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HOUSE BILL NO. 173

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on January 19, 2024)

(Patron Prior to Substitute—Delegate Simon)

A BILL to amend and reenact § 18.2-308.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.5:2, relating to manufacture, import, sale, transfer, or possession of plastic firearms and unfinished frames or receivers and unserialized firearms prohibited; penalties.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.5:2 as follows:

§ 18.2-308.5. Manufacture, assemble, import, etc. of plastic firearm prohibited; penalty.

A. It shall be unlawful for any person to knowingly manufacture or assemble, cause to be manufactured or assembled, import, purchase, sell, offer for sale, transfer, or possess (i) any plastic firearm or (ii) any firearm that, after removal of all parts other than a major component, is not detectable as a firearm by the types of detection devices, including X-ray machines, commonly used at airports, government buildings, schools, correctional facilities, and other locations for security screening.

B. As used in this section, "plastic:

"Frame," "receiver," and "security exemplar" have the same meanings attributed to them in 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"Major component" means (i) the slide or cylinder, or the frame or receiver, of the firearm or (ii) in the case of a rifle or shotgun, the barrel of the firearm.

"Plastic firearm" means any firearm, including machine guns and sawed-off shotguns as defined in this chapter, containing less than 3.7 ounces of electromagnetically detectable metal in the barrel, slide, cylinder, frame, or receiver of which that, when subjected to inspection by the types of detection devices, including X-ray machines, commonly used at airports, government buildings, schools, correctional facilities, and other locations for security screening, does not generate an image that accurately depicts its shape.

C. A violation of this section shall be punishable as a Class 5 felony.

§ 18.2-308.5:2. Prohibition on unfinished frames or receivers and unserialized firearms; penalties.

A. As used in this section:

"Federal licensee authorized to serialize firearms" means a person, firm, corporation, or other entity that holds any valid federal license that authorizes the person, firm, corporation, or other entity to imprint serial numbers onto firearms and completed or unfinished frames or receivers pursuant to 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"Federally licensed gunsmith, manufacturer, or importer" means a person, firm, corporation, or other entity that holds a valid gunsmith license or license to manufacture or import firearms issued pursuant to 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"Frame" and "receiver" have the same meanings attributed to them in 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"License to manufacture firearms" means a valid license to manufacture firearms issued pursuant to 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"Manufacture or assemble" means to fabricate, construct, fit together component parts of, or otherwise produce a firearm or completed or unfinished frame or receiver, including through additive, subtractive, or other processes.

"Unfinished frame or receiver" means a forging, casting, printing, extrusion, machined body, or similar item that (i) is designed to or may readily be completed, assembled, or otherwise converted to function as a frame or receiver or (ii) 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 otherwise converted. However, "unfinished frame or receiver" does not include a component designed and intended for use in an antique weapon.

"Valid serial number" means a serial number that has been imprinted by a federal licensee authorized to serialize firearms in accordance with federal law, or that has otherwise been assigned to a firearm or completed or unfinished frame or receiver pursuant to the laws of any state or pursuant to 26 U.S.C. § 5801 et seq. and regulations issued pursuant thereto.

B. It is unlawful to knowingly import, purchase, sell, offer for sale, or transfer ownership of any completed or unfinished frame or receiver, unless the completed or unfinished frame or receiver (i) is

60 deemed to be a firearm pursuant to 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto and
61 (ii) is imprinted with a valid serial number.

62 C. It is unlawful to knowingly possess a firearm or any completed or unfinished frame or receiver
63 that is not imprinted with a valid serial number.

64 D. It is unlawful to manufacture or assemble, cause to be manufactured or assembled, import,
65 purchase, sell, offer for sale, or transfer ownership of any firearm that is not imprinted with a valid
66 serial number.

67 E. Except as authorized by law, it is unlawful for a person who does not have a valid federal license
68 to manufacture or assemble firearms to sell or transfer ownership of a firearm if (i) the person
69 manufactured or assembled the firearm without a valid license to manufacture firearms, (ii) the person
70 knowingly caused the firearm to be manufactured or assembled by another person who does not have a
71 valid federal license to manufacture firearms, or (iii) the person is aware that the firearm was
72 manufactured or assembled by another person who does not have a valid federal license to manufacture
73 firearms.

74 F. A federal firearms licensee may serialize a firearm or frame or receiver of a firearm, including a
75 finished or unfinished frame or receiver, by imprinting a serial number on the firearm, frame, or
76 receiver. To serialize a firearm, frame, or receiver, the dealer or other licensee shall imprint on the
77 firearm, frame, or receiver a serial number beginning with the dealer's or licensee's abbreviated federal
78 firearms license number, which is the first three and last five digits of the license number, followed by a
79 hyphen, before a unique identification number (12345678-(number)). The serial number shall not be
80 duplicated on any other firearm, frame, or receiver serialized by the licensee and shall be imprinted in
81 a manner that complies with the requirements in federal law for imprinting a serial number on a
82 firearm, including the minimum size and depth of the serial number and that the serial number is not
83 susceptible to being readily obliterated, altered, or removed.

84 The federal firearms licensee shall retain a record concerning a firearm, frame, or receiver
85 serialized by the licensee that complies with the requirements under federal law for the sale of a
86 firearm. In addition to any record required by federal law, a federal firearms licensee that imprints a
87 unique serial number on a firearm, frame, or receiver pursuant to this subsection shall make a record at
88 the time of the transaction of each transaction involving serializing a firearm, frame, or receiver and
89 keep that record. The record shall include the following information: the date, name, age, and residence
90 of any person to whom the item is transferred and the unique serial number imprinted on the firearm,
91 frame, or receiver.

92 G. A violation of this section is punishable as a Class 1 misdemeanor. A second or subsequent
93 violation of this section is punishable as a Class 4 felony.

94 H. The provisions of subsection B or C shall not apply to any person possessing or receiving the
95 firearm who is a local, state, or federal law-enforcement officer or a federal firearms importer or
96 federal firearms manufacturer in the scope and course of his official duties or employment.

97 I. This section does not apply to any of the following:

98 1. A firearm, frame, receiver, or unfinished frame or receiver that (a) is an antique firearm as
99 defined in subsection F of § 18.2-308.2:2, (b) has been rendered permanently inoperable, or (c) was
100 manufactured before October 22, 1968;

101 2. The sale, offer for sale, or transfer of ownership of a firearm or any completed or unfinished
102 frame or receiver to a law-enforcement agency;

103 3. The manufacture or assembly, importation, purchase, transfer, or possession of a firearm or any
104 completed or unfinished frame or receiver by a law-enforcement agency for law-enforcement purposes;

105 4. The sale or transfer of ownership of a firearm or any completed or unfinished frame or receiver
106 to a federally licensed gunsmith, manufacturer, or importer or to any other federal licensee authorized
107 to serialize firearms;

108 5. The manufacture or assembly, importation, purchase, or possession of a firearm or any completed
109 or unfinished frame or receiver by a federally licensed gunsmith, manufacturer, or importer or by any
110 other federal licensee authorized to serialize firearms;

111 6. A member of the Armed Forces of the United States or the National Guard while on duty and
112 acting within the scope and course of employment or any law-enforcement agency or forensic
113 laboratory;

114 7. A common carrier, motor carrier, air carrier, or carrier affiliated with an air carrier through
115 common controlling interest that is subject to Title 49 of the United States Code, or an authorized agent
116 of any such carrier, when acting in the course and scope of duties incident to the receipt, processing,
117 transportation, or delivery of property;

118 8. An authorized representative of a local, state, or federal government that receives a firearm or
119 any completed or unfinished frame or receiver as part of an authorized, voluntary buyback program in
120 which the governmental entity is buying or receiving such weapons from private individuals;

121 9. The possession and disposition of a firearm or any completed or unfinished frame or receiver by a

122 person who meets all of the following:

123 a. The person is not prohibited by Virginia or federal law from possessing the weapon;
124 b. The person possessed the firearm or any completed or unfinished frame or receiver no longer than
125 was necessary to deliver it to a law-enforcement agency for that agency's disposition according to law;
126 and

127 c. If the person is transporting the firearm or any completed or unfinished frame or receiver, the
128 person is transporting it to a law-enforcement agency in order to deliver it to the agency for the
129 agency's disposition according to law;

130 10. The possession or importation of a firearm or any completed or unfinished frame or receiver by
131 a nonresident of the Commonwealth who:

132 a. Is traveling with the firearm or completed or unfinished frame or receiver in the Commonwealth
133 in accordance with the provisions of 18 U.S.C. § 926A; or

134 b. Possesses or imports the firearm or completed or unfinished frame or receiver in the
135 Commonwealth exclusively for use in an organized sport shooting event or competition and no longer
136 than reasonably necessary to participate in such an event or competition; or

137 11. The possession or importation of a firearm or any completed or unfinished frame or receiver by
138 a new resident moving into the Commonwealth who, within 90 days of moving into the Commonwealth,
139 causes the firearm or completed or unfinished frame or receiver to be imprinted with a valid serial
140 number, removes the weapon from the Commonwealth, or otherwise comes into compliance with this
141 section.

142 2. That the provisions of this act may result in a net increase in periods of imprisonment or
143 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
144 necessary appropriation cannot be determined for periods of imprisonment in state adult
145 correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I,
146 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
147 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
148 appropriation cannot be determined for periods of commitment to the custody of the Department
149 of Juvenile Justice.

150 3. That the provisions of § 18.2-308.5:2 of the Code of Virginia, as created by this act, with the
151 exception of subsection C, shall become effective on January 1, 2025.

152 4. That the provisions of subsection C of § 18.2-308.5:2 of the Code of Virginia, as created by this
153 act, shall become effective on July 1, 2025.