

## 1 SENATE BILL NO. 328

## 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Public Safety

4 on \_\_\_\_\_)

5 (Patron Prior to Substitute--Senator Reeves)

6 A BILL to amend and reenact §§ 2.2-5515, 15.2-1721.1, and 52-11.3 of the Code of Virginia, and to  
7 repeal §§ 19.2-83.4 through 19.2-83.7 of the Code of Virginia, relating to acquisition and use of  
8 military property by law-enforcement agencies.

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 2.2-5515, 15.2-1721.1, and 52-11.3 of the Code of Virginia are amended and reenacted as**  
11 **follows:**

12 **§ 2.2-5515. Acquisition of military property.**

13 A. No agency of the Commonwealth or director or chief executive of any agency or department  
14 employing law-enforcement officers as defined in § 9.1-101 shall acquire or purchase (i) weaponized  
15 unmanned aerial vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no  
16 established commercial flight application; (iii) grenades or similar explosives or grenade launchers from  
17 a surplus program operated by the federal government; (iv) ~~armored multi-wheeled vehicles that are mine-~~  
18 ~~resistant, ambush-protected, and configured for combat, also known as MRAPs, from a surplus program~~  
19 ~~operated by the federal government;~~ (v) bayonets; ~~(vi) firearms of .50 caliber or higher;~~ (vii) ~~ammunition~~  
20 ~~of .50 caliber or higher; or (viii) or (v) weaponized tracked armored vehicles.~~

21 Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility  
22 multi-purpose wheeled vehicle, also known as HMMWVs, or preclude the seizure of any prohibited item  
23 in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property  
24 obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided  
25 by law.

26 B. Any agency of the Commonwealth or director or chief executive of any agency or department  
27 employing law-enforcement officers as defined in § 9.1-101 that has previously acquired any item listed  
28 in subsection A is prohibited from using such items unless such agency, director, or chief executive has  
29 received a waiver to use such items from the Criminal Justice Services Board. Any waiver request made  
30 to the Criminal Justice Services Board, except a waiver request from the Department of State Police, shall  
31 be limited to special weapons and tactics unit or other equivalent unit use only. The Department of State  
32 Police may seek a waiver for any of its units. The Criminal Justice Services Board may grant a waiver  
33 upon a showing of good cause by the requesting agency, director, or chief executive that the continued  
34 use of the item that is the subject of the waiver request has a bona fide public safety purpose.

35 Any agency, director, or chief executive that has filed a waiver request with the Criminal Justice  
36 Services Board may continue to use such prohibited items while such waiver request is pending before  
37 the Criminal Justice Services Board. If such waiver request is denied, the agency, director, or chief  
38 executive that filed such waiver shall no longer use such prohibited item.

39 C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise  
40 acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal  
41 property that is not specifically prohibited pursuant to subsection A from the federal government.

42 D. The provisions of this section shall not apply to the Virginia National Guard or Virginia Defense  
43 Force.

44 **§ 15.2-1721.1. Acquisition of military property by localities.**

45 A. No locality, sheriff, chief of police, or director or chief executive of any agency or department  
46 employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 or any public or private  
47 institution of higher education that has established a campus police department pursuant to Article 3 (§  
48 23.1-809 et seq.) of Chapter 8 of Title 23.1 shall acquire or purchase (i) weaponized unmanned aerial  
49 vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no established  
50 commercial flight application; (iii) grenades or similar explosives or grenade launchers from a surplus  
51 program operated by the federal government; (iv) ~~armored multi-wheeled vehicles that are mine-resistant,~~  
52 ~~ambush-protected, and configured for combat, also known as MRAPs, from a surplus program operated~~

53 ~~by the federal government; (v) bayonets; (vi) firearms of .50 caliber or higher; (vii) ammunition of .50~~  
54 ~~caliber or higher; or (viii) or (v) weaponized tracked armored vehicles.~~ Nothing in this subsection shall  
55 restrict the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle, also  
56 known as HMMWVs, or preclude the seizure of any prohibited item in connection with a criminal  
57 investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure shall be  
58 disposed of at the conclusion of any investigation or as otherwise provided by law.

59 B. Any locality, sheriff, chief of police, or director or chief executive of any agency or department  
60 employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 that has previously acquired  
61 any item listed in subsection A is prohibited from using such items unless such locality, sheriff, chief of  
62 police, or director or chief executive has received a waiver to use such items from the Criminal Justice  
63 Services Board. Any waiver request made to the Criminal Justice Services Board shall be limited to special  
64 weapons and tactics unit or other equivalent unit use only. The Criminal Justice Services Board may grant  
65 a waiver upon a showing of good cause by the requesting locality, sheriff, chief of police, or director or  
66 chief executive that the continued use of the item that is the subject of the waiver request has a bona fide  
67 public safety purpose.

68 Any locality, sheriff, chief of police, or director or chief executive that has filed a waiver request  
69 with the Criminal Justice Services Board may continue to use such prohibited items while such waiver  
70 request is pending before the Criminal Justice Services Board. If such waiver request is denied, the  
71 locality, sheriff, chief of police, or director or chief executive that filed such waiver shall no longer use  
72 such prohibited item.

73 C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise  
74 acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal  
75 property that is not specifically prohibited pursuant to subsection A from the federal government.

76 **§ 52-11.3. Acquisition of military property.**

77 A. The Superintendent of State Police is authorized to apply for and accept grants or loans of  
78 personal property from the U.S. Department of Defense for use in the law-enforcement activities of the  
79 Department of State Police or any other law-enforcement agency of the Commonwealth or its political

80 subdivisions. In connection with the receipt of such property, the Department of State Police and any other  
81 law-enforcement agency to which the property is transferred may agree to hold the United States  
82 government harmless against claims for damages arising out of the use of the property received. Such  
83 other law-enforcement agencies may also agree to hold the Commonwealth harmless against such claims.

84 B. Notwithstanding the provisions of subsection A, the Superintendent shall not acquire or  
85 purchase (i) weaponized unmanned aerial vehicles; (ii) aircraft that are configured for combat or are  
86 combat-coded and have no established commercial flight application; (iii) grenades or similar explosives  
87 or grenade launchers from a surplus program operated by the federal government; (iv) ~~armored multi-~~  
88 ~~wheeled vehicles that are mine resistant, ambush protected, and configured for combat, also known as~~  
89 ~~MRAPs, from a surplus program operated by the federal government;~~ (v) bayonets; (vi) ~~firearms of .50~~  
90 ~~caliber or higher;~~ (vii) ~~ammunition of .50 caliber or higher;~~ or (viii) or (v) weaponized tracked armored  
91 vehicles.

92 Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility  
93 multi-purpose wheeled vehicle, also known as HMMWVs, or preclude the seizure of any prohibited item  
94 in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property  
95 obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided  
96 by law.

97 C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise  
98 acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal  
99 property that is not specifically prohibited pursuant to subsection B from the federal government.

100 **2. That §§ 19.2-83.4 through 19.2-83.7 of the Code of Virginia of the Code of Virginia are repealed.**

101

#