

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607, 59.1-608, and 59.1-609, relating to firearm industry members; standards of responsible conduct; civil liability.

[H 1608]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607, 59.1-608, and 59.1-609, as follows:

CHAPTER 58.

VIRGINIA FIREARM INDUSTRY STANDARDS OF RESPONSIBLE CONDUCT.

§ 59.1-607. Definitions.

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

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

"Firearm accessory" means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm that is designed, is intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter's ability to hold and use a firearm.

"Firearm industry member" means a person engaged in the sale, manufacturing, distribution, importing, or marketing of a firearm-related product.

"Firearm-related product" means a firearm, ammunition, a firearm component, including unfinished frames or receivers, or a firearm accessory that was (i) sold, made, distributed, or marketed in the Commonwealth; (ii) intended to be sold, made, distributed, or marketed in the Commonwealth; or (iii) possessed in the Commonwealth, and it was reasonably foreseeable that the product would be possessed or used in the Commonwealth.

"Firearm trafficker" means a person who acquires, transfers, or attempts to acquire or transfer a firearm for purposes of unlawful commerce.

"Frame" and "receiver" have the same meanings attributed to them in 18 U.S.C. § 921 et seq. and regulations issued pursuant thereto.

"Public nuisance" means a condition that injures, endangers, or threatens to injure or endanger or contributes to the injury or endangerment of the health, safety, peace, comfort, or convenience of others or otherwise constitutes a public nuisance under common law.

"Reasonable controls" means reasonable procedures, safeguards, and business practices that are designed to (i) prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm-related product to harm themselves or unlawfully harm another or of unlawfully possessing or using a firearm-related product; (ii) prevent the loss of a firearm-related product or theft of a firearm-related product from a firearm industry member; (iii) ensure that the firearm industry member complies with all provisions of state and federal law and does not otherwise promote the unlawful manufacture, sale, possession, marketing, or use of a firearm-related product; or (iv) ensure that the firearm industry member does not engage in an act or practice in violation of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

"Straw purchaser" means an individual who conceals, or intends to conceal, from a person that the purchase of a firearm-related product is being made on behalf of a third party. A "straw purchaser" does not include a bona fide gift to a person who is not prohibited by law from possessing or receiving a firearm-related product. For purposes of this chapter, a gift to a person is not a bona fide gift if the person has offered or given the purchaser a service or thing of value to acquire the firearm-related product for the person.

"Unfinished frame or receiver" means a forging, casting, printing, extrusion, machined body, or similar item that (i) is designed to or may readily be completed, assembled, or otherwise converted to function as a frame or receiver or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once completed, assembled, or otherwise converted. However, "unfinished frame or receiver" does not include a component designed and intended for use in an antique weapon.

§ 59.1-608. Firearm industry standards of responsible conduct; civil liability.

A. A firearm industry member, by conduct unlawful in itself or unreasonable under all the circumstances, may not knowingly or recklessly create, maintain, or contribute to a public nuisance through the sale,

57 *manufacturing, importing, or marketing of a firearm-related product.*

58 *B. A firearm industry member shall establish and implement reasonable controls regarding the*
59 *manufacture, sale, distribution, use, and marketing of the firearm industry member's firearm-related*
60 *products.*

61 *C. A violation of subsection A or B is a public nuisance.*

62 *D. A firearm industry member's conduct constitutes a proximate cause of the public nuisance if the harm*
63 *to the public is a reasonably foreseeable effect of the conduct, notwithstanding any intervening actions,*
64 *including criminal actions by third parties.*

65 *E. Whenever it appears to the Attorney General or the local county or city attorney that a firearm industry*
66 *member has engaged in or is engaging in conduct in violation of this section, the Attorney General or local*
67 *county or city attorney may commence an action to seek and obtain (i) an injunction prohibiting the firearm*
68 *industry member from continuing the conduct or engaging in the conduct or doing any acts in furtherance of*
69 *the conduct; (ii) an order providing for abatement of the public nuisance at the expense of the firearm*
70 *industry member; (iii) an order of restitution; (iv) an award of compensatory and punitive damages; (v) an*
71 *award of reasonable attorney fees and costs of the action; and (vi) any other appropriate relief that may be*
72 *awarded by the court.*

73 *F. Any person that has been injured as a result of a firearm industry member's acts or omissions in*
74 *violation of this section may commence an action to seek and obtain (i) an injunction prohibiting the firearm*
75 *industry member from continuing the conduct or engaging in the conduct or doing any acts in furtherance of*
76 *the conduct, (ii) an award of compensatory and punitive damages, and (iii) an award of reasonable attorney*
77 *fees and costs of the action.*

78 *G. To prevail in an action under this section, the party seeking relief is not required to demonstrate that*
79 *the firearm industry member acted with the intent to engage in a public nuisance or otherwise cause harm to*
80 *the public.*

81 *H. This section shall not be construed or implied to limit or impair in any way (i) the right of a person to*
82 *pursue a legal action under any other law or (ii) an obligation or requirement placed on a firearm industry*
83 *member by any other law.*

84 *Nothing in this section is intended to restrict or alter the availability of an action for relief from or to*
85 *remedy a public nuisance at common law.*

86 ***§ 59.1-609. Limitation of action; venue.***

87 *A. An action brought pursuant to § 59.1-608 shall be commenced within two years after the cause of*
88 *action accrues.*

89 *B. An action brought pursuant to § 59.1-608 may be brought in the county or city of the Commonwealth*
90 *(i) in which all or a substantial part of the acts or omissions that form the basis for the cause of action*
91 *occurred, (ii) where any defendant resided when the cause of action arose or where the principal office of*
92 *any defendant is located, or (iii) where the plaintiff resides if the plaintiff is a natural person.*