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HOUSE BILL NO. 270

Offered January 10, 2024

Prefiled January 5, 2024

A BILL to amend and reenact §§ 15.2-915.5, 18.2-308.2:2, and 18.2-308.2:5 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, by adding sections numbered 18.2-308.9 and 18.2-308.10, and by adding in Title 52 a chapter numbered 14, consisting of sections numbered 52-55 through 52-58, relating to sale, transfer, etc., of certain firearms and firearm magazines; Virginia Firearm Buy-Back Program and Fund established; penalties.

Patron—Reid

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-915.5, 18.2-308.2:2, and 18.2-308.2:5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, by adding sections numbered 18.2-308.9 and 18.2-308.10, and by adding in Title 52 a chapter numbered 14, consisting of sections numbered 52-55 through 52-58, as follows:

§ 8.01-44.8. Action for injury resulting from illegal sale or transfer of a restricted rifle or large-capacity firearm magazine.

A. A person is liable for injury to the person or property of another or for wrongful death resulting from the use of a restricted rifle as defined in § 18.2-308.9 or a large-capacity firearm magazine as defined in § 18.2-308.10 in the commission of a crime if it can be shown by clear and convincing evidence that the civil defendant sold or transferred such restricted rifle or large-capacity firearm magazine to the person who committed the crime resulting in the injury to the person or property of another or wrongful death in violation of § 18.2-308.9 or 18.2-308.10.

B. An action brought pursuant to this section shall be commenced within two years after the cause of action accrues.

C. An action brought pursuant to this section may be brought in the city or county of the Commonwealth (i) in which all or a substantial part of the acts or omissions that form the basis for the cause of action occurred, (ii) where any defendant resided when the cause of action arose or where the principal office of any defendant is located, or (iii) where the plaintiff resides if the plaintiff is a natural person.

§ 15.2-915.5. Disposition of firearms acquired by local law-enforcement agencies or localities.

A. No locality or agent of such locality local law-enforcement agency, as that term is defined in § 52-55, 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 local law-enforcement agency, locality, or agent of such locality unless 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 the local law-enforcement agency participates in the Virginia Firearm Buy-Back Program as authorized by the provisions in Chapter 14 (§ 52-55 et seq.) of Title 52.

B. Any ordinance enacted pursuant to this section shall require that any firearm received as part of the Virginia Firearm Buy-Back Program as authorized by the provisions in Chapter 14 (§ 52-55 et seq.) of Title 52, 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 local law-enforcement agency or 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.

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

INTRODUCED

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59 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
60 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
61 information. Such form shall include only the written consent; the name, birth date, gender, race,
62 citizenship, and social security number and/or any other identification number; the number of firearms
63 by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the
64 following questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense
65 listed in § 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older
66 at the time of the offense of a delinquent act that if committed by an adult would be a felony or a
67 misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the
68 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of
69 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted
70 by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to
71 § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally
72 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from
73 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,
74 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
75 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially
76 similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to
77 § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the
78 applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to §
79 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm
80 pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

81 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
82 person who is a resident of Virginia until ~~he has~~ (i) *he has* obtained written consent and the other
83 information on the consent form specified in subsection A, and provided the Department of State Police
84 with the name, birth date, gender, race, citizenship, and social security and/or any other identification
85 number and the number of firearms by category intended to be sold, rented, traded, or transferred ~~and~~;
86 (ii) *he has* requested criminal history record information by a telephone call to or other communication
87 authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such
88 transfer; *and (iii) at least three days have elapsed from the time the prospective purchaser completed*
89 *the consent form specified in subsection A, unless there is a declaration of a national emergency by the*
90 *United States government due to an imminent threat of enemy attack or invasion of the United States, in*
91 *which case the three-day waiting period shall be suspended for the duration of the declared national*
92 *emergency.* To establish personal identification and residence in Virginia for purposes of this section, a
93 dealer must require any prospective purchaser to present one photo-identification form issued by a
94 governmental agency of the Commonwealth or by the United States Department of Defense or a special
95 identification card without a photograph issued pursuant to § 46.2-345.2 that demonstrates that the
96 prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency
97 for firearm purchase, residency of a member of the armed forces shall include both the state in which
98 the member's permanent duty post is located and any nearby state in which the member resides and
99 from which he commutes to the permanent duty post. A member of the armed forces whose photo
100 identification issued by the Department of Defense does not have a Virginia address may establish his
101 Virginia residency with such photo identification and either permanent orders assigning the purchaser to
102 a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When
103 the identification presented to a dealer by the prospective purchaser is a driver's license or other photo
104 identification issued by the Department of Motor Vehicles or a special identification card without a
105 photograph issued pursuant to § 46.2-345.2, and such identification form or card contains a date of issue,
106 the dealer shall not, except for a renewed driver's license or other photo identification issued by the
107 Department of Motor Vehicles or a renewed special identification card without a photograph issued
108 pursuant to § 46.2-345.2, sell or otherwise transfer a firearm to the prospective purchaser until 30 days
109 after the date of issue of an original or duplicate driver's license or special identification card without a
110 photograph unless the prospective purchaser also presents a copy of his Virginia Department of Motor
111 Vehicles driver's record showing that the original date of issue of the driver's license was more than 30
112 days prior to the attempted purchase.

113 In addition, no dealer shall sell, rent, trade, or transfer from his inventory (a) any assault firearm to
114 any person who is not a citizen of the United States or who is not a person lawfully admitted for
115 permanent residence, (b) *any restricted rifle as defined in § 18.2-308.9, or (c) any large-capacity firearm*
116 *magazine as defined in § 18.2-308.10.*

117 Upon receipt of the request for a criminal history record information check, the State Police shall ~~(a)~~
118 *(1)* review its criminal history record information to determine if the buyer or transferee is prohibited
119 from possessing or transporting a firearm by state or federal law, ~~(b)~~ *(2)* inform the dealer if its record
120 indicates that the buyer or transferee is so prohibited, and ~~(c)~~ *(3)* provide the dealer with a unique

reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's request or by return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State Police that a response will not be available by the end of the dealer's fifth business day may ~~immediately~~ complete the sale or transfer *after at least three days have elapsed from the time the prospective purchaser completed the consent form specified in subsection A, unless there is a declaration of a national emergency by the United States government due to an imminent threat of enemy attack or invasion of the United States, in which case the dealer may immediately complete the sale or transfer* and shall not be deemed in violation of this section with respect to such sale or transfer.

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

182 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
183 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
184 is not readily available in the ordinary channels of commercial trade;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or
243 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 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 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 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 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.

§ 18.2-308.2:5. 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 (i) 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 and (ii) *at least three days have elapsed from the time the prospective purchaser completed the written consent form provided by the Department of State Police to have a designated licensed dealer obtain criminal history record information, unless there is a declaration of a national emergency by the United States government due to an imminent threat of enemy attack or invasion of the United States, in which case the three-day waiting period shall be suspended for the duration of the declared national emergency.* 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 apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees prescribed in § 18.2-308.2:2 as required by that section. The dealer may charge and retain an additional fee not to exceed \$15 for obtaining a criminal history record information check on behalf of a seller.

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

1. The sale of a 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;

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

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

C. Any person who willfully and intentionally sells a firearm to another person without obtaining verification *or before at least three days have elapsed since the time the prospective purchaser completed the written consent form provided by the Department of State Police to have a designated licensed dealer obtain criminal history record information* in accordance with this section is guilty of a Class 1 misdemeanor.

D. Any person who willfully and intentionally purchases a firearm from another person without obtaining verification *or before at least three days have elapsed since the time the prospective purchaser completed the written consent form provided by the Department of State Police to have a designated licensed dealer obtain criminal history record information* in accordance with this section is guilty of a

Class 1 misdemeanor.

§ 18.2-308.9. Importation, sale, transfer, etc., of restricted rifles prohibited; penalty.

A. For purposes of this section:

"Authorized rifle" means any rifle that requires human mechanical action to load or reload each round in the chamber and includes any rifle operated by bolt, pump, lever, or slide action and any muzzleloading rifle.

"Restricted rifle" means any rifle that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge. "Restricted rifle" includes any part or combination of parts designed or intended to convert, modify, or otherwise alter a rifle into a restricted rifle, or any combination of parts that may be readily assembled into a restricted rifle. "Restricted rifle" does not include (i) a firearm that has been rendered permanently inoperable, (ii) an antique firearm as defined in § 18.2-308.2:2, (iii) a curio or relic as defined in § 18.2-308.2:2, or (iv) an authorized rifle.

B. Unless otherwise prohibited by law, any person may import, sell, transfer, manufacture, or purchase an authorized rifle in accordance with the provisions of §§ 18.2-308.2:2 and 18.2-308.2:5, as applicable. It is unlawful for any person to import, sell, transfer, manufacture, or purchase a restricted rifle, provided that a person may transfer a restricted rifle 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 restricted rifle is an executor or administrator of an estate or is a trustee of a trust created by a will, and the restricted rifle to be transferred is the 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 restricted rifle 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 the restricted rifle 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 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; or

9. The transfer is temporary and is to a licensed dealer for the purpose of accomplishing service or repair of the restricted rifle.

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 a restricted rifle and does so while acting within the scope of his duties; (ii) the manufacture of a restricted rifle 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 a restricted rifle 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.

§ 18.2-308.10. Import, sale, transfer, etc., of certain firearm magazines; 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 10 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 10 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, or purchase any large-capacity firearm magazine, provided that a person may transfer a large-capacity firearm magazine 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 large-capacity firearm magazine is an executor or administrator of an estate or is a trustee of a trust created by a will, and the large-capacity firearm magazine to be transferred is the 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 large-capacity firearm magazine to be transferred is the property of such estate or trust;

5. The transfer is temporary and occurs within the continuous presence of the owner of the large-capacity firearm magazine; or

6. The sale or transfer of a large-capacity firearm magazine 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.

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 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) the transfer of a large-capacity firearm magazine to a person as part of such person's purchase of his service handgun pursuant to § 59.1-148.3.

CHAPTER 14.

VIRGINIA FIREARM BUY-BACK PROGRAM AND FUND.

§ 52-55. Definitions.

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

"Firearm" means any handgun, assault firearm, or rifle.

"Fund" means the Virginia Firearm Buy-Back Fund.

"Local law-enforcement agency" means any local police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof.

"Program" means the Virginia Firearm Buy-Back Program.

§ 52-56. Virginia Firearm Buy-Back Program established.

A. The Department of State Police (the Department) shall develop policies for the establishment of uniform standards for the creation of the Virginia Firearm Buy-Back Program. The Department shall (i) inform local law-enforcement agencies of the policies and procedures to be used for the Program; (ii) provide guidelines to participating local law-enforcement agencies on implementation of the Program, including (a) designating when and where a person may surrender a firearm; (b) the handling, storage, and disposal of surrendered firearms; and (c) the requirements for reporting to the Department any information about surrendered firearms; (iii) establish a formula for determining the monetary incentive for a surrendered firearm or magazine that shall offer the person surrendering such firearm or magazine an amount equal to the original purchase price, including taxes and any verifiable delivery fees, plus an additional 10 percent of the original purchase price; (iv) establish guidelines for determining the buy-back amount to be offered when the original purchase price cannot be identified with documentation; and (v) establish requirements for remitting the funds to the person surrendering a firearm or magazine within 30 calendar days, including a requirement that such person shall receive an additional \$100 for every month the disbursement is delayed.

B. The establishment of the Program by a local law-enforcement agency is voluntary, and nothing in this chapter shall be construed to be a mandate that a local law-enforcement agency establish or participate in the Program.

C. The Department shall submit a report to the General Assembly on or before November 1 each year on the Program. The report shall include the following: (i) the number of local law-enforcement agencies that participate in the Program or have established a local Program, (ii) the number of firearms and magazines that have been bought back through the Program, and (iii) a summary on how the moneys in the Fund have been used for development and implementation of the Program.

§ 52-57. Participation by a local law-enforcement agency; establishing a local Program.

A local law-enforcement agency may establish a local Program, and a person may surrender a firearm to the participating local law-enforcement agency in accordance with § 52-56. The identity of any person who surrenders a firearm pursuant to this chapter shall be kept confidential.

§ 52-58. Virginia Firearm Buy-Back Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Firearm Buy-Back Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of development and implementation

490 of the Program, including assisting local law-enforcement agencies with implementing the Program
491 within such agencies' localities. Expenditures and disbursements from the Fund shall be made by the
492 State Treasurer on warrants issued by the Comptroller upon written request signed by the
493 Superintendent.

494 2. That the provisions of this act may result in a net increase in periods of imprisonment or
495 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
496 necessary appropriation cannot be determined for periods of imprisonment in state adult
497 correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I,
498 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
499 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
500 appropriation cannot be determined for periods of commitment to the custody of the Department
501 of Juvenile Justice.