

23102513D

SENATE BILL NO. 1167

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 56, consisting of sections numbered 59.1-593 through 59.1-596, relating to firearm industry members; standards of responsible conduct; civil liability.

Patrons—Petersen, Barker, Bell, Boysko, Deeds, Ebbin, Edwards, Favola, Hashmi, Howell, Locke, Lucas, Marsden, McClellan, McPike, Rouse, Saslaw, Spruill and Surovell

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 56, consisting of sections numbered 59.1-593 through 59.1-596, as follows:

CHAPTER 56.**VIRGINIA FIREARM INDUSTRY STANDARDS OF RESPONSIBLE CONDUCT.****§ 59.1-593. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Firearm industry member" means a person, firm, corporation, or any other entity engaged in the manufacture, distribution, importation, marketing, or wholesale or retail sale of a firearm industry product.

"Firearm industry product" means:

1. A firearm;

2. Ammunition;

3. A completed frame or receiver;

4. An unfinished frame or receiver;

5. A firearm component or magazine;

6. A device that is designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm, if the device is marketed or sold to the public, or reasonably designed or intended, to be used to increase a firearm's rate of fire, concealability, magazine capacity, or destructive capacity, or to increase the firearm's stability and handling when the firearm is repeatedly fired; or

7. Any machine or device that is marketed or sold to the public, or reasonably designed or intended, to be used to manufacture or produce a firearm or any other firearm industry product pursuant to this section.

"Reasonable controls" means reasonable procedures, safeguards, and business practices that are designed and implemented to:

1. Prevent the sale or distribution of a firearm industry product to a straw purchaser or a person who is otherwise prohibited by law from purchasing, possessing, or transporting a firearm;

2. Prevent the loss or theft of a firearm industry product from a firearm industry member;

3. Ensure a firearm industry member does not promote or facilitate the unlawful manufacture, sale, possession, marketing, or use of a firearm industry product; and

4. Ensure a firearm industry member complies with applicable provisions of state and federal law.

"Unfinished frame or receiver" means any forging, casting, printing, extrusion, machined body, or similar article that has reached a state in the manufacturing process where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or converted.

§ 59.1-594. Firearm industry standard of responsible conduct.

A. A firearm industry member shall:

1. Establish and implement reasonable controls regarding the manufacture, distribution, marketing, importing, and wholesale or retail sale of firearm industry products sold within the Commonwealth; and

2. Take reasonable precautions to ensure the firearm industry member does not sell or distribute a firearm industry product to a downstream distributor or retailer of firearm industry products that fails to establish and implement reasonable controls.

B. A firearm industry member shall not manufacture, distribute, import, market, or offer for the wholesale or retail sale of a firearm industry product that is designed, sold, or marketed in a manner that (i) foreseeably promotes conversion of lawful firearm industry products into unlawful firearm industry products or (ii) targets persons younger than 18 years of age or any other individuals who are

INTRODUCED

SB1167

58 otherwise prohibited by law from purchasing or possessing a firearm.

59 C. A firearm industry member engaged in the manufacture, distribution, importation, marketing, or
60 wholesale or retail sale of a firearm industry product shall comply with the provisions of (i) the
61 Virginia Consumer Protection Act (§ 59.1-196 et seq.); (ii) the Virginia Antitrust Act (§ 59.1-9.1 et
62 seq.); and (iii) Articles 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1
63 (§ 18.2-307.1 et seq.), and 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2.

64 The provisions of this chapter shall apply to a firearm industry member that sells, manufactures,
65 distributes, markets, or intends to sell, make, distribute, or market firearm industry products within the
66 Commonwealth, or that sells, makes, distributes, markets, or intends to sell, make, distribute, or market
67 firearm industry products to be used or possessed within the Commonwealth.

68 **§ 59.1-595. Civil liability; injunctive relief; recovery of damages.**

69 A. A person or entity who suffers harm as a result of a violation of the provisions of this chapter
70 shall be entitled to initiate an action for injunctive relief sufficient to prevent the firearm industry
71 member and any other defendant from further violating the provisions of this chapter or an action to
72 recover for compensatory damages, punitive damages, and reasonable attorney fees and costs.

73 B. The Attorney General may initiate a civil action to enforce the provisions of this chapter.

74 C. An intervening act or omission by a third party where such third party unlawfully purchases,
75 possesses, or transports a firearm industry product shall not preclude a firearm industry member from
76 liability for harm or injury caused by such firearm industry member's violation of the provisions of this
77 chapter. Notwithstanding an intervening act by a third party, there shall be a presumption that a
78 firearm industry member's violation of the provisions of this chapter was the proximate cause of any
79 harm suffered by the plaintiff from a firearm industry product if the firearm industry member's violation
80 created a reasonably foreseeable risk that such harm would occur.

81 Nothing in this chapter shall be construed to limit or impair the right of the Attorney General, or
82 any person or entity, from proceeding against a firearm industry member pursuant to any other civil
83 cause of action or criminal law.

84 **§ 59.1-596. Limitation of action; venue.**

85 A. An action brought pursuant to § 59.1-595 shall be commenced within two years after the cause of
86 action accrues.

87 B. An action brought pursuant to § 59.1-595 may be brought in the city or county of the
88 Commonwealth (i) in which all or a substantial part of the acts or omissions that form the basis for the
89 cause of action occurred, (ii) where any defendant resided when the cause of action arose or where the
90 principal office of any defendant is located, or (iii) where the plaintiff resides if the plaintiff is a natural
91 person.