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HOUSE BILL NO. 270
Offered January 10, 2024
Prefiled January 5, 2024

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 Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, by adding sections numbered 18.2-308.9 and 18.2-308.10, and by adding in Title 52 a chapter numbered 14, consisting of sections numbered 52-55 through 52-58, relating to sale, transfer, etc., of certain firearms and firearm magazines; Virginia Firearm Buy-Back Program and Fund established; penalties.*

Patron—Reid

Referred to Committee on Public Safety

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 Article 3 of Chapter 3 of Title 8.01 a section numbered 8.01-44.8, by adding sections numbered 18.2-308.9 and 18.2-308.10, and by adding in Title 52 a chapter numbered 14, consisting of sections numbered 52-55 through 52-58, as follows:

§ 8.01-44.8. Action for injury resulting from illegal sale or transfer of a restricted rifle or large-capacity firearm magazine.

A. A person is liable for injury to the person or property of another or for wrongful death resulting from the use of a restricted rifle as defined in § 18.2-308.9 or a large-capacity firearm magazine as defined in § 18.2-308.10 in the commission of a crime if it can be shown by clear and convincing evidence that the civil defendant sold or transferred such restricted rifle or large-capacity firearm magazine to the person who committed the crime resulting in the injury to the person or property of another or wrongful death in violation of § 18.2-308.9 or 18.2-308.10.

B. An action brought pursuant to this section shall be commenced within two years after the cause of action accrues.

C. An action brought pursuant to this section may be brought in the city or county of the Commonwealth (i) in which all or a substantial part of the acts or omissions that form the basis for the cause of action occurred, (ii) where any defendant resided when the cause of action arose or where the principal office of any defendant is located, or (iii) where the plaintiff resides if the plaintiff is a natural person.

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

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

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social

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59 security number and/or any other identification number; the number of firearms by category intended to be
 60 sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the
 61 applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 or found
 62 guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a
 63 delinquent act that if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (ii)
 64 is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the
 65 applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order;
 66 (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing,
 67 or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction,
 68 been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and
 69 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other
 70 jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental
 71 health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially
 72 similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-
 73 809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant
 74 subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or
 75 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6
 76 or any substantially similar law of any other jurisdiction.

77 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person
 78 who is a resident of Virginia until ~~he has~~ (i) *he has* obtained written consent and the other information on the
 79 consent form specified in subsection A, and provided the Department of State Police with the name, birth
 80 date, gender, race, citizenship, and social security and/or any other identification number and the number of
 81 firearms by category intended to be sold, rented, traded, or transferred ~~and~~; (ii) *he has* requested criminal
 82 history record information by a telephone call to or other communication authorized by the State Police and is
 83 authorized by subdivision 2 to complete the sale or other such transfer; *and (iii) at least three days have*
 84 *elapsed from the time the prospective purchaser completed the consent form specified in subsection A, unless*
 85 *there is a declaration of a national emergency by the United States government due to an imminent threat of*
 86 *enemy attack or invasion of the United States, in which case the three-day waiting period shall be suspended*
 87 *for the duration of the declared national emergency.* To establish personal identification and residence in
 88 Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-
 89 identification form issued by a governmental agency of the Commonwealth or by the United States
 90 Department of Defense or a special identification card without a photograph issued pursuant to § 46.2-345.2
 91 that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and
 92 establishment of residency for firearm purchase, residency of a member of the armed forces shall include
 93 both the state in which the member's permanent duty post is located and any nearby state in which the
 94 member resides and from which he commutes to the permanent duty post. A member of the armed forces
 95 whose photo identification issued by the Department of Defense does not have a Virginia address may
 96 establish his Virginia residency with such photo identification and either permanent orders assigning the
 97 purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings
 98 Statement. When the identification presented to a dealer by the prospective purchaser is a driver's license or
 99 other photo identification issued by the Department of Motor Vehicles or a special identification card without
 100 a photograph issued pursuant to § 46.2-345.2, and such identification form or card contains a date of issue,
 101 the dealer shall not, except for a renewed driver's license or other photo identification issued by the
 102 Department of Motor Vehicles or a renewed special identification card without a photograph issued pursuant
 103 to § 46.2-345.2, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of
 104 issue of an original or duplicate driver's license or special identification card without a photograph unless the
 105 prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record
 106 showing that the original date of issue of the driver's license was more than 30 days prior to the attempted
 107 purchase.

108 In addition, no dealer shall sell, rent, trade, or transfer from his inventory (a) any assault firearm to any
 109 person who is not a citizen of the United States or who is not a person lawfully admitted for permanent
 110 residence, (b) any restricted rifle as defined in § 18.2-308.9, or (c) any large-capacity firearm magazine as
 111 defined in § 18.2-308.10.

112 Upon receipt of the request for a criminal history record information check, the State Police shall ~~(a)~~ (1)
 113 review its criminal history record information to determine if the buyer or transferee is prohibited from
 114 possessing or transporting a firearm by state or federal law, ~~(b)~~ (2) inform the dealer if its record indicates
 115 that the buyer or transferee is so prohibited, and ~~(c)~~ (3) provide the dealer with a unique reference number for
 116 that inquiry.

117 2. The State Police shall provide its response to the requesting dealer during the dealer's request or by
 118 return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State
 119 Police that a response will not be available by the end of the dealer's fifth business day may ~~immediately~~

120 complete the sale or transfer *after at least three days have elapsed from the time the prospective purchaser*
121 *completed the consent form specified in subsection A, unless there is a declaration of a national emergency*
122 *by the United States government due to an imminent threat of enemy attack or invasion of the United States,*
123 *in which case the dealer may immediately complete the sale or transfer* and shall not be deemed in violation
124 of this section with respect to such sale or transfer.

125 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than
126 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from
127 any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is
128 not found to be prohibited from possessing and transporting a firearm under state or federal law. However,
129 the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name
130 of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

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

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

143 6. For the purposes of this subsection, the phrase "dealer's fifth business day" does not include December
144 25.

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

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

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

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

168 F. For purposes of this section:

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

171 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

214 H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as
215 firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases
216 by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local
217 government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title
218 23.1; or (iii) antique firearms or curios or relics.

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

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

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

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

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

240 M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to
241 any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer

242 a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or
 243 otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive
 244 a firearm, shall be guilty of a Class 4 felony and sentenced to a mandatory minimum term of imprisonment of
 245 one year. However, if the violation of this subsection involves such a transfer of more than one firearm, the
 246 person shall be sentenced to a mandatory minimum term of imprisonment of five years. The prohibitions of
 247 this subsection shall not apply to the purchase of a firearm by a person for the lawful use, possession, or
 248 transport thereof, pursuant to § 18.2-308.7, by his child, grandchild, or individual for whom he is the legal
 249 guardian if such child, grandchild, or individual is ineligible, solely because of his age, to purchase a firearm.

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

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

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

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

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

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

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

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

292 a. A law-enforcement agency;

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

294 c. A state or local correctional facility;

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

296 e. The purchase of antique firearms;

297 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be
 298 replaced immediately. Such person may purchase another handgun, even if the person has previously
 299 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a
 300 copy of the official police report or a summary thereof, on forms provided by the Department of State Police,
 301 from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police
 302 report or summary thereof contains the name and address of the handgun owner, a description of the

303 handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
304 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police
305 report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The
306 firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the
307 Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the
308 Department of State Police;

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

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

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

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

320 **§ 18.2-308.2:5. Criminal history record information check required to sell firearm; penalty.**

321 A. No person shall sell a firearm for money, goods, services, or anything else of value unless (i) he has
322 obtained verification from a licensed dealer in firearms that information on the prospective purchaser has
323 been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and that a
324 determination has been received from the Department of State Police that the prospective purchaser is not
325 prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by state
326 or federal law and (ii) at least three days have elapsed from the time the prospective purchaser completed the
327 written consent form provided by the Department of State Police to have a designated licensed dealer obtain
328 criminal history record information, unless there is a declaration of a national emergency by the United
329 States government due to an imminent threat of enemy attack or invasion of the United States, in which case
330 the three-day waiting period shall be suspended for the duration of the declared national emergency. The
331 Department of State Police shall provide a means by which sellers may obtain from designated licensed
332 dealers the approval or denial of firearm transfer requests, based on criminal history record information
333 checks. The processes established shall conform to the provisions of § 18.2-308.2:2, and the definitions and
334 provisions of § 18.2-308.2:2 regarding criminal history record information checks shall apply to this section
335 mutatis mutandis. The designated dealer shall collect and disseminate the fees prescribed in § 18.2-308.2:2 as
336 required by that section. The dealer may charge and retain an additional fee not to exceed \$15 for obtaining a
337 criminal history record information check on behalf of a seller.

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

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

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

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

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

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

355 **§ 18.2-308.9. Importation, sale, transfer, etc., of restricted rifles prohibited; penalty.**

356 A. For purposes of this section:

357 "Authorized rifle" means any rifle that requires human mechanical action to load or reload each round in
358 the chamber and includes any rifle operated by bolt, pump, lever, or slide action and any muzzleloading rifle.

359 "Restricted rifle" means any rifle that utilizes a portion of the energy of a firing cartridge to extract the
360 fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each
361 cartridge. "Restricted rifle" includes any part or combination of parts designed or intended to convert,
362 modify, or otherwise alter a rifle into a restricted rifle, or any combination of parts that may be readily
363 assembled into a restricted rifle. "Restricted rifle" does not include (i) a firearm that has been rendered

364 permanently inoperable, (ii) an antique firearm as defined in § 18.2-308.2:2, (iii) a curio or relic as defined
 365 in § 18.2-308.2:2, or (iv) an authorized rifle.

366 B. Unless otherwise prohibited by law, any person may import, sell, transfer, manufacture, or purchase
 367 an authorized rifle in accordance with the provisions of §§ 18.2-308.2:2 and 18.2-308.2:5, as applicable. It is
 368 unlawful for any person to import, sell, transfer, manufacture, or purchase a restricted rifle, provided that a
 369 person may transfer a restricted rifle to another person if:

370 1. The transfer is a bona fide gift made by or to a member of a transferor's immediate family as defined in
 371 § 6.2-1300;

372 2. The transfer occurs by operation of law;

373 3. The person receiving the restricted rifle is an executor or administrator of an estate or is a trustee of a
 374 trust created by a will, and the restricted rifle to be transferred is the property of such estate or trust;

375 4. The transferor is an executor or administrator of an estate or is a trustee of a trust created by a will,
 376 and the restricted rifle to be transferred is the property of such estate or trust;

377 5. The transfer is temporary and is necessary to prevent imminent death or great bodily harm;

378 6. The transfer is temporary and occurs within the continuous presence of the owner of the firearm;

379 7. The sale or transfer of the restricted rifle is to an authorized representative of the Commonwealth or
 380 any subdivision thereof as part of an authorized voluntary gun buy-back or give-back program;

381 8. The transfer occurs at a shooting range, shooting gallery, or other area designated for the purpose of
 382 target shooting for use during target practice, a firearms safety or training course or class, a shooting
 383 competition, or any similar lawful activity; or

384 9. The transfer is temporary and is to a licensed dealer for the purpose of accomplishing service or repair
 385 of the restricted rifle.

386 C. A violation of this section is punishable as a Class 6 felony.

387 D. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or
 388 member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to
 389 acquire a restricted rifle and does so while acting within the scope of his duties; (ii) the manufacture of a
 390 restricted rifle by a firearms manufacturer for the purpose of sale to any branch of the Armed Forces of the
 391 United States or to a law-enforcement agency in the Commonwealth for use by that agency or its employees,
 392 provided that the manufacturer is properly licensed under federal, state, and local laws; or (iii) the sale or
 393 transfer of a restricted rifle by a licensed dealer to any branch of the Armed Forces of the United States or to
 394 a law-enforcement agency in the Commonwealth for use by that agency or its employees.

395 **§ 18.2-308.10. Import, sale, transfer, etc., of certain firearm magazines; penalty.**

396 A. For purposes of this section, "large-capacity firearm magazine" means any firearm magazine, belt,
 397 drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept,
 398 more than 10 rounds of ammunition. "Large-capacity firearm magazine" does not include (i) a magazine,
 399 belt, drum, feed strip, or similar device that has been permanently altered so that it cannot accept more than
 400 10 rounds of ammunition or (ii) an attached tubular device designed to accept and only capable of operating
 401 with .22 caliber rimfire ammunition.

402 B. It is unlawful for any person to import, sell, transfer, manufacture, or purchase any large-capacity
 403 firearm magazine, provided that a person may transfer a large-capacity firearm magazine to another person
 404 if:

405 1. The transfer is a bona fide gift made by or to a member of a transferor's immediate family as defined in
 406 § 6.2-1300;

407 2. The transfer occurs by operation of law;

408 3. The person receiving the large-capacity firearm magazine is an executor or administrator of an estate
 409 or is a trustee of a trust created by a will, and the large-capacity firearm magazine to be transferred is the
 410 property of such estate or trust;

411 4. The transferor is an executor or administrator of an estate or is a trustee of a trust created by a will,
 412 and the large-capacity firearm magazine to be transferred is the property of such estate or trust;

413 5. The transfer is temporary and occurs within the continuous presence of the owner of the large-capacity
 414 firearm magazine; or

415 6. The sale or transfer of a large-capacity firearm magazine is to an authorized representative of the
 416 Commonwealth or any subdivision thereof as part of an authorized voluntary gun buy-back or give-back
 417 program.

418 C. A violation of this section is punishable as a Class 6 felony.

419 D. The provisions of this section shall not apply to (i) any government officer, agent, or employee, or
 420 member of the Armed Forces of the United States, to the extent that such person is otherwise authorized to
 421 acquire a large-capacity firearm magazine and does so while acting within the scope of his duties; (ii) the
 422 manufacture of a large-capacity firearm magazine by a firearms manufacturer for the purpose of sale to any
 423 branch of the Armed Forces of the United States or to a law-enforcement agency in the Commonwealth for
 424 use by that agency or its employees, provided that the manufacturer is properly licensed under federal, state,

425 and local laws; (iii) the sale or transfer of a large-capacity firearm magazine to any branch of the Armed
 426 Forces of the United States or to a law-enforcement agency in the Commonwealth for use by that agency or
 427 its employees; or (iv) the transfer of a large-capacity firearm magazine to a person as part of such person's
 428 purchase of his service handgun pursuant to § 59.1-148.3.

429 **CHAPTER 14.**

430 **VIRGINIA FIREARM BUY-BACK PROGRAM AND FUND.**

431 **§ 52-55. Definitions.**

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

433 *"Firearm" means any handgun, assault firearm, or rifle.*

434 *"Fund" means the Virginia Firearm Buy-Back Fund.*

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

437 *"Program" means the Virginia Firearm Buy-Back Program.*

438 **§ 52-56. Virginia Firearm Buy-Back Program established.**

439 *A. The Department of State Police (the Department) shall develop policies for the establishment of*
 440 *uniform standards for the creation of the Virginia Firearm Buy-Back Program. The Department shall (i)*
 441 *inform local law-enforcement agencies of the policies and procedures to be used for the Program; (ii)*
 442 *provide guidelines to participating local law-enforcement agencies on implementation of the Program,*
 443 *including (a) designating when and where a person may surrender a firearm; (b) the handling, storage, and*
 444 *disposal of surrendered firearms; and (c) the requirements for reporting to the Department any information*
 445 *about surrendered firearms; (iii) establish a formula for determining the monetary incentive for a*
 446 *surrendered firearm or magazine that shall offer the person surrendering such firearm or magazine an*
 447 *amount equal to the original purchase price, including taxes and any verifiable delivery fees, plus an*
 448 *additional 10 percent of the original purchase price; (iv) establish guidelines for determining the buy-back*
 449 *amount to be offered when the original purchase price cannot be identified with documentation; and (v)*
 450 *establish requirements for remitting the funds to the person surrendering a firearm or magazine within 30*
 451 *calendar days, including a requirement that such person shall receive an additional \$100 for every month the*
 452 *disbursement is delayed.*

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

456 *C. The Department shall submit a report to the General Assembly on or before November 1 each year on*
 457 *the Program. The report shall include the following: (i) the number of local law-enforcement agencies that*
 458 *participate in the Program or have established a local Program, (ii) the number of firearms and magazines*
 459 *that have been bought back through the Program, and (iii) a summary on how the moneys in the Fund have*
 460 *been used for development and implementation of the Program.*

461 **§ 52-57. Participation by a local law-enforcement agency; establishing a local Program.**

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

465 **§ 52-58. Virginia Firearm Buy-Back Fund established.**

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

476 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 477 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
 478 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**
 479 **therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal**
 480 **Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the**
 481 **Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for**
 482 **periods of commitment to the custody of the Department of Juvenile Justice.**