

24107815D

SENATE BILL NO. 2

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on February 16, 2024)

(Patron Prior to Substitute—Senator Deeds)

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, 18.2-308.7, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-287.4:1, 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.*

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, 18.2-308.7, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-287.4:1, 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, manufacture, 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, 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, senior military colleges in the Commonwealth organized under 10 U.S.C. § 2111a(f), or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees; or (iv) any member of a cadet corps who is recognized by a public institution of higher education while such member is in the performance of lawful military training or such member is participating in an official ceremonial event for the Commonwealth.

§ 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, 2024.

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.

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, senior military colleges in the Commonwealth organized under 10 U.S.C. § 2111a(f), or to a law-enforcement agency in the Commonwealth for use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local laws; (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees; or (iv) any member of a cadet corps who is recognized by a public institution of higher education while such member is in the performance of lawful military training or such member is participating in an official ceremonial event for the Commonwealth.

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

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

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 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 law of any other state or of the United States.

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

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

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

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

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

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

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

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

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

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

12. An individual who is a fugitive from justice.

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

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

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense that would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the

conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or 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 convicted of a violation of § 18.2-287.4:1 or 18.2-287.4:2 or this section shall be prohibited from purchasing, possessing, or transporting a firearm for three years following the date of such conviction at which point the person convicted of such offense shall no longer be prohibited from purchasing, possessing, or transporting a firearm pursuant to this section. 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 manufactured before July 1, 2024, 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) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred and; (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer; and (iii) if such firearm is an assault firearm manufactured before July 1, 2024, verified that such person is 21 years of age or older. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense or a special identification card without a photograph issued pursuant to § 46.2-345.2 that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles or a special identification card without a photograph issued pursuant to § 46.2-345.2, and such identification form or card contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles or a renewed special identification card without a photograph issued pursuant to § 46.2-345.2, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license or special identification card without a photograph unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

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

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

306 "Assault firearm" means any:

307 1. A semi-automatic center-fire rifle or pistol which that expels single or multiple projectiles by
308 action of an explosion of a combustible material and is equipped at the time of the offense with a
309 magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to
310 accommodate a silencer or equipped with a folding stock with a fixed magazine capacity in excess of 10
311 rounds;

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

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

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

334 5. A shotgun with a magazine that will hold more than seven rounds of the shortest ammunition for
335 which it is chambered.

336 An "assault firearm" does not include any firearm that is an antique firearm, has been rendered
337 permanently inoperable, is manually operated by bolt, pump, lever, or slide action, or was manufactured
338 before July 1, 2024.

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

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

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

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

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

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

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

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

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

364 H. The provisions of this section shall not apply to (i) transactions between persons who are licensed
365 as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii)
366 purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth
367 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of

Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

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

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

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

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, 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

429 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
430 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
431 the limit.

432 Upon being satisfied that these requirements have been met, the Department of State Police shall
433 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
434 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
435 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection
436 as provided in § 54.1-4201 for a period of not less than two years. Upon request of any local
437 law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such
438 local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the
439 Department of State Police, issue certificates immediately pursuant to this subdivision. Applications and
440 certificates issued under this subdivision shall be maintained as records as provided in subdivision B 3.
441 The Department of State Police shall make available to local law-enforcement agencies all records
442 concerning certificates issued pursuant to this subdivision and all records provided for in subdivision B
443 3.

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

- 445 a. A law-enforcement agency;
- 446 b. An agency duly authorized to perform law-enforcement duties;
- 447 c. A state or local correctional facility;
- 448 d. A private security company licensed to do business within the Commonwealth;
- 449 e. The purchase of antique firearms;

450 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
451 be replaced immediately. Such person may purchase another handgun, even if the person has previously
452 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer
453 with a copy of the official police report or a summary thereof, on forms provided by the Department of
454 State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the
455 official police report or summary thereof contains the name and address of the handgun owner, a
456 description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date
457 the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as
458 reflected on the official police report or summary thereof occurred within 30 days of the person's
459 attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or
460 summary thereof to the original copy of the Virginia firearms transaction report completed for the
461 transaction and retain it for the period prescribed by the Department of State Police;

462 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of
463 the same transaction, provided that no more than one transaction of this nature is completed per day;

464 h. A person who holds a valid Virginia permit to carry a concealed handgun;

465 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
466 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
467 for the enhancement of a personal collection of curios or relics or who sells all or part of such
468 collection of curios and relics; or

469 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any
470 employee of a police department or sheriff's office that is part of or administered by the Commonwealth
471 or any political subdivision thereof and who is responsible for the prevention and detection of crime and
472 the enforcement of the penal, traffic, or highway laws of the Commonwealth.

473 *S. No person shall purchase an assault firearm manufactured before July 1, 2024, from a dealer*
474 *unless such person is 21 years of age or older.*

475 *T. No dealer shall sell, rent, trade, or transfer from his inventory an assault firearm manufactured*
476 *before July 1, 2024, to any person unless such person is 21 years of age or older.*

477 **§ 18.2-308.2:3. Criminal background check required for employees of a gun dealer to transfer**
478 **firearms; exemptions; penalties.**

479 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C.
480 § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent,
481 temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be
482 prohibited from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B
483 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
484 18.2-308.2:01, or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant
485 to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

486 B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement
487 or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit
488 the applicant's fingerprints and personal descriptive information to the Central Criminal Records
489 Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining
490 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 is 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 is guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section shall be is 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 is 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 is 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 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 *subsection E* or 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 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 in accordance with this section is guilty of a Class 1 misdemeanor.

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

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

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

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

This section shall not apply to:

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

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

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

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

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

A. As used in this section, a "large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device manufactured on or after July 1, 2024, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition but does not include an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.

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

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

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

~~Any~~ If any firearm, stun weapon as defined by § 18.2-308.1, or ~~any~~ weapon, magazine, or trigger activator is concealed, possessed, transported, or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-287.4:1, 18.2-287.4:2, 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, 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, or 18.2-309.1, it shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

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