

SENATE BILL NO. 1382

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Favola

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

(Patron Prior to Substitute--Senator Favola)

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

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

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

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

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

1. (Effective until July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, or 18.2-308.1:6 or the substantially similar law of any other state or of the United States.

1. (Effective July 1, 2021) An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:6, ~~or~~ 18.2-308.1:7, or 18.2-308.1:8 or the substantially similar law of any other state or of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

95 A. Any person who knowingly and intentionally purchases, possesses, or transports any firearm  
96 following a misdemeanor conviction for an offense that occurred on or after July 1, 2021, for (i) the offense  
97 of assault and battery of a family or household member or (ii) an offense substantially similar to clause (i)  
98 under the laws of any other state or of the United States is guilty of a Class 3 misdemeanor.

99 B. For the purposes of this section, "family or household member" means (i) the person's spouse,  
100 whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or  
101 not he or she resides in the same home with the person; (iii) the person's parents, stepparents, or guardian,  
102 regardless of whether such persons reside in the same home with the person; (iv) any individual who has  
103 a child in common with the person, whether or not the person and that individual have been married or  
104 have resided together at any time; or (v) any individual who cohabits or who, within the previous 12

105 months, cohabited with the person, and any children of either of them then residing in the same home with  
106 the person.

107 **§ 18.2-308.2:1. (Effective until July 1, 2021) Prohibiting the selling, etc., of firearms to certain**  
108 **persons.**

109 Any person who sells, barter, gives or furnishes, or has in his possession or under his control with  
110 the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from  
111 possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3, subsection  
112 B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B of § 18.2-308.2:01, or §  
113 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be applicable when the person  
114 convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason of insanity has (i)  
115 been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief pursuant to subsection  
116 B of § 18.2-308.1:1, or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had his political disabilities  
117 removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit to ship, transport,  
118 possess or receive firearms pursuant to the laws of the United States.

119 **§ 18.2-308.2:1. (Effective July 1, 2021) Prohibiting the selling, etc., of firearms to certain**  
120 **persons; penalties.**

121 A. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control  
122 with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is prohibited  
123 from possessing or transporting a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or 18.2-308.1:3,  
124 subsection B of § 18.2-308.1:4, § 18.2-308.1:6, 18.2-308.1:8, or 18.2-308.2, subsection B of § 18.2-  
125 308.2:01, or § 18.2-308.7 is guilty of a Class 4 felony. However, this prohibition shall not be applicable  
126 when the person convicted of the felony or misdemeanor, adjudicated delinquent, or acquitted by reason  
127 of insanity has (i) been issued a permit pursuant to subsection C of § 18.2-308.2 or been granted relief  
128 pursuant to subsection B of § 18.2-308.1:1 or § 18.2-308.1:2 or 18.2-308.1:3; (ii) been pardoned or had  
129 his political disabilities removed in accordance with subsection B of § 18.2-308.2; or (iii) obtained a permit  
130 to ship, transport, possess, or receive firearms pursuant to the laws of the United States.

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

135 **§ 18.2-308.2:2. (Effective until July 1, 2021) Criminal history record information check**  
136 **required for the transfer of certain firearms.**

137 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
138 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
139 information. Such form shall include only the written consent; the name, birth date, gender, race,  
140 citizenship, and social security number and/or any other identification number; the number of firearms by  
141 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following  
142 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §  
143 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of  
144 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~  
145 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the  
146 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of  
147 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by  
148 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §  
149 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally  
150 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from  
151 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,  
152 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health  
153 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar  
154 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809  
155 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject  
156 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or

157 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-  
158 308.1:6 or any substantially similar law of any other jurisdiction.

159 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
160 person who is a resident of Virginia until he has (i) obtained written consent and the other information on  
161 the consent form specified in subsection A, and provided the Department of State Police with the name,  
162 birth date, gender, race, citizenship, and social security and/or any other identification number and the  
163 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested  
164 criminal history record information by a telephone call to or other communication authorized by the State  
165 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal  
166 identification and residence in Virginia for purposes of this section, a dealer must require any prospective  
167 purchaser to present one photo-identification form issued by a governmental agency of the  
168 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
169 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
170 purchase, residency of a member of the armed forces shall include both the state in which the member's  
171 permanent duty post is located and any nearby state in which the member resides and from which he  
172 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
173 by the Department of Defense does not have a Virginia address may establish his Virginia residency with  
174 such photo identification and either permanent orders assigning the purchaser to a duty post, including the  
175 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification  
176 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued  
177 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer  
178 shall not, except for a renewed driver's license or other photo identification issued by the Department of  
179 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the  
180 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a  
181 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue  
182 of the driver's license was more than 30 days prior to the attempted purchase.

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

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

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

196           3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records  
197 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for  
198 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer  
199 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or  
200 federal law. However, the log on requests made may be maintained for a period of 12 months, and such  
201 log shall consist of the name of the purchaser, the dealer identification number, the unique approval  
202 number, and the transaction date.

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



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

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

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

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

233           D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
234 exercise his right of access to and review and correction of criminal history record information under §  
235 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30  
236 days of such denial.

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

241 F. For purposes of this section:

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

244 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

342 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection  
343 is punishable as a Class 1 misdemeanor.

344 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of  
345 an enhanced background check, as described in this subsection, by special application to the Department  
346 of State Police listing the number and type of handguns to be purchased and transferred for lawful business  
347 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar  
348 purposes. Such applications shall be signed under oath by the applicant on forms provided by the  
349 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
350 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
351 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
352 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
353 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
354 the limit.

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

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

367 a. A law-enforcement agency;

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

- 369 c. A state or local correctional facility;
- 370 d. A private security company licensed to do business within the Commonwealth;
- 371 e. The purchase of antique firearms;
- 372 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
373 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
374 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with  
375 a copy of the official police report or a summary thereof, on forms provided by the Department of State  
376 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official  
377 police report or summary thereof contains the name and address of the handgun owner, a description of  
378 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was  
379 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official  
380 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.  
381 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy  
382 of the Virginia firearms transaction report completed for the transaction and retain it for the period  
383 prescribed by the Department of State Police;
- 384 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part  
385 of the same transaction, provided that no more than one transaction of this nature is completed per day;
- 386 h. A person who holds a valid Virginia permit to carry a concealed handgun;
- 387 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private  
388 sale" means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms  
389 for the enhancement of a personal collection of curios or relics or who sells all or part of such collection  
390 of curios and relics; or
- 391 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means  
392 any employee of a police department or sheriff's office that is part of or administered by the  
393 Commonwealth or any political subdivision thereof and who is responsible for the prevention and  
394 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth.

395 § 18.2-308.2:2. (Effective July 1, 2021) Criminal history record information check required  
396 for the transfer of certain firearms.

397 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a  
398 form to be provided by the Department of State Police, to have the dealer obtain criminal history record  
399 information. Such form shall include only the written consent; the name, birth date, gender, race,  
400 citizenship, and social security number and/or any other identification number; the number of firearms by  
401 category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following  
402 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in §  
403 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of  
404 the offense of a delinquent act that if committed by an adult would be a felony ~~if committed by an adult~~  
405 or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the  
406 applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of  
407 such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by  
408 reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to §  
409 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally  
410 incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from  
411 purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction,  
412 been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health  
413 treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar  
414 law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809  
415 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject  
416 to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or  
417 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-  
418 308.1:6 or any substantially similar law of any other jurisdiction.

419 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other  
420 person who is a resident of Virginia until he has (i) obtained written consent and the other information on  
421 the consent form specified in subsection A, and provided the Department of State Police with the name,



422 birth date, gender, race, citizenship, and social security and/or any other identification number and the  
423 number of firearms by category intended to be sold, rented, traded, or transferred and (ii) requested  
424 criminal history record information by a telephone call to or other communication authorized by the State  
425 Police and is authorized by subdivision 2 to complete the sale or other such transfer. To establish personal  
426 identification and residence in Virginia for purposes of this section, a dealer must require any prospective  
427 purchaser to present one photo-identification form issued by a governmental agency of the  
428 Commonwealth or by the United States Department of Defense that demonstrates that the prospective  
429 purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm  
430 purchase, residency of a member of the armed forces shall include both the state in which the member's  
431 permanent duty post is located and any nearby state in which the member resides and from which he  
432 commutes to the permanent duty post. A member of the armed forces whose photo identification issued  
433 by the Department of Defense does not have a Virginia address may establish his Virginia residency with  
434 such photo identification and either permanent orders assigning the purchaser to a duty post, including the  
435 Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the photo identification  
436 presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued  
437 by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer  
438 shall not, except for a renewed driver's license or other photo identification issued by the Department of  
439 Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the  
440 date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a  
441 copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue  
442 of the driver's license was more than 30 days prior to the attempted purchase.

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

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

449 that the buyer or transferee is so prohibited, and (c) provide the dealer with a unique reference number for  
450 that inquiry.

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

456           3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records  
457 longer than 30 days, except for multiple handgun transactions for which records shall be maintained for  
458 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer  
459 or transferee who is not found to be prohibited from possessing and transporting a firearm under state or  
460 federal law. However, the log on requests made may be maintained for a period of 12 months, and such  
461 log shall consist of the name of the purchaser, the dealer identification number, the unique approval  
462 number, and the transaction date.

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

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

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

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

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

493           D. If any buyer or transferee is denied the right to purchase a firearm under this section, he may  
494 exercise his right of access to and review and correction of criminal history record information under §  
495 9.1-132 or institute a civil action as provided in § 9.1-135, provided any such action is initiated within 30  
496 days of such denial.

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

501           F. For purposes of this section:

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

504 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

552 I. The provisions of this section shall not apply to restrict purchase, trade, or transfer of firearms  
553 by a resident of Virginia when the resident of Virginia makes such purchase, trade, or transfer in another  
554 state, in which case the laws and regulations of that state and the United States governing the purchase,

555 trade, or transfer of firearms shall apply. A National Instant Criminal Background Check System (NICS)  
556 check shall be performed prior to such purchase, trade, or transfer of firearms.

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

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

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

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

573 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such  
574 firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive  
575 from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be  
576 resold or otherwise provided to another person who the transferor knows is ineligible to purchase or  
577 otherwise receive a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum  
578 term of imprisonment of one year. However, if the violation of this subsection involves such a transfer of  
579 more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of  
580 five years. The prohibitions of this subsection shall not apply to the purchase of a firearm by a person for  
581 the lawful use, possession, or transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or

582 individual for whom he is the legal guardian if such child, grandchild, or individual is ineligible, solely  
583 because of his age, to purchase a firearm.

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

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

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

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

598 R. Except as provided in subdivisions 1 and 2, it shall be unlawful for any person who is not a  
599 licensed firearms dealer to purchase more than one handgun within any 30-day period. For the purposes  
600 of this subsection, "purchase" does not include the exchange or replacement of a handgun by a seller for  
601 a handgun purchased from such seller by the same person seeking the exchange or replacement within the  
602 30-day period immediately preceding the date of exchange or replacement. A violation of this subsection  
603 is punishable as a Class 1 misdemeanor.

604 1. Purchases in excess of one handgun within a 30-day period may be made upon completion of  
605 an enhanced background check, as described in this subsection, by special application to the Department  
606 of State Police listing the number and type of handguns to be purchased and transferred for lawful business  
607 or personal use, in a collector series, for collections, as a bulk purchase from estate sales, and for similar  
608 purposes. Such applications shall be signed under oath by the applicant on forms provided by the

609 Department of State Police, shall state the purpose for the purchase above the limit, and shall require  
610 satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales  
611 report required by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The  
612 Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act  
613 (§ 2.2-4000 et seq.), for the implementation of an application process for purchases of handguns above  
614 the limit.

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

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

627         a. A law-enforcement agency;

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

629         c. A state or local correctional facility;

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

631         e. The purchase of antique firearms;

632         f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun  
633 be replaced immediately. Such person may purchase another handgun, even if the person has previously  
634 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with  
635 a copy of the official police report or a summary thereof, on forms provided by the Department of State



636 Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official  
637 police report or summary thereof contains the name and address of the handgun owner, a description of  
638 the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was  
639 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official  
640 police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun.  
641 The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy  
642 of the Virginia firearms transaction report completed for the transaction and retain it for the period  
643 prescribed by the Department of State Police;

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

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

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

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

655 **§ 18.2-308.2:3. (Effective until July 1, 2021) Criminal background check required for**  
656 **employees of a gun dealer to transfer firearms; exemptions; penalties.**

657 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §  
658 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,  
659 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited  
660 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-  
661 308.1:4, or § 18.2-308.1:6, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or is prohibited  
662 from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or § 18.2-308.1:5.

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

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

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

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

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

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

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

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

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

713 J. Any person willfully and intentionally making a materially false statement on the personal  
714 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers  
715 for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer

716 who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this  
717 section shall be guilty of a Class 1 misdemeanor.

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

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

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

724 N. For purposes of this section:

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

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

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

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

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

735 **§ 18.2-308.2:3. (Effective July 1, 2021) Criminal background check required for employees**  
736 **of a gun dealer to transfer firearms; exemptions; penalties.**

737 A. No person, corporation, or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. §  
738 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary,  
739 paid or unpaid, for the transfer of firearms under § 18.2-308.2:2, if such employee would be prohibited  
740 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-  
741 308.1:4, or § 18.2-308.1:6, 18.2-308.1:7, 18.2-308.1:8, 18.2-308.2, or 18.2-308.2:01, or is an illegal alien,

742 or is prohibited from purchasing or transporting a firearm pursuant to subsection A of § 18.2-308.1:4 or §  
743 18.2-308.1:5.

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

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

755 C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal  
756 firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn  
757 and notarized affidavit to the Department of State Police on a form provided by the Department, stating  
758 that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by  
759 the ATF. The affidavit may also contain the names of any employees that have been subjected to a record  
760 check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in  
761 the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number,  
762 state the name of each person requesting the exemption, together with each person's identifying  
763 information, including their social security number and the following statement: "I hereby swear, under  
764 the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting  
765 an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of  
766 Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently  
767 determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any  
768 person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in

769 addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture  
770 of my federal firearms license."

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

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

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

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

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

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

794 J. Any person willfully and intentionally making a materially false statement on the personal  
795 descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers

796 for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer  
797 who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this  
798 section shall be guilty of a Class 1 misdemeanor.

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

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

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

805 N. For purposes of this section:

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

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

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

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

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

816 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in**  
817 **violation of law.**

818 Any firearm, stun weapon as defined by § 18.2-308.1, or any weapon concealed, possessed,  
819 transported or carried in violation of § 18.2-283.1, 18.2-287.01, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3,  
820 18.2-308.1:4, 18.2-308.1:8, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7,  
821 or 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

822 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
823 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
824 appropriation cannot be determined for periods of imprisonment in state adult correctional  
825 facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal  
826 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of  
827 the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined  
828 for periods of commitment to the custody of the Department of Juvenile Justice.

829 3. That the Virginia State Crime Commission shall study and provide recommendations related to  
830 establishing a process for the restoration of firearms rights for those persons convicted of an assault  
831 and battery against a family or household member. The Virginia State Crime Commission shall  
832 report its findings and recommendations to the Governor and the Chairmen of the Senate  
833 Committee on the Judiciary and the House Committee for Courts of Justice by November 1, 2021.

834

#