

23104134D

SENATE BILL NO. 1382

Offered January 11, 2023

Prefiled January 11, 2023

A *BILL to amend and reenact §§ 15.2-915.5, 18.2-308.09, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.2:5, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-287.4:1, 18.2-287.4:2, 18.2-308.1:9, and 18.2-309.1, relating to purchase, possession, sale, transfer, etc., of assault firearms and certain ammunition feeding devices prohibited; penalty.*

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

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-915.5, 18.2-308.09, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.2:3, 18.2-308.2:5, 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 18.2-287.4:1, 18.2-287.4:2, 18.2-308.1:9, and 18.2-309.1 as follows:

§ 15.2-915.5. Disposition of firearms acquired by localities.

A. No locality or agent of such locality may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the locality or agent of such locality unless (i) the governing body of the locality has enacted an ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality in such program or (ii) *the program is a voluntary gun buy-back or give-back program for the surrendering of an assault firearm as defined in § 18.2-308.2:2.*

B. Any ordinance enacted pursuant to this section shall require that any firearm received, except a firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited by federal law, shall be destroyed by the locality unless the person surrendering the firearm requests in writing that the firearm be offered for sale by public auction or sealed bids to a person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the date, time, and place of any sale conducted pursuant to this subsection shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the locality in which the property to be sold is located. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened. Any firearm remaining in possession of the locality or agent of the locality after attempts to sell at public auction or by sealed bids shall be disposed of in a manner the locality deems proper, which may include destruction of the firearm or, subject to any registration requirements of federal law, sale of the firearm to a licensed dealer.

§ 18.2-287.4:1. Importation, sale, possession, etc., of assault firearms prohibited; penalty.

A. As used in this section, an "assault firearm" means the same as that term is defined in § 18.2-308.2:2.

B. Any person who imports, sells, manufactures, purchases, possesses, transports, or transfers an assault firearm is guilty of a Class 1 misdemeanor.

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 or possess an assault firearm and does so while acting within the scope of his duties; (ii) the manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; or (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees.

§ 18.2-287.4:2. Importation, sale, possession, etc., of assault firearms prohibited by persons younger than 21 years of age; penalty.

A. As used in this section, an "assault firearm" means the same as that term is defined in § 18.2-308.2:2 except that it includes such firearms manufactured before July 1, 2023.

B. Any person younger than 21 years of age who imports, sells, manufactures, purchases, possesses, transports, or transfers an assault firearm is guilty of a Class 1 misdemeanor.

INTRODUCED

SB1382

58 *C. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or*
59 *member of the Armed Forces of the United States, to the extent that such person is otherwise authorized*
60 *to acquire or possess an assault firearm and does so while acting within the scope of his duties; (ii) the*
61 *manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of*
62 *the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by*
63 *that agency or its employees, provided that the manufacturer is properly licensed under federal, state,*
64 *and local laws; or (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of*
65 *the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by*
66 *that agency or its employees.*

67 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

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

69 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2,
70 18.2-308.1:3, 18.2-308.1:6, 18.2-308.1:7, ~~or~~ 18.2-308.1:8, or 18.2-308.1:9 or the substantially similar
71 law of any other state or of the United States.

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

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

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

81 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
82 § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

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

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

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

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

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

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

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

100 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by
101 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
102 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement
103 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based
104 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is
105 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief
106 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such
107 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the
108 specific acts, or upon a written statement made under oath before a notary public of a competent person
109 having personal knowledge of the specific acts.

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

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

114 16. An individual whose previous convictions or adjudications of delinquency were based on an
115 offense that would have been at the time of conviction a felony if committed by an adult under the laws
116 of any state, the District of Columbia, the United States or its territories. For purposes of this
117 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the
118 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or
119 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall

not apply to an individual with previous adjudications of delinquency who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge.

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

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

19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1 (§ 18.2-247 et seq.), or former § 18.2-248.1:1 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

§ 18.2-308.1:9. Purchase, possession, or transportation of firearm following conviction for importation, sale, possession, etc., of assault firearm; penalty.

A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm following a misdemeanor conviction for a violation of § 18.2-287.4:1 or 18.2-287.4:2 is guilty of a Class 1 misdemeanor.

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

§ 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, or 18.2-308.1:9 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 in this section 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 and if such firearm is an assault firearm, such person purchasing such assault firearm shall be 21 years of age or older. 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 18.2-308.1:9 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 or 18.2-308.1:9; (ii)

181 is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening
182 the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a
183 protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from
184 purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar
185 law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or
186 adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2
187 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient
188 facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a
189 firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the
190 subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary
191 admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order
192 or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from
193 purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar
194 law of any other jurisdiction.

195 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
196 person who is a resident of Virginia until he has (i) obtained written consent and the other information
197 on the consent form specified in subsection A, and provided the Department of State Police with the
198 name, birth date, gender, race, citizenship, and social security and/or any other identification number and
199 the number of firearms by category intended to be sold, rented, traded, or transferred and; (ii) requested
200 criminal history record information by a telephone call to or other communication authorized by the
201 State Police and is authorized by subdivision 2 to complete the sale or other such transfer; *and (iii) if*
202 *such firearm is an assault firearm, verified that such person is 21 years of age or older.* To establish
203 personal identification and residence in Virginia for purposes of this section, a dealer must require any
204 prospective purchaser to present one photo-identification form issued by a governmental agency of the
205 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
206 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
207 purchase, residency of a member of the armed forces shall include both the state in which the member's
208 permanent duty post is located and any nearby state in which the member resides and from which he
209 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
210 by the Department of Defense does not have a Virginia address may establish his Virginia residency
211 with such photo identification and either permanent orders assigning the purchaser to a duty post,
212 including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo
213 identification presented to a dealer by the prospective purchaser is a driver's license or other photo
214 identification issued by the Department of Motor Vehicles, and such identification form contains a date
215 of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by
216 the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until
217 30 days after the date of issue of an original or duplicate driver's license unless the prospective
218 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing
219 that the original date of issue of the driver's license was more than 30 days prior to the attempted
220 purchase.

221 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to any
222 person *or any semi-automatic center-fire rifle or pistol that expels single or multiple projectiles by*
223 *action of an explosion of a combustible material and is equipped at the time of the offense with a*
224 *magazine that will hold more than 20 rounds of ammunition or is designed by the manufacturer to*
225 *accommodate a silencer or is equipped with a folding stock to any person who is not a citizen of the*
226 *United States or who is not a person lawfully admitted for permanent residence.*

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

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

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

number, and the transaction date.

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

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but 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~~ is 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 (i) semi-automatic ~~center-fire~~ rifle ~~or that has an ability to accept a detachable magazine and has at least two of the following features: (a) a folding or telescoping stock, (b) a pistol grip that protrudes conspicuously beneath the action of the weapon, (c) a bayonet mount, (d) a flash suppressor or threaded barrel designed to accommodate a flash suppressor, or (e) a grenade launcher;~~ (ii) semi-automatic pistol ~~which expels single or multiple projectiles by action of an explosion~~

304 of a combustible material and is equipped at the time of the offense with a magazine which will hold
305 more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or
306 equipped with a folding stock that has an ability to accept a detachable magazine and has at least two
307 of the following features: (a) an ammunition magazine that attaches to the pistol outside of the pistol
308 grip, (b) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip,
309 or silencer, (c) a shroud that is attached to, or partially or completely encircles, the barrel and that
310 permits the shooter to hold the firearm with the non-trigger hand without being burned, (d) a
311 manufactured weight of 50 ounces or more when the pistol is unloaded, and (e) a semi-automatic
312 version of an automatic firearm; (iii) semi-automatic shotgun that has at least two of the following
313 features: (a) a folding or telescoping stock, (b) a pistol grip that protrudes conspicuously beneath the
314 action of the weapon, (c) a fixed magazine capacity in excess of five rounds, and (d) an ability to
315 accept a detachable magazine; or (iv) shotgun with a revolving cylinder that expels single or multiple
316 projectiles by action of an explosion of a combustible material.

317 An "assault firearm" does not include any firearm that is an antique firearm, has been rendered
318 permanently inoperable, is manually operated by bolt, pump, lever, or slide action, or was manufactured
319 before July 1, 2023.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer may require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from 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~~ *is* 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.

S. No person shall purchase an assault firearm from a dealer unless such person is 21 years of age or older.

T. No dealer shall sell, rent, trade, or transfer from his inventory an assault firearm to any person unless such person is 21 years of age or older.

§ 18.2-308.2:3. Criminal background check required for employees of a gun dealer to transfer firearms; exemptions; penalties.

A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.1:9, 18.2-308.2, or 18.2-308.2:01, or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

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

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

C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn and notarized affidavit to the Department of State Police on a form provided by the Department, stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the ATF. The affidavit may also contain the names of any employees that have been subjected to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number, state the name of each person requesting the exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check

by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

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

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

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

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

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

I. Any person 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 by this section and § 18.2-308.2:2, shall be guilty of a Class 2 misdemeanor.

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

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

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

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

N. For purposes of this section:

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

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

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

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

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

§ 18.2-308.2:5. Criminal history record information check required to sell firearm; penalty.

A. No person shall sell a firearm for money, goods, services or anything else of value unless he has obtained verification from a licensed dealer in firearms that information on the prospective purchaser has been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and that a determination has been received from the Department of State Police that the prospective purchaser is not prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by state or federal law.

The Department of State Police shall provide a means by which sellers may obtain from designated licensed dealers the approval or denial of firearm transfer requests, based on criminal history record information checks. The processes established shall conform to the provisions of § 18.2-308.2:2, and the definitions and provisions of § 18.2-308.2:2 regarding criminal history record information checks shall

550 apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees
551 prescribed in § 18.2-308.2:2 as required by that section. The dealer may charge and retain an additional
552 fee not to exceed \$15 for obtaining a criminal history record information check on behalf of a seller.

553 B. Notwithstanding the provisions of subsection A and unless otherwise prohibited by *subsection E*
554 *or* state or federal law, a person may sell a firearm to another person if:

555 1. The sale of a firearm is to an authorized representative of the Commonwealth or any subdivision
556 thereof as part of an authorized voluntary gun buy-back or give-back program;

557 2. The sale occurs at a firearms show, as defined in § 54.1-4200, and the seller has received a
558 determination from the Department of State Police that the purchaser is not prohibited under state or
559 federal law from possessing a firearm in accordance with § 54.1-4201.2; or

560 3. The sale of a firearm is conducted pursuant to § 59.1-148.3, with the exception of a sale
561 conducted pursuant to subsection C of § 59.1-148.3.

562 C. Any person who willfully and intentionally sells a firearm to another person without obtaining
563 verification in accordance with this section is guilty of a Class 1 misdemeanor.

564 D. Any person who willfully and intentionally purchases a firearm from another person without
565 obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

566 E. *No person shall sell an assault firearm as defined in § 18.2-308.2:2 for money, goods, services, or*
567 *anything else of value.*

568 *Any person who willfully and intentionally (i) sells an assault firearm as defined in § 18.2-308.2:2 to*
569 *another person or (ii) purchases an assault firearm as defined in § 18.2-308.2:2 from another person is*
570 *guilty of a Class 1 misdemeanor.*

571 **§ 18.2-309.1. Sale, transfer, etc., of certain firearms magazines prohibited; penalty.**

572 A. As used in this section, a "large capacity ammunition feeding device" means a magazine, belt,
573 drum, feed strip, or similar device manufactured on or after July 1, 2023, that has a capacity of, or that
574 can be readily restored or converted to accept, more than 10 rounds of ammunition but does not include
575 an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire
576 ammunition.

577 B. Any person who imports, sells, barter, or transfers a large capacity ammunition feeding device is
578 guilty of a Class 1 misdemeanor.

579 C. The provisions of this section shall not apply to the manufacture by, transfer to, or possession by
580 the Commonwealth or a department, agency, or political subdivision of the Commonwealth, transfer to
581 or possession by a law-enforcement officer employed by such an entity for purposes of law enforcement,
582 or possession by an individual who is retired from service with a law-enforcement agency and is not
583 otherwise prohibited from receiving ammunition transferred to the individual by the law-enforcement
584 agency upon his retirement.

585 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported, or carried in**
586 **violation of law.**

587 ~~Any~~ If any firearm, stun weapon as defined by § 18.2-308.1, or ~~any~~ weapon, magazine, or trigger
588 activator is concealed, possessed, transported, or carried in violation of § 18.2-283.1, 18.2-287.01,
589 18.2-287.4, 18.2-287.4:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.1:8, 18.2-308.1:9,
590 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.5:1, 18.2-308.7, ~~or~~ 18.2-308.8,
591 or 18.2-309.1, it shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

592 2. That the provisions of this act may result in a net increase in periods of imprisonment or
593 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
594 necessary appropriation cannot be determined for periods of imprisonment in state adult
595 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,
596 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
597 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
598 appropriation cannot be determined for periods of commitment to the custody of the Department
599 of Juvenile Justice.