

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 18.2-308.2:2 and 18.2-308.2:5 of the Code of Virginia, relating to purchase*  
 3 *of firearms; waiting period; penalty.*

4 [H 2631]

5 Approved

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

7 **1. That §§ 18.2-308.2:2 and 18.2-308.2:5 of the Code of Virginia are amended and reenacted as follows:**  
 8 **§ 18.2-308.2:2. Criminal history record information check required for the transfer of certain**  
 9 **firearms.**

10 A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to  
 11 be provided by the Department of State Police, to have the dealer obtain criminal history record information.  
 12 Such form shall include only the written consent; the name, birth date, gender, race, citizenship, and social  
 13 security number and/or any other identification number; the number of firearms by category intended to be  
 14 sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the  
 15 applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 or found  
 16 guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a  
 17 delinquent act that if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (ii)  
 18 is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the  
 19 applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order;  
 20 (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing,  
 21 or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction,  
 22 been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and  
 23 prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other  
 24 jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental  
 25 health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially  
 26 similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to §  
 27 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant  
 28 subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or  
 29 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6  
 30 or any substantially similar law of any other jurisdiction.

31 B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person  
 32 who is a resident of Virginia until ~~he has~~ (i) *he has* obtained written consent and the other information on the  
 33 consent form specified in subsection A, and provided the Department of State Police with the name, birth  
 34 date, gender, race, citizenship, and social security and/or any other identification number and the number of  
 35 firearms by category intended to be sold, rented, traded, or transferred ~~and~~; (ii) *he has* requested criminal  
 36 history record information by a telephone call to or other communication authorized by the State Police and is  
 37 authorized by subdivision 2 to complete the sale or other such transfer; *and (iii) at least five days have*  
 38 *elapsed from the time the prospective purchaser completed the consent form specified in subsection A.* To  
 39 establish personal identification and residence in Virginia for purposes of this section, a dealer must require  
 40 any prospective purchaser to present one photo-identification form issued by a governmental agency of the  
 41 Commonwealth or by the United States Department of Defense or a special identification card without a  
 42 photograph issued pursuant to § 46.2-345.2 that demonstrates that the prospective purchaser resides in  
 43 Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a  
 44 member of the armed forces shall include both the state in which the member's permanent duty post is located  
 45 and any nearby state in which the member resides and from which he commutes to the permanent duty post.  
 46 A member of the armed forces whose photo identification issued by the Department of Defense does not have  
 47 a Virginia address may establish his Virginia residency with such photo identification and either permanent  
 48 orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and  
 49 Earnings Statement. When the identification presented to a dealer by the prospective purchaser is a driver's  
 50 license or other photo identification issued by the Department of Motor Vehicles or a special identification  
 51 card without a photograph issued pursuant to § 46.2-345.2, and such identification form or card contains a  
 52 date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by  
 53 the Department of Motor Vehicles or a renewed special identification card without a photograph issued  
 54 pursuant to § 46.2-345.2, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after  
 55 the date of issue of an original or duplicate driver's license or special identification card without a photograph  
 56 unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's

ENROLLED

HB2631ER

57 record showing that the original date of issue of the driver's license was more than 30 days prior to the  
58 attempted purchase.

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

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

67 2. The State Police shall provide its response to the requesting dealer during the dealer's request or by  
68 return call without delay. A dealer who fulfills the requirements of subdivision 1 and is told by the State  
69 Police that a response will not be available by the end of the dealer's fifth business day may ~~immediately~~  
70 complete the sale or transfer *after at least five days have elapsed from the time the prospective purchaser*  
71 *completed the consent form specified in subsection A* and shall not be deemed in violation of this section with  
72 respect to such sale or transfer.

73 3. Except as required by subsection D of § 9.1-132, the State Police shall not maintain records longer than  
74 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from  
75 any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is  
76 not found to be prohibited from possessing and transporting a firearm under state or federal law. However,  
77 the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name  
78 of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

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

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

91 6. For the purposes of this subsection, the phrase "dealer's fifth business day" does not include December  
92 25.

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

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

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

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

116 F. For purposes of this section:

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

119 "Antique firearm" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162 H. The provisions of this section shall not apply to (i) transactions between persons who are licensed as  
163 firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.; (ii) purchases  
164 by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local  
165 government, or any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title  
166 23.1; or (iii) antique firearms or curios or relics.

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

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

178 K. Any person willfully and intentionally making a materially false statement on the consent form  
179 required in subsection B or C or on such firearm transaction records as may be required by federal law shall

180 be guilty of a Class 5 felony.

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

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

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

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

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

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

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

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

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

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

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

240 a. A law-enforcement agency;

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

- 242 c. A state or local correctional facility;
- 243 d. A private security company licensed to do business within the Commonwealth;
- 244 e. The purchase of antique firearms;
- 245 f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be
- 246 replaced immediately. Such person may purchase another handgun, even if the person has previously
- 247 purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a
- 248 copy of the official police report or a summary thereof, on forms provided by the Department of State Police,
- 249 from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police
- 250 report or summary thereof contains the name and address of the handgun owner, a description of the
- 251 handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was
- 252 reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police
- 253 report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The
- 254 firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the
- 255 Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the
- 256 Department of State Police;
- 257 g. A person who trades in a handgun at the same time he makes a handgun purchase and as a part of the
- 258 same transaction, provided that no more than one transaction of this nature is completed per day;
- 259 h. A person who holds a valid Virginia permit to carry a concealed handgun;
- 260 i. A person who purchases a handgun in a private sale. For purposes of this subdivision, "private sale"
- 261 means a purchase from a person who makes occasional sales, exchanges, or purchases of firearms for the
- 262 enhancement of a personal collection of curios or relics or who sells all or part of such collection of curios
- 263 and relics; or
- 264 j. A law-enforcement officer. For purposes of this subdivision, "law-enforcement officer" means any
- 265 employee of a police department or sheriff's office that is part of or administered by the Commonwealth or
- 266 any political subdivision thereof and who is responsible for the prevention and detection of crime and the
- 267 enforcement of the penal, traffic, or highway laws of the Commonwealth.

268 **§ 18.2-308.2:5. Criminal history record information check required to sell firearm; penalty.**

269 A. No person shall sell a firearm for money, goods, services or anything else of value unless (i) he has

270 obtained verification from a licensed dealer in firearms that information on the prospective purchaser has

271 been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and that a

272 determination has been received from the Department of State Police that the prospective purchaser is not

273 prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by state

274 or federal law and (ii) *at least five days have elapsed from the time the prospective purchaser completed the*

275 *written consent form provided by the Department of State Police to have a designated licensed dealer obtain*

276 *criminal history record information.* The Department of State Police shall provide a means by which sellers

277 may obtain from designated licensed dealers the approval or denial of firearm transfer requests, based on

278 criminal history record information checks. The processes established shall conform to the provisions of §

279 18.2-308.2:2, and the definitions and provisions of § 18.2-308.2:2 regarding criminal history record

280 information checks shall apply to this section mutatis mutandis. The designated dealer shall collect and

281 disseminate the fees prescribed in § 18.2-308.2:2 as required by that section. The dealer may charge and

282 retain an additional fee not to exceed \$15 for obtaining a criminal history record information check on behalf

283 of a seller.

284 B. Notwithstanding the provisions of subsection A and unless otherwise prohibited by state or federal law,

285 a person may sell a firearm to another person if:

- 286 1. The sale of a firearm is to an authorized representative of the Commonwealth or any subdivision
- 287 thereof as part of an authorized voluntary gun buy-back or give-back program;
- 288 2. The sale occurs at a firearms show, as defined in § 54.1-4200, and the seller has received a
- 289 determination from the Department of State Police that the purchaser is not prohibited under state or federal
- 290 law from possessing a firearm in accordance with § 54.1-4201.2; or
- 291 3. The sale of a firearm is conducted pursuant to § 59.1-148.3, with the exception of a sale conducted
- 292 pursuant to subsection C of § 59.1-148.3.

293 C. Any person who willfully and intentionally sells a firearm to another person without obtaining

294 verification *or before at least five days have elapsed since the time the prospective purchaser completed the*

295 *written consent form provided by the Department of State Police to have a designated licensed dealer obtain*

296 *criminal history record information* in accordance with this section is guilty of a Class 1 misdemeanor.

297 D. Any person who willfully and intentionally purchases a firearm from another person without obtaining

298 verification *or before at least five days have elapsed since the time the prospective purchaser completed the*

299 *written consent form provided by the Department of State Police to have a designated licensed dealer obtain*

300 *criminal history record information* in accordance with this section is guilty of a Class 1 misdemeanor.

301 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**

302 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**

303 **appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;**

304 therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal  
305 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the  
306 Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of commitment  
307 to the custody of the Department of Juvenile Justice.