

HOUSE BILL NO. 270

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety

on _____)

(Patron Prior to Substitute--Delegate Reid)

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

Be it enacted by the General Assembly of Virginia:

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

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

A. ~~No locality or agent of such locality~~ local law-enforcement agency, as that term is defined in § 52-55, may participate in any program in which individuals are given a thing of value provided by another individual or other entity in exchange for surrendering a firearm to the local law-enforcement agency, locality, or agent of such locality ~~unless the governing body of the locality has enacted an ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality in such program~~ the local law-enforcement agency participates in the Virginia Assault Firearm Buy-Back Program as authorized by the provisions in Chapter 14 (§ 52-55 et seq.) of Title 52.

B. ~~Any ordinance enacted pursuant to this section shall require that any~~ firearm received as part of the Virginia Assault Firearm Buy-Back Program as authorized by the provisions in Chapter 14 (§ 52-55 et seq.) of Title 52, except a firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited by federal law, shall be destroyed by the local law-enforcement agency or locality ~~unless the person surrendering the firearm requests in writing that the firearm be offered for sale by public~~

~~27 auction or sealed bids to a person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the
28 date, time, and place of any sale conducted pursuant to this subsection shall be given by advertisement in
29 at least two newspapers published and having general circulation in the Commonwealth, at least one of
30 which shall have general circulation in the locality in which the property to be sold is located. At least 30
31 days shall elapse between publication of the notice and the auction or the date on which sealed bids will
32 be opened. Any firearm remaining in possession of the locality or agent of the locality after attempts to
33 sell at public auction or by sealed bids shall be disposed of in a manner the locality deems proper, which
34 may include destruction of the firearm or, subject to any registration requirements of federal law, sale of
35 the firearm to a licensed dealer.~~

**36 § 18.2-308.2:2. Criminal history record information check required for the transfer of
37 certain firearms.**

38 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a
39 form to be provided by the Department of State Police, to have the dealer obtain criminal history record
40 information. Such form shall include only the written consent; the name, birth date, gender, race,
41 citizenship, and social security number and/or any other identification number; the number of firearms by
42 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following
43 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §
44 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of
45 the offense of a delinquent act that if committed by an adult would be a felony or a misdemeanor listed in
46 § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the applicant from harassing,
47 stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the
48 applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and
49 prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any
50 substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally
51 incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant
52 to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to
53 an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from

54 purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction,
55 or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a
56 voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial
57 risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from
58 purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar
59 law of any other jurisdiction.

60 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other
61 person who is a resident of Virginia until ~~he has~~ (i) he has obtained written consent and the other
62 information on the consent form specified in subsection A, and provided the Department of State Police
63 with the name, birth date, gender, race, citizenship, and social security and/or any other identification
64 number and the number of firearms by category intended to be sold, rented, traded, or transferred ~~and~~; (ii)
65 he has requested criminal history record information by a telephone call to or other communication
66 authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such
67 transfer; and (iii) at least three days have elapsed from the time the prospective purchaser completed the
68 consent form specified in subsection A, unless there is a declaration of a national emergency by the United
69 States government due to an imminent threat of enemy attack or invasion of the United States, in which
70 case the three-day waiting period shall be suspended for the duration of the declared national emergency.

71 To establish personal identification and residence in Virginia for purposes of this section, a dealer must
72 require any prospective purchaser to present one photo-identification form issued by a governmental
73 agency of the Commonwealth or by the United States Department of Defense or a special identification
74 card without a photograph issued pursuant to § 46.2-345.2 that demonstrates that the prospective purchaser
75 resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase,
76 residency of a member of the armed forces shall include both the state in which the member's permanent
77 duty post is located and any nearby state in which the member resides and from which he commutes to
78 the permanent duty post. A member of the armed forces whose photo identification issued by the
79 Department of Defense does not have a Virginia address may establish his Virginia residency with such
80 photo identification and either permanent orders assigning the purchaser to a duty post, including the

81 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the identification presented
82 to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the
83 Department of Motor Vehicles or a special identification card without a photograph issued pursuant to §
84 46.2-345.2, and such identification form or card contains a date of issue, the dealer shall not, except for a
85 renewed driver's license or other photo identification issued by the Department of Motor Vehicles or a
86 renewed special identification card without a photograph issued pursuant to § 46.2-345.2, sell or otherwise
87 transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or
88 duplicate driver's license or special identification card without a photograph unless the prospective
89 purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that
90 the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

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

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

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

107 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records
108 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for
109 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer
110 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or
111 federal law. However, the log on requests made may be maintained for a period of 12 months, and such
112 log shall consist of the name of the purchaser, the dealer identification number, the unique approval
113 number, and the transaction date.

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

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

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

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

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

144 D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may
145 exercise his right of access to and review and correction of criminal history record information under §
146 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30
147 days of such denial.

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

152 F. For purposes of this section:

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

155 "Antique firearm" means:

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

158 2. Any replica of any firearm described in subdivision 1 of this definition if such replica (i) is not
159 designed or redesigned for using rimfire or conventional centerfire fixed ammunition or (ii) uses rimfire

160 or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that
161 is not readily available in the ordinary channels of commercial trade;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a
250 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes
251 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for
252 a handgun purchased from such seller by the same person seeking the exchange or replacement within the
253 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection
254 is punishable as a Class 1 misdemeanor.

255 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of
256 an enhanced background check, as described in this subsection, by special application to the Department
257 of State Police listing the number and type of handguns to be purchased and transferred for lawful business
258 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar
259 purposes. Such applications shall be signed under oath by the applicant on forms provided by the
260 Department of State Police, shall state the purpose for the purchase above the limit, and shall require
261 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales
262 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The
263 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act
264 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above
265 the limit.

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

- 277 2. The provisions of this subsection shall not apply to:
- 278 a. A law-enforcement agency;
 - 279 b. An agency duly authorized to perform law-enforcement duties;
 - 280 c. A state or local correctional facility;
 - 281 d. A private security company licensed to do business within the Commonwealth;
 - 282 e. The purchase of antique firearms;
 - 283 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun
284 be replaced immediately. Such person may purchase another handgun, even if the person has previously
285 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with
286 a copy of the official police report or a summary thereof, on forms provided by the Department of State
287 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official
288 police report or summary thereof contains the name and address of the handgun owner, a description of
289 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
290 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official
291 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.
292 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy

293 of the Virginia firearms transaction report completed for the transaction and retain it for the period
294 prescribed by the Department of State Police;

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

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

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

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

306 **§ 18.2-308.2:5. Criminal history record information check required to sell firearm; penalty.**

307 A. No person shall sell a firearm for money, goods, services, or anything else of value unless (i)
308 he has obtained verification from a licensed dealer in firearms that information on the prospective
309 purchaser has been submitted for a criminal history record information check as set out in § 18.2-308.2:2
310 and that a determination has been received from the Department of State Police that the prospective
311 purchaser is not prohibited under state or federal law from possessing a firearm or such sale is specifically
312 exempted by state or federal law and (ii) at least three days have elapsed from the time the prospective
313 purchaser completed the written consent form provided by the Department of State Police to have a
314 designated licensed dealer obtain criminal history record information, unless there is a declaration of a
315 national emergency by the United States government due to an imminent threat of enemy attack or
316 invasion of the United States, in which case the three-day waiting period shall be suspended for the
317 duration of the declared national emergency. The Department of State Police shall provide a means by
318 which sellers may obtain from designated licensed dealers the approval or denial of firearm transfer
319 requests, based on criminal history record information checks. The processes established shall conform to

320 the provisions of § 18.2-308.2:2, and the definitions and provisions of § 18.2-308.2:2 regarding criminal
321 history record information checks shall apply to this section mutatis mutandis. The designated dealer shall
322 collect and disseminate the fees prescribed in § 18.2-308.2:2 as required by that section. The dealer may
323 charge and retain an additional fee not to exceed \$15 for obtaining a criminal history record information
324 check on behalf of a seller.

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

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

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

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

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

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

344 CHAPTER 14.

345 VIRGINIA ASSAULT FIREARM BUY-BACK PROGRAM AND FUND.

346 § 52-55. Definitions.

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

348 "Assault firearm" means the same as that term is defined in § 18.2-308.2:2.

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

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

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

353 **§ 52-56. Virginia Assault Firearm Buy-Back Program established; report.**

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

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

371 C. The Department shall submit a report to the General Assembly on or before November 1 each
372 year on the Program. The report shall include the following: (i) the number of local law-enforcement
373 agencies that participate in the Program or have established a local Program, (ii) the number of assault

374 firearms that have been bought back through the Program, and (iii) a summary on how the moneys in the
375 Fund have been used for development and implementation of the Program.

376 **§ 52-57. Participation by a local law-enforcement agency; establishing a local Program.**

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

380 **§ 52-58. Virginia Assault Firearm Buy-Back Fund established.**

381 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
382 Assault Firearm Buy-Back Fund. The Fund shall be established on the books of the Comptroller. All funds
383 appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its
384 behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund
385 shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest
386 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.
387 Moneys in the Fund shall be used solely for the purposes of development and implementation of the
388 Program, including assisting local law-enforcement agencies with implementing the Program within such
389 agencies' localities. Expenditures and disbursements from the Fund shall be made by the State Treasurer
390 on warrants issued by the Comptroller upon written request signed by the Superintendent.

391 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
392 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
393 **appropriation is _____ for periods of imprisonment in state adult correctional facilities;**
394 **therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia**
395 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-**
396 **19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for**
397 **periods of commitment to the custody of the Department of Juvenile Justice.**

398 #