material that has the ability to accept a detachable magazine and has one of the following characteristics: (i) a folding or telescoping stock; (ii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iii) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip; (iv) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned; (v) a manufactured weight of 50 ounces or more when the pistol is unloaded; (vi) a threaded barrel capable of accepting (a) a silencer, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip; or (vii) any characteristic of like kind as enumerated in clauses (i) through (vi);

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

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

"Assault firearm" includes any part or combination of parts designed or intended to convert, modify, or otherwise alter a firearm into an assault firearm, or any combination of parts that may be readily assembled into an assault firearm. "Assault firearm" does not include (i) a firearm that has been rendered permanently inoperable, (ii) an antique firearm as defined in § 18.2-308.2:2, or (iii) a curio or relic as defined in § 18.2-308.2:2.

B. It is unlawful for any person to import, sell, transfer, manufacture, or purchase an assault

firearm, provided that a person may transfer an assault firearm to another person if:

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

2. The transfer occurs by operation of law;

3. The person receiving the assault firearm is an executor or administrator of an estate or is a trustee of a trust created by a will, and the assault firearm to be transferred is property of such estate or trust;

4. The transferor is an executor or administrator of an estate or is a trustee of a trust created by a will, and the assault firearm to be transferred is the property of such estate or trust;

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

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

7. The sale or transfer of an assault firearm is to an authorized representative of the Commonwealth or any subdivision thereof as part of an authorized voluntary gun buy-back or give-back program;

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

9. The transfer occurs at a shooting range, shooting gallery, or other area designated for the purpose of target shooting, for use during target practice, a firearms safety or training course or class, a shooting competition, or any similar lawful activity.

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

D. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire an assault firearm and does so while acting within the scope of his duties; (ii) the manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees; or (iv) the purchase by any person of his service handgun pursuant to § 59.1-148.3.

§ 18.2-308.10. Import, sale, transfer, etc., of a large-capacity firearm magazine; penalty.

A. For purposes of this section, "large-capacity firearm magazine" means any firearm magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, more than 15 rounds of ammunition. "Large-capacity firearm magazine" does not include (i) a magazine, belt, drum, feed strip, or similar device that has been permanently altered so that it cannot accept more than 15 rounds of ammunition or (ii) an attached tubular device designed to accept and only capable of operating with .22 caliber rimfire ammunition.

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

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

D. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to acquire or possess a large-capacity firearm magazine and does so while acting within the scope of his duties; (ii) the manufacture of a large-capacity firearm magazine by a firearms manufacturer for the purpose of sale to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of a large-capacity firearm magazine to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees; or (iv) any large-capacity firearm magazine transferred to a person as part of such person's purchase of his service handgun pursuant to § 59.1-148.3.

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

A. For purposes of this section, "silencer" means any device for silencing, muffling, or diminishing the report of a firearm, including any part or combination of parts designed or intended for use in assembling or fabricating such a device.

B. It is unlawful for any person to import, sell, transfer, manufacture, or purchase a silencer, provided that a person may transfer a silencer in accordance with the provisions of the National Firearms Act (26 U.S.C. § 5801 et seq.). A violation of this section is punishable as a Class 6 felony.

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

551 *United States or to a law-enforcement agency in the Commonwealth for use by that agency or its*
552 *employees, provided that the manufacturer is properly licensed under federal, state, and local laws; or*
553 *(iii) the sale or transfer of a silencer to any branch of the Armed Forces of the United States or to a*
554 *law-enforcement agency in the Commonwealth for use by that agency or its employees.*

555 **§ 18.2-308.12. Surrender, etc., of prohibited firearm magazine.**

556 A. Except as provided in subsection B, any person who legally owns a large-capacity firearm
557 magazine, as defined in § 18.2-308.10, on July 1, 2023, may retain possession of such large-capacity
558 firearm magazine until January 1, 2024. During this time period, such person shall (i) render the
559 large-capacity firearm magazine permanently inoperable, (ii) remove the large-capacity firearm
560 magazine from the Commonwealth, (iii) transfer the large-capacity firearm magazine to a person outside
561 the Commonwealth who is not prohibited from possessing the large-capacity firearm magazine, or (iv)
562 surrender the large-capacity firearm magazine to a state or local law-enforcement agency.

563 B. Any person who legally owns a large-capacity firearm magazine on July 1, 2023, and who, on
564 January 1, 2024, (i) is serving outside of the United States in the Armed Services of the United States;
565 (ii) is serving outside of the United States as a member of the diplomatic service of the United States
566 appointed under the Foreign Service Act of 1946; (iii) is serving outside of the United States as a
567 civilian employee of the United States government or any agency or contractor thereof; or (iv) is a
568 spouse or dependent of any person listed in clause (i), (ii), or (iii) may retain possession of such
569 large-capacity firearm magazine until 30 days from the date such person is no longer serving outside of
570 the United States. During this 30-day period, such person shall comply with clause (i), (ii), (iii), or (iv)
571 of subsection A.

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

574 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**
575 **violation of law.**

576 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon, *magazine, or silencer*
577 *concealed, possessed, transported, or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4,*
578 *18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1,*
579 *18.2-308.4, 18.2-308.5, 18.2-308.7, ~~or~~ 18.2-308.8, 18.2-308.9, 18.2-308.10, or 18.2-308.11* shall be
580 forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

581 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
582 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
583 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
584 **correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,**
585 **requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of**
586 **\$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
587 **appropriation cannot be determined for periods of commitment to the custody of the Department**
588 **of Juvenile Justice.**