

SENATE BILL NO. 1362

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(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, 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, 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

27 subsection shall be given by advertisement in at least two newspapers published and having general
28 circulation in the Commonwealth, at least one of which shall have general circulation in the locality in
29 which the property to be sold is located. At least 30 days shall elapse between publication of the notice
30 and the auction or the date on which sealed bids will be opened. Any firearm remaining in possession of
31 the locality or agent of the locality after attempts to sell at public auction or by sealed bids shall be disposed
32 of in a manner the locality deems proper, which may include destruction of the firearm or, subject to any
33 registration requirements of federal law, sale of the firearm to a licensed dealer.

34 **§ 18.2-287.4:1. Importation, sale, possession, etc., of assault firearms prohibited; penalty.**

35 A. As used in this section, an "assault firearm" means the same as that term is defined in § 18.2-
36 308.2:2.

37 B. Any person who imports, sells, manufactures, purchases, possesses, transports, or transfers an
38 assault firearm is guilty of a Class 1 misdemeanor.

39 C. The provisions of this section shall not apply to (i) any government officer, agent, or employee,
40 or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized
41 to acquire or possess an assault firearm and does so while acting within the scope of his duties; (ii) the
42 manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of the
43 Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that
44 agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local
45 laws; or (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed
46 Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency
47 or its employees.

48 **§ 18.2-287.4:2. Importation, sale, possession, etc., of assault firearms prohibited by persons**
49 **younger than 21 years of age; penalty.**

50 A. As used in this section, an "assault firearm" means the same as that term is defined in § 18.2-
51 308.2:2 except that it includes such firearms manufactured before July 1, 2023.

52 B. Any person younger than 21 years of age who imports, sells, manufactures, purchases,
53 possesses, transports, or transfers an assault firearm is guilty of a Class 1 misdemeanor.

54 C. The provisions of this section shall not apply to (i) any government officer, agent, or employee,
55 or member of the Armed Forces of the United States, to the extent that such person is otherwise authorized
56 to acquire or possess an assault firearm and does so while acting within the scope of his duties; (ii) the
57 manufacture of an assault firearm by a firearms manufacturer for the purpose of sale to any branch of the
58 Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that
59 agency or its employees, provided that the manufacturer is properly licensed under federal, state, and local
60 laws; or (iii) the sale or transfer of an assault firearm by a licensed dealer to any branch of the Armed
61 Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency
62 or its employees.

63 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

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

65 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2,
66 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
67 of any other state or of the United States.

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

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

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

77 5. An individual who is subject to a restraining order, or to a protective order and prohibited by §
78 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

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

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

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

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

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

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

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

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

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

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

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

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

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

123 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
124 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
125 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
126 of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any
127 controlled substance, under the laws of any state, the District of Columbia, or the United States or its
128 territories.

129 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within
130 the three-year period immediately preceding the application, upon a charge of any criminal offense set
131 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
132 or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any

133 controlled substance under the laws of any state, the District of Columbia, or the United States or its
134 territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed
135 of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of
136 Columbia, or the United States or its territories.

137 **§ 18.2-308.1:9. Purchase, possession, or transportation of firearm following conviction for**
138 **importation, sale, possession, etc., of assault firearm; penalty.**

139 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm
140 following a misdemeanor conviction for a violation of § 18.2-287.4:1 or 18.2-287.4:2 is guilty of a Class
141 1 misdemeanor.

142 B. Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to
143 subsection A shall be prohibited from purchasing, possessing, or transporting a firearm for three years
144 following the date of the conviction at which point the person convicted of such offense shall no longer
145 be prohibited from purchasing, possessing, or transporting a firearm pursuant to subsection A. Such person
146 shall have his firearms rights restored, unless such person receives another disqualifying conviction, is
147 subject to a protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by
148 law from purchasing, possessing, or transporting a firearm.

149 **§ 18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain persons; penalties.**

150 Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
151 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
152 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,
153 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-
154 308.7 is guilty of a Class 4 felony.

155 Any person who sells, barter, gives, or furnishes, or has in his possession or under his control
156 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited
157 from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:7-~~or~~, 18.2-308.1:8, or
158 18.2-308.1:9 is guilty of a Class 1 misdemeanor.

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

165 **§ 18.2-308.2:2. Criminal history record information check required for the transfer of**
166 **certain firearms.**

167 A. Any person purchasing from a dealer a firearm as ~~herein~~ defined in this section shall consent in
168 writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal
169 history record information and if such firearm is an assault firearm, such person purchasing such assault
170 firearm shall be 21 years of age or older. Such form shall include only the written consent; the name, birth
171 date, gender, race, citizenship, and social security number and/or any other identification number; the
172 number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the
173 applicant to the following questions: (i) has the applicant been convicted of a felony offense or a
174 misdemeanor offense listed in § 18.2-308.1:8 or 18.2-308.1:9 or found guilty or adjudicated delinquent as
175 a juvenile 14 years of age or older at the time of the offense of a delinquent act that if committed by an
176 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
177 subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's
178 child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii)
179 has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or
180 transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction,
181 been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and
182 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any
183 other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient
184 mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any
185 substantially similar law of any other jurisdiction, or been the subject of a temporary detention order

186 pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv)
187 is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant
188 to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm
189 pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

190 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
191 person who is a resident of Virginia until he has (i) obtained written consent and the other information on
192 the consent form specified in subsection A, and provided the Department of State Police with the name,
193 birth date, gender, race, citizenship, and social security and/or any other identification number and the
194 number of firearms by category intended to be sold, rented, traded, or transferred~~and~~; (ii) requested
195 criminal history record information by a telephone call to or other communication authorized by the State
196 Police and is authorized by subdivision 2 to complete the sale or other such transfer; and (iii) if such
197 firearm is an assault firearm, verified that such person is 21 years of age or older. To establish personal
198 identification and residence in Virginia for purposes of this section, a dealer must require any prospective
199 purchaser to present one photo-identification form issued by a governmental agency of the
200 Commonwealth or by the United States Department of Defense that demonstrates that the prospective
201 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm
202 purchase, residency of a member of the armed forces shall include both the state in which the member's
203 permanent duty post is located and any nearby state in which the member resides and from which he
204 commutes to the permanent duty post. A member of the armed forces whose photo identification issued
205 by the Department of Defense does not have a Virginia address may establish his Virginia residency with
206 such photo identification and either permanent orders assigning the purchaser to a duty post, including the
207 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification
208 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued
209 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer
210 shall not, except for a renewed driver's license or other photo identification issued by the Department of
211 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the
212 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a

213 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue
214 of the driver's license was more than 30 days prior to the attempted purchase.

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

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

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

231 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
232 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
233 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
234 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or
235 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
236 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
237 number, and the transaction date.

238 4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail
239 or deliver the written consent form required by subsection A to the Department of State Police. The State

240 Police shall immediately initiate a search of all available criminal history record information to determine
241 if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the
242 search discloses information indicating that the buyer or transferee is so prohibited from possessing or
243 transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction
244 where the sale or transfer occurred and the dealer without delay.

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

250 6. For the purposes of this subsection, the phrase "dealer's fifth business day" does not include
251 December 25.

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

258 To establish personal identification and dual resident eligibility for purposes of this subsection, a
259 dealer shall require any prospective purchaser to present one photo-identification form issued by a
260 governmental agency of the prospective purchaser's state of legal residence and other documentation of
261 dual residence within the Commonwealth. The other documentation of dual residence in the
262 Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a
263 current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f)
264 automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as
265 evidence of residency by 27 C.F.R. § 178.124 and ATF Ruling 2001-5; or (iii) other documentation of

266 residence determined to be acceptable by the Department of Criminal Justice Services and that
267 corroborates that the prospective purchaser currently resides in Virginia.

268 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
269 exercise his right of access to and review and correction of criminal history record information under §
270 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
271 days of such denial.

272 E. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history
273 record information under false pretenses, or who willfully and intentionally disseminates or seeks to
274 disseminate criminal history record information except as authorized in this section, ~~shall be~~ is guilty of a
275 Class 2 misdemeanor.

276 F. For purposes of this section:

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

279 "Antique firearm" means:

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

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

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

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

293 "Assault firearm" means ~~any~~:

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

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

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

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

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

322 An "assault firearm" does not include any firearm that is an antique firearm, has been rendered
323 permanently inoperable, is manually operated by bolt, pump, lever, or slide action, or was manufactured
324 before July 1, 2023.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

371 L1. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or
372 otherwise convey a firearm other than to the actual buyer, as well as any other person who willfully and
373 intentionally aids or abets such person, ~~shall be~~ is guilty of a Class 6 felony. This subsection shall not

374 apply to a federal law-enforcement officer or a law-enforcement officer as defined in § 9.1-101, in the
375 performance of his official duties, or other person under his direct supervision.

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

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

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

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

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

401 R. Except as provided in subdivisions 1 and 2, it ~~shall be~~ is unlawful for any person who is not a
402 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
403 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
404 a handgun purchased from such seller by the same person seeking the exchange or replacement within the
405 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
406 is punishable as a Class 1 misdemeanor.

407 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
408 an enhanced background check, as described in this subsection, by special application to the Department
409 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
410 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
411 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
412 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
413 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
414 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
415 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
416 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
417 the limit.

418 Upon being satisfied that these requirements have been met, the Department of State Police shall
419 immediately issue to the applicant a nontransferable certificate, which shall be valid for seven days from
420 the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to
421 the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as
422 provided in § 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement
423 agency, and pursuant to its regulations, the Department of State Police may certify such local law-
424 enforcement agency to serve as its agent to receive applications and, upon authorization by the Department
425 of State Police, issue certificates immediately pursuant to this subdivision. Applications and certificates
426 issued under this subdivision shall be maintained as records as provided in subdivision B 3. The

427 Department of State Police shall make available to local law-enforcement agencies all records concerning
428 certificates issued pursuant to this subdivision and all records provided for in subdivision B 3.

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

430 a. A law-enforcement agency;

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

432 c. A state or local correctional facility;

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

434 e. The purchase of antique firearms;

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

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

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

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

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

458 S. No person shall purchase an assault firearm from a dealer unless such person is 21 years of age
459 or older.

460 T. No dealer shall sell, rent, trade, or transfer from his inventory an assault firearm to any person
461 unless such person is 21 years of age or older.

462 **§ 18.2-308.2:3. Criminal background check required for employees of a gun dealer to**
463 **transfer firearms; exemptions; penalties.**

464 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §
465 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,
466 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited
467 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-
468 308.1:4, 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 18.2-308.2:01, or is
469 an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to subsection A of §
470 18.2-308.1:4 or § 18.2-308.1:5.

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

476 C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons
477 employed before July 1, 2000, to act as a seller under § 18.2-308.2:2 that they are not disqualified from
478 possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the
479 dealer shall submit the employee's fingerprints and personal descriptive information to the Central

480 Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose
481 of obtaining national criminal history record information regarding the request.

482 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal
483 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn
484 and notarized affidavit to the Department of State Police on a form provided by the Department, stating
485 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by
486 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record
487 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in
488 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,
489 state the name of each person requesting the exemption, together with each person's identifying
490 information, including their social security number and the following statement: "I hereby swear, under
491 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting
492 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of
493 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently
494 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any
495 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in
496 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture
497 of my federal firearms license."

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

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

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

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

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

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

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

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

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

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

532 N. For purposes of this section:

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

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

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

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

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

543 **§ 18.2-308.2:5. Criminal history record information check required to sell firearm; penalty.**

544 A. No person shall sell a firearm for money, goods, services or anything else of value unless he
545 has obtained verification from a licensed dealer in firearms that information on the prospective purchaser
546 has been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and that a
547 determination has been received from the Department of State Police that the prospective purchaser is not
548 prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by
549 state or federal law.

550 The Department of State Police shall provide a means by which sellers may obtain from designated
551 licensed dealers the approval or denial of firearm transfer requests, based on criminal history record
552 information checks. The processes established shall conform to the provisions of § 18.2-308.2:2, and the
553 definitions and provisions of § 18.2-308.2:2 regarding criminal history record information checks shall
554 apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees
555 prescribed in § 18.2-308.2:2 as required by that section. The dealer may charge and retain an additional
556 fee not to exceed \$15 for obtaining a criminal history record information check on behalf of a seller.

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

559 1. The sale of a firearm is to an authorized representative of the Commonwealth or any subdivision
560 thereof as part of an authorized voluntary gun buy-back or give-back program;

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

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

566 C. Any person who willfully and intentionally sells a firearm to another person without obtaining
567 verification in accordance with this section is guilty of a Class 1 misdemeanor.

568 D. Any person who willfully and intentionally purchases a firearm from another person without
569 obtaining verification in accordance with this section is guilty of a Class 1 misdemeanor.

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

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

575 **§ 18.2-309.1. Sale, transfer, etc., of certain firearms magazines prohibited; penalty.**

576 A. As used in this section, a "large capacity ammunition feeding device" means a magazine, belt,
577 drum, feed strip, or similar device manufactured on or after July 1, 2023, that has a capacity of, or that
578 can be readily restored or converted to accept, more than 10 rounds of ammunition but does not include
579 an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire
580 ammunition.

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

583 C. The provisions of this section shall not apply to the manufacture by, transfer to, or possession
584 by the Commonwealth or a department, agency, or political subdivision of the Commonwealth, transfer
585 to or possession by a law-enforcement officer employed by such an entity for purposes of law

