

HOUSE BILL NO. 1992

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

(Patron Prior to Substitute--Delegate Murphy)

A BILL to amend and reenact §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.1:8, relating to purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.09, 18.2-308.2:1, as it is currently effective and as it shall become effective, 18.2-308.2:2, as it is currently effective and as it shall become effective, 18.2-308.2:3, as it is currently effective and as it shall become effective, and 19.2-386.28 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.1:8 as follows:

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

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

1. (Effective until July 1, 2021) 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, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) 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, ~~or~~ 18.2-308.1:7, or 18.2-308.1:8 or the substantially similar law of any other state or of the United States.

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

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

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

35 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
36 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

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

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

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

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

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

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

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

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

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

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

68 16. An individual whose previous convictions or adjudications of delinquency were based on an
69 offense that would have been at the time of conviction a felony if committed by an adult under the laws
70 of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier,
71 only convictions occurring within 16 years following the later of the date of (i) the conviction or
72 adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be
73 deemed to be "previous convictions." Disqualification under this subdivision shall not apply to an
74 individual with previous adjudications of delinquency who has completed a term of service of no less than
75 two years in the Armed Forces of the United States and, if such person has been discharged from the
76 Armed Forces of the United States, received an honorable discharge.

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

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

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

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

93 **§ 18.2-308.1:8. Purchase, possession, or transportation of firearm following an assault and**
94 **battery of a family or household member; penalty.**

95 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm
96 following a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the offense
97 of assault and battery of a family or household member or (ii) an offense substantially similar to clause (i)
98 under the laws of any other state or of the United States is guilty of a Class 1 misdemeanor.

99 B. For the purposes of this section, "family or household member" means (i) the person's spouse,
100 whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or
101 not he resides in the same home with the person; or (iii) any individual who has a child in common with
102 the person, whether or not the person and that individual have been married or have resided together at
103 any time.

104 C. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to
105 subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for three years

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

111 **§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain**
112 **persons.**

113 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with
114 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from
115 possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection
116 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
117 guilty of a Class 4 felony.

118 Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
119 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
120 from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:8 is guilty of a Class 1
121 misdemeanor.

122 However, this prohibition shall not be applicable when the person convicted of the felony or
123 misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit
124 pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of § 18.2-308.1:1,
125 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities removed in
126 accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport, possess or
127 receive firearms pursuant to the laws of the United States.

128 **§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain**
129 **persons; penalties.**

130 ~~A~~ Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
131 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
132 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,

133 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-
134 308.7 is guilty of a Class 4 felony.

135 Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
136 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
137 from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:7 or 18.2-308.1:8 is guilty
138 of a Class 1 misdemeanor.

139 However, this prohibition shall not be applicable when the person convicted of the felony or
140 misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i) been issued a permit
141 pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection B of § 18.2-308.1:1
142 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities removed in
143 accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport, possess, or
144 receive firearms pursuant to the laws of the United States.

145 ~~B. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control~~
146 ~~with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited~~
147 ~~from purchasing, possessing or transporting a firearm pursuant to § 18.2-308.1:7 is guilty of a Class 1~~
148 ~~misdemeanor.~~

149 **§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check**
150 **required for the transfer of certain firearms.**

151 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
152 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
153 information. Such form shall include only the written consent; the name, birth date, gender, race,
154 citizenship, and social security number and/or any other identification number; the number of firearms by
155 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following
156 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §
157 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of
158 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~
159 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the

160 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of
161 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by
162 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §
163 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally
164 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from
165 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,
166 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
167 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar
168 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809
169 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject
170 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or
171 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-
172 308.1:6 or any substantially similar law of any other jurisdiction.

173 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
174 person who is a resident of Virginia until he has (i) obtained written consent and the other information on
175 the consent form specified in subsection A, and provided the Department of State Police with the name,
176 birth date, gender, race, citizenship, and social security and/or any other identification number and the
177 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
178 criminal history record information by a telephone call to or other communication authorized by the State
179 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal
180 identification and residence in Virginia for purposes of this section, a dealer must require any prospective
181 purchaser to present one photo-identification form issued by a governmental agency of the
182 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
183 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
184 purchase, residency of a member of the armed forces shall include both the state in which the member's
185 permanent duty post is located and any nearby state in which the member resides and from which he
186 commutes to the permanent duty post. A member of the armed forces whose photo identification issued

187 by the Department of Defense does not have a Virginia address may establish his Virginia residency with
188 such photo identification and either permanent orders assigning the purchaser to a duty post, including the
189 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification
190 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued
191 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer
192 shall not, except for a renewed driver's license or other photo identification issued by the Department of
193 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the
194 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a
195 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue
196 of the driver's license was more than 30 days prior to the attempted purchase.

197 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to
198 any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
199 residence.

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

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

210 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
211 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
212 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
213 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or

214 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
215 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
216 number, and the transaction date.

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

224 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by
225 persons who are citizens of the United States or persons lawfully admitted for permanent residence but
226 residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-
227 identification form issued by a governmental agency of the person's state of residence and one other form
228 of identification determined to be acceptable by the Department of Criminal Justice Services.

229 6. For the purposes of this subsection, the phrase "dealer's third business day" shall not include
230 December 25.

231 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
232 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision
233 B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law
234 unless he has first obtained from the Department of State Police a report indicating that a search of all
235 available criminal history record information has not disclosed that the person is prohibited from
236 possessing or transporting a firearm under state or federal law.

237 To establish personal identification and dual resident eligibility for purposes of this subsection, a
238 dealer shall require any prospective purchaser to present one photo-identification form issued by a
239 governmental agency of the prospective purchaser's state of legal residence and other documentation of
240 dual residence within the Commonwealth. The other documentation of dual residence in the

241 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
242 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
243 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
244 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
245 residence determined to be acceptable by the Department of Criminal Justice Services and that
246 corroborates that the prospective purchaser currently resides in Virginia.

247 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
248 exercise his right of access to and review and correction of criminal history record information under §
249 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
250 days of such denial.

251 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history
252 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
253 disseminate criminal history record information except as authorized in this section shall be guilty of a
254 Class 2 misdemeanor.

255 F. For purposes of this section:

256 "Actual buyer" means a person who executes the consent form required in subsection B or C, or
257 other such firearm transaction records as may be required by federal law.

258 "Antique firearm" means:

259 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type
260 of ignition system) manufactured in or before 1898;

261 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
262 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
263 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
264 is not readily available in the ordinary channels of commercial trade;

265 3. Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol that is designed to
266 use black powder, or a black powder substitute, and that cannot use fixed ammunition. For purposes of
267 this subdivision, the term "antique firearm" shall not include any weapon that incorporates a firearm frame

268 or receiver, any firearm that is converted into a muzzle-loading weapon, or any muzzle-loading weapon
269 that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech-block, or any
270 combination thereof; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

345 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his
346 inventory to any other person, a dealer may require such other person to consent to have the dealer obtain
347 criminal history record information to determine if such other person is prohibited from possessing or
348 transporting a firearm by state or federal law. The Department of State Police shall establish policies and

349 procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the
350 Department of State Police, and the processes established for making such determinations shall conform
351 to the provisions of this section.

352 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
353 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
354 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
355 a handgun purchased from such seller by the same person seeking the exchange or replacement within the
356 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
357 is punishable as a Class 1 misdemeanor.

358 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
359 an enhanced background check, as described in this subsection, by special application to the Department
360 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
361 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
362 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
363 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
364 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
365 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
366 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
367 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
368 the limit.

369 Upon being satisfied that these requirements have been met, the Department of State Police shall
370 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
371 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
372 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as
373 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement
374 agency, and pursuant to its regulations, the Department of State Police may certify such local law-
375 enforcement agency to serve as its agent to receive applications and, upon authorization by the Department

376 of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates
377 issued under this subdivision shall be maintained as records as provided in subdivision B 3. The
378 Department of State Police shall make available to local law-enforcement agencies all records concerning
379 certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

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

381 a. A law-enforcement agency;

382 b. An agency duly authorized to perform law-enforcement duties;

383 c. A state or local correctional facility;

384 d. A private security company licensed to do business within the Commonwealth;

385 e. The purchase of antique firearms;

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

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

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

401 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
402 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms

403 for the enhancement of a personal collection of curios or relics or who sells all or part of such collection
404 of curios and relics; or

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

409 **§ 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required**
410 **for the transfer of certain firearms.**

411 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
412 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
413 information. Such form shall include only the written consent; the name, birth date, gender, race,
414 citizenship, and social security number and/or any other identification number; the number of firearms by
415 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following
416 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §
417 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of
418 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~
419 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the
420 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of
421 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by
422 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §
423 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally
424 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from
425 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,
426 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health
427 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar
428 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809
429 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject

430 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or
431 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-
432 308.1:6 or any substantially similar law of any other jurisdiction.

433 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
434 person who is a resident of Virginia until he has (i) obtained written consent and the other information on
435 the consent form specified in subsection A, and provided the Department of State Police with the name,
436 birth date, gender, race, citizenship, and social security and/or any other identification number and the
437 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested
438 criminal history record information by a telephone call to or other communication authorized by the State
439 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal
440 identification and residence in Virginia for purposes of this section, a dealer must require any prospective
441 purchaser to present one photo-identification form issued by a governmental agency of the
442 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
443 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
444 purchase, residency of a member of the armed forces shall include both the state in which the member's
445 permanent duty post is located and any nearby state in which the member resides and from which he
446 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
447 by the Department of Defense does not have a Virginia address may establish his Virginia residency with
448 such photo identification and either permanent orders assigning the purchaser to a duty post, including the
449 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification
450 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued
451 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer
452 shall not, except for a renewed driver's license or other photo identification issued by the Department of
453 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the
454 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a
455 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue
456 of the driver's license was more than 30 days prior to the attempted purchase.

457 In addition, no dealer shall sell, rent, trade, or transfer from his inventory any assault firearm to
458 any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
459 residence.

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

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

470 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
471 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
472 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
473 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or
474 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
475 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
476 number, and the transaction date.

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

484 5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by
485 persons who are citizens of the United States or persons lawfully admitted for permanent residence but
486 residents of other states under the terms of subsections A and B upon furnishing the dealer with one photo-
487 identification form issued by a governmental agency of the person's state of residence and one other form
488 of identification determined to be acceptable by the Department of Criminal Justice Services.

489 6. For the purposes of this subsection, the phrase "dealer's third business day" does not include
490 December 25.

491 C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the
492 transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision
493 B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law
494 unless he has first obtained from the Department of State Police a report indicating that a search of all
495 available criminal history record information has not disclosed that the person is prohibited from
496 possessing or transporting a firearm under state or federal law.

497 To establish personal identification and dual resident eligibility for purposes of this subsection, a
498 dealer shall require any prospective purchaser to present one photo-identification form issued by a
499 governmental agency of the prospective purchaser's state of legal residence and other documentation of
500 dual residence within the Commonwealth. The other documentation of dual residence in the
501 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
502 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
503 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
504 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of
505 residence determined to be acceptable by the Department of Criminal Justice Services and that
506 corroborates that the prospective purchaser currently resides in Virginia.

507 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
508 exercise his right of access to and review and correction of criminal history record information under §
509 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
510 days of such denial.

511 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history
512 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
513 disseminate criminal history record information except as authorized in this section, shall be guilty of a
514 Class 2 misdemeanor.

515 F. For purposes of this section:

516 "Actual buyer" means a person who executes the consent form required in subsection B or C, or
517 other such firearm transaction records as may be required by federal law.

518 "Antique firearm" means:

519 1. Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type
520 of ignition system) manufactured in or before 1898;

521 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
522 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire
523 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
524 is not readily available in the ordinary channels of commercial trade;

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

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

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

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

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

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

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

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

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

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

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

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

561 H. The provisions of this section shall not apply to (i) transactions between persons who are
562 licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.;

563 (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth
564 or any local government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of
565 Chapter 8 of Title 23.1; or (iii) antique firearms or curios or relics.

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

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

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

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

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

587 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such
588 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive
589 from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be

590 resold or otherwise provided to another person who the transferor knows is ineligible to purchase or
591 otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum
592 term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of
593 more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of
594 five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for
595 the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or
596 individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely
597 because of his age, to purchase a firearm.

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

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

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

605 Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his
606 inventory to any other person, a dealer may require such other person to consent to have the dealer obtain
607 criminal history record information to determine if such other person is prohibited from possessing or
608 transporting a firearm by state or federal law. The Department of State Police shall establish policies and
609 procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the
610 Department of State Police, and the processes established for making such determinations shall conform
611 to the provisions of this section.

612 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
613 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
614 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
615 a handgun purchased from such seller by the same person seeking the exchange or replacement within the

616 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
617 is punishable as a Class 1 misdemeanor.

618 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
619 an enhanced background check, as described in this subsection, by special application to the Department
620 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
621 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
622 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
623 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
624 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
625 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
626 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
627 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
628 the limit.

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

- 640 2. The provisions of this subsection shall not apply to:
- 641 a. A law-enforcement agency;
 - 642 b. An agency duly authorized to perform law-enforcement duties;

- 643 c. A state or local correctional facility;
- 644 d. A private security company licensed to do business within the Commonwealth;
- 645 e. The purchase of antique firearms;
- 646 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
647 be replaced immediately. Such person may purchase another handgun, even if the person has previously
648 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with
649 a copy of the official police report or a summary thereof, on forms provided by the Department of State
650 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official
651 police report or summary thereof contains the name and address of the handgun owner, a description of
652 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
653 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official
654 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.
655 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy
656 of the Virginia firearms transaction report completed for the transaction and retain it for the period
657 prescribed by the Department of State Police;
- 658 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part
659 of the same transaction, provided that no more than one transaction of this nature is completed per day;
- 660 h. A person who holds a valid Virginia permit to carry a concealed handgun;
- 661 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private
662 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms
663 for the enhancement of a personal collection of curios or relics or who sells all or part of such collection
664 of curios and relics; or
- 665 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means
666 any employee of a police department or sheriff's office that is part of or administered by the
667 Commonwealth or any political subdivision thereof and who is responsible for the prevention and
668 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

669 § 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for
670 employees of a gun dealer to transfer firearms; exemptions; penalties.

671 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
672 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
673 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
674 from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-
675 308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or is prohibited
676 from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

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

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

688 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
689 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
690 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
691 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
692 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
693 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
694 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,
695 state the name of each person requesting the exemption, together with each person's identifying

696 information, including their social security number and the following statement: "I hereby swear, under
697 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
698 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
699 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
700 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
701 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in
702 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
703 of my federal firearms license."

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

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

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

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

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

723 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history
724 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
725 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,
726 shall be guilty of a Class 2 misdemeanor.

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

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

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

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

738 N. For purposes of this section:

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

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

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

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

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

749 § 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees
750 of a gun dealer to transfer firearms; exemptions; penalties.

751 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
752 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
753 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
754 from possessing a firearm under § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection B of § 18.2-
755 308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an illegal alien,
756 or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or §
757 18.2-308.1:5.

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

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

769 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
770 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
771 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
772 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
773 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
774 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
775 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,

776 state the name of each person requesting the exemption, together with each person's identifying
777 information, including their social security number and the following statement: "I hereby swear, under
778 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
779 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
780 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
781 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
782 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in
783 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
784 of my federal firearms license."

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

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

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

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

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

804 I. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history
805 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
806 disseminate criminal history record information except as authorized by this section and § 18.2-308.2:2,
807 shall be guilty of a Class 2 misdemeanor.

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

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

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

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

819 N. For purposes of this section:

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

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

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

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

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

830 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**
831 **violation of law.**

832 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,
833 transported or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3,
834 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7,
835 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

836 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
837 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
838 **appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be**
839 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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