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HOUSE BILL NO. 1359

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on _____)

(Patron Prior to Substitute—Delegate Hope)

A *BILL to amend and reenact §§ 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 a section numbered 18.2-308.2:6, relating to firearm purchase requirements; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 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 a section numbered 18.2-308.2:6 as follows:

§ 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 in this section shall present a valid firearm purchaser license issued by the Department of State Police pursuant to § 18.2-308.2:6 and 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 security number and/or any other identification number; the number of firearms by category intended to be sold, rented, traded, or transferred; and answers by the applicant to the following questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in § 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

B. 1. No dealer shall sell, rent, trade, or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent and the other information on the consent form specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, citizenship, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded, or transferred ~~and~~; (ii) requested criminal history record information by a telephone call to or other communication authorized by the State Police and is authorized by subdivision 2 to complete the sale or other such transfer; and (iii) received from the prospective purchaser a valid firearm purchaser license issued by the Department of State Police pursuant to § 18.2-308.2:6. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense or a special identification card without a photograph issued pursuant to § 46.2-345.2 that demonstrates that the prospective purchaser resides in Virginia. For the purposes of this section and establishment of residency for firearm purchase, residency of a member of the armed forces shall include both the state in which the member's permanent duty post is located and any nearby state in which the member resides and from which he commutes to the permanent duty post. A member of the armed forces whose photo identification issued by the Department of Defense does not have a Virginia address may establish his Virginia residency with such photo identification and either permanent orders assigning the purchaser to a duty post, including the Pentagon, in Virginia or the purchaser's Leave and Earnings Statement. When the identification presented to a dealer by the prospective purchaser is a driver's license or other photo identification issued by the Department of Motor Vehicles or a special identification card without a photograph issued pursuant to § 46.2-345.2, and such identification form or card contains a date of issue, the dealer shall not, except for a renewed driver's license or other photo identification issued by the Department of Motor Vehicles or a renewed special identification card without a photograph issued pursuant to § 46.2-345.2, sell or otherwise transfer a firearm

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to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license or special identification card without a photograph unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than 30 days prior to the attempted purchase.

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

Upon receipt of the request for a criminal history record information check, the State Police shall (a) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (b) *verify the validity of the buyer or transferee's firearm purchaser license*, (c) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and ~~(e)~~ (d) provide the dealer with a unique reference number for that inquiry.

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

3. Except as required by subsection D of § 9.1-132 *and subdivision 4*, the State Police shall not maintain records longer than 30 days, except for multiple handgun transactions for which records shall be maintained for 12 months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of 12 months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number, and the transaction date.

4. ~~On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police.~~ The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay. *The Department of State Police shall maintain a searchable database of all attempted purchase transactions pursuant to this subdivision. The State Police shall make the information in such database available, upon request, to criminal justice agencies as defined in § 9.1-101, including local law-enforcement agencies, through the Virginia Criminal Information Network. Information provided under this subsection shall be used only for the purposes of the administration of criminal justice as defined in § 9.1-101. No liability shall be imposed on any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this subdivision, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.*

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states *may purchase rifles and shotguns* under the terms of ~~subsections~~ subsection A and ~~B~~ *this subsection* upon furnishing the dealer with one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services, *provided that such persons have been issued a valid firearm purchaser license by the Department of State Police pursuant to § 18.2-308.2:6.*

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

C. No dealer shall sell, rent, trade, or transfer from his inventory any firearm, except when the transaction involves a rifle or a shotgun and can be accomplished pursuant to the provisions of subdivision B 5, to any person who is a dual resident of Virginia and another state pursuant to applicable federal law unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law *and received from the prospective purchaser a valid firearm purchaser license issued by the Department of State Police pursuant to § 18.2-308.2:6.*

To establish personal identification and dual resident eligibility for purposes of this subsection, a dealer shall require any prospective purchaser to present one photo-identification form issued by a governmental agency of the prospective purchaser's state of legal residence and other documentation of dual residence within the Commonwealth. The other documentation of dual residence in the Commonwealth may include (i) evidence of currently paid personal property tax or real estate tax or a current (a) lease, (b) utility or telephone bill, (c) voter registration card, (d) bank check, (e) passport, (f) automobile registration, or (g) hunting or fishing license; (ii) other current identification allowed as evidence of residency by 27 C.F.R. § 178.124 and

ATF Ruling 2001-5; or (iii) other documentation of residence determined to be acceptable by the Department of Criminal Justice Services and that corroborates that the prospective purchaser currently resides in Virginia.

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

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

F. For purposes of this section:

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

"Antique firearm" means:

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

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

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

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

"Assault firearm" means any:

1. A semi-automatic center-fire rifle or pistol ~~which expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine which will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock with a fixed magazine capacity in excess of 10 rounds;~~

2. A semi-automatic center-fire rifle that has the ability to accept a detachable magazine, not including an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition, and that has one or more of the following characteristics: (i) a folding, telescoping, or collapsible stock; (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the rifle; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) a grenade launcher; or (v) a threaded barrel capable of accepting (a) a muzzle brake, (b) a muzzle compensator, (c) a sound suppressor, or (d) a flash suppressor;

3. A semi-automatic center-fire pistol that has two or more of the following characteristics: (i) a second handgrip or a protruding grip that can be held by the non-trigger hand; (ii) the capacity to accept a magazine that attaches to the pistol outside of the pistol grip; (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the pistol with the non-trigger hand without being burned; (iv) a threaded barrel capable of accepting (a) a sound suppressor, (b) a flash suppressor, (c) a barrel extender, or (d) a forward handgrip; or (v) a buffer tube, arm brace, or other part that protrudes horizontally behind the pistol grip and is designed or redesigned to allow or facilitate the firing of a firearm from the shoulder;

4. A semi-automatic shotgun that expels single or multiple projectiles by action of an explosion of a combustible material that has one of the following characteristics: (i) a folding, telescoping, or collapsible stock; (ii) a thumbhole stock or pistol grip that protrudes conspicuously beneath the action of the shotgun; (iii) the ability to accept a detachable magazine; (iv) a fixed magazine capacity in excess of seven rounds; or (v) any characteristic of like kind as enumerated in clauses (i) through (iv);

5. A shotgun with a revolving cylinder;

6. A firearm that has the capacity to accept a belt ammunition feeding device; or

7. A firearm that has been modified to be operable as an assault firearm as described in subdivisions 1 through 6.

An "assault firearm" does not include any firearm that is an antique firearm, has been rendered permanently inoperable, or is manually operated by bolt, pump, lever, or slide action.

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

1. Firearms that were manufactured at least 50 years prior to the current date, which use rimfire or

conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade, but not including replicas thereof;

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

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

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

other sentence.

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

Q. Prior to selling, renting, trading, or transferring any firearm owned by the dealer but not in his inventory to any other person, a dealer ~~may~~ *shall require the transferee to present a valid firearm purchaser license issued by the Department of State pursuant to § 18.2-308.2:6 and shall* require such other person to consent to have the dealer obtain criminal history record information to determine if such other person is prohibited from possessing or transporting a firearm by state or federal law. The Department of State Police shall establish policies and procedures in accordance with 28 C.F.R. § 25.6 to permit such determinations to be made by the Department of State Police, and the processes established for making such determinations shall conform to the provisions of this section.

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

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

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

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

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. A state or local correctional facility;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms;

f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a 30-day period, provided that (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, a description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within 30 days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and retain it for the period prescribed by the Department of State Police;

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

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

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

308 and relics; or

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

313 **§ 18.2-308.2:5. Firearm purchaser license check required to sell firearm; penalty.**

314 A. No person shall sell a firearm for money, goods, services or anything else of value unless ~~he~~ *the seller*
315 has obtained verification from a licensed dealer in firearms that information on the prospective purchaser has
316 been submitted for a criminal history record information check as set out in § 18.2-308.2:2 and that a
317 determination has been received from the Department of State Police that the prospective purchaser is not
318 prohibited under state or federal law from possessing a firearm or such sale is specifically exempted by state
319 or federal law. The Department of State Police shall provide a means by which sellers may obtain from
320 designated licensed dealers the approval or denial of firearm transfer requests, based on criminal history
321 record information checks. The processes established shall conform to the provisions of § 18.2-308.2:2, and
322 the definitions and provisions of § 18.2-308.2:2 regarding criminal history record information checks shall
323 apply to this section mutatis mutandis. The designated dealer shall collect and disseminate the fees prescribed
324 in § 18.2-308.2:2 as required by that section. The dealer may charge and retain an additional fee not to exceed
325 \$15 for obtaining a criminal history record information check on behalf of a seller.

326 B. *No person shall sell a firearm for money, goods, services, or anything else of value unless the seller*
327 *has obtained verification from the Department of State Police that the prospective purchaser has a valid*
328 *firearm purchaser license issued by the Department of State Police pursuant to § 18.2-308.2:6. The*
329 *Department may confirm the validity of the buyer's firearm purchaser license upon request, but shall not*
330 *disclose the reason for suspension or revocation of such license or any personally identifiable information.*

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

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

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

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

340 ~~G. D. Any person who willfully and intentionally sells, or causes to be sold, a firearm to another person~~
341 ~~without obtaining verification in accordance with~~ *in violation of this section is guilty of a Class 1*
342 *misdemeanor.*

343 ~~D. E. Any person who willfully and intentionally purchases a firearm from another person without~~
344 ~~obtaining verification in accordance with~~ *in violation of this section is guilty of a Class 1 misdemeanor.*

345 **§ 18.2-308.2:6. Firearm purchaser license to purchase a firearm; application; penalties.**

346 A. For the purposes of this section:

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

348 "Department" means the Department of State Police.

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

351 "Firearm purchaser license" means a license to purchase a firearm.

352 "Superintendent" means the Superintendent of State Police.

353 B. Any person 21 years of age or older may submit an application to obtain a firearm purchaser license.
354 Such application shall be submitted in person to the Department or electronically in a manner specified by
355 the Department or to a local law-enforcement agency to be considered for processing and approval. Any
356 local law-enforcement agency that receives an application shall forward such form to the Department for
357 processing and approval. Except as otherwise provided in this section, the Department shall upon receipt of
358 an application issue a firearm purchaser license to any person who is not prohibited from purchasing,
359 possessing, or transporting a firearm under this article or under any other provision of state or federal law.

360 C. The application for a firearm purchaser license shall be on a form prescribed by the Department and
361 shall set forth the applicant's full name, current residential and mailing addresses, date of birth, sex, race,
362 ethnicity, citizenship, and social security number or any other identification number. The applicant shall
363 attach a copy of one valid form of photo identification issued by a federal or state governmental agency;
364 however, the applicant may grant permission on such form to use a Virginia-issued Department of Motor
365 Vehicles photograph or other photograph that meets U.S. Department of State passport standards. The
366 applicant shall also include a copy of a certificate of completion for a firearms safety or training course or
367 class as described in subdivision G 3. The application shall include answers by the applicant to the following
368 questions: (i) has the applicant been convicted of a felony offense or a misdemeanor offense listed in
369 § 18.2-308.1:8 or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of

the offense of a delinquent act that if committed by an adult would be a felony or a misdemeanor listed in § 18.2-308.1:8; (ii) is the applicant subject to a court order restraining the applicant from harassing, stalking, or threatening the applicant's child or intimate partner, or a child of such partner, or is the applicant subject to a protective order; (iii) has the applicant ever been acquitted by reason of insanity and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated, or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction, or been the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to a voluntary admission pursuant to § 37.2-805; and (iv) is the applicant subject to an emergency substantial risk order or a substantial risk order entered pursuant to § 19.2-152.13 or 19.2-152.14 and prohibited from purchasing, possessing, or transporting a firearm pursuant to § 18.2-308.1:6 or any substantially similar law of any other jurisdiction.

D. As a condition for the issuance of a firearm purchaser license pursuant to this section, the applicant shall submit to electronic fingerprinting and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant. The results of such fingerprint search shall be returned to the Superintendent of the Department, or his designee.

E. Blank application forms shall be obtainable from the Department and from dealers.

F. The Department shall charge a license application fee that will cover as nearly as practicable the direct and indirect costs to the Department incurred by creating and administering the firearm purchaser licensing program and issuing licenses. Such fees shall be deposited into a special account to be used to offset the costs of such licensing program, including any subscription fees, maintenance fees, and enhancements related to the database required by subsection Q.

G. Except as provided in this subsection, no person shall be denied a firearm purchaser license. No firearm purchaser license shall be issued to:

1. Any person younger than 21 years of age;
2. Any person prohibited from purchasing, possessing, or transporting a firearm under this article or under any other provision of state or federal law;
3. Any person who, within the two years prior to the date of application, has not completed a firearms safety or training course or class approved by the Department of Criminal Justice Services, available to the general public, and offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or by a firearms training school utilizing instructors certified or approved by the Department of Criminal Justice Services. In order to be approved by the Department of Criminal Justice Services, such firearms safety or training course or class shall include the following:
 - a. Instruction regarding knowledge, safe handling, and storage of firearms and ammunition;
 - b. Instruction regarding safe firearms shooting fundamentals that shall include live fire shooting exercises conducted on a range with the expenditure of a minimum of 10 rounds of ammunition;
 - c. Identification of ways to develop and maintain firearm shooting skills;
 - d. Instruction regarding federal and state laws pertaining to the lawful purchase, ownership, transportation, use, and possession of firearms; and
 - e. Instruction regarding the laws pertaining to the use of deadly force for self-defense and techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution.
4. The provisions of subdivision 3 shall not apply to any person who (i) is a current law-enforcement officer; (ii) retired in good standing from a federal, state, or local law-enforcement agency who has obtained a concealed handgun permit with ongoing qualification; or (iii) is an active duty member of the military who is 21 years of age or older.

H. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a firearm purchaser license, is delivered to and received by the Department. Upon receipt of the completed application, the Department shall review criminal history record information to determine if the applicant is prohibited from possessing or transporting a firearm by state or federal law and investigate the application. Unless grounds exist for the denial of the application, the Department shall grant the firearm purchaser license within 45 days from the date of receipt of the completed application form.

I. If the Department determines that an applicant does not qualify for a firearm purchaser license, the application shall be denied and the Department shall notify the applicant in writing, setting forth the specific reasons for such determination.

J. Upon the issuance of a firearm purchaser license or denial of an application for a firearm purchaser license, the Department shall notify the law-enforcement agency of the locality where the applicant resides that such a license has been issued or denied.

K. 1. A firearm purchaser license shall be valid for a period of five years from the date of issuance.

2. Each firearm purchaser license shall bear a unique license number, the full name and address of the holder, a photograph of the holder, the date on which the firearm purchaser license expires, the seal of the Department, and any other information required by state law or regulation. The firearm purchaser license shall be comparable to a Virginia driver's license, may be laminated or protected using a similar process to protect the firearm purchaser license, and shall otherwise be of a uniform style prescribed by the Department.

L. The Department shall enroll the firearm purchaser license holder in the Virginia Record of Arrest and Prosecution (Rap) Back Service pursuant to § 52-46.

M. A firearm purchaser license shall be revoked at any time by the Department upon a finding that the holder no longer qualifies for the firearm purchaser license. The Department shall give written notice of revocation without unnecessary delay to the holder of a firearm purchaser license and shall also immediately notify the law-enforcement agency of the locality in which the holder of the firearm purchaser license resides. After notification of revocation, if there is probable cause to believe that the holder of the firearm purchaser license has firearms in his custody, possession, or control, the local law-enforcement agency shall take action to ensure removal of such firearms.

N. A firearm purchaser license shall be suspended by the Department upon a finding that the holder has a charge pending for an offense that would disqualify the holder of the firearm purchaser license. Upon final disposition of such charge, the holder of the firearm purchaser license may submit a written request to the Department requesting reinstatement of his firearm purchaser license if he remains eligible for such license and such license has not expired.

O. Any person aggrieved by the denial or revocation of a firearm purchaser license may file a petition in the circuit court of the locality in which he resides or with the Department if such person resides out of state. Such petition shall be filed within 60 days of the denial or revocation. Such petition shall be accompanied by a copy of the original application and notice of denial or revocation, as applicable. A copy of such petition shall be served upon the chief law-enforcement officer of the locality in which he resides and upon the Superintendent.

P. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

Q 1. The Department shall enter the name and description of a person issued a firearm purchaser license into the Virginia Criminal Information Network. The Department shall withhold from public disclosure firearm purchaser licensee information submitted to the Department for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency or officer, or any authorized agent of such agency or officer acting in the performance of official law-enforcement duties when such information is related to an ongoing criminal investigation or prosecution, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency when such information is related to an ongoing criminal investigation or prosecution. However, nothing in this subdivision shall be construed to prohibit the release of statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual firearm purchaser licensees.

2. The Department shall keep and maintain a computerized database containing the following: (i) the number of applications for firearm purchaser licenses and firearm purchaser licenses issued by month and year; (ii) the age, sex, race, ethnicity, and jurisdiction of all applicants and licensees; (iii) the number of denied applications for firearm purchaser licenses; (iv) the number of revoked or suspended firearm purchaser licenses and the reason for such revocation or suspension; and (v) any other relevant data. The Department shall make such data available upon request to institutions of higher education and other research organizations or institutions in the Commonwealth. The Department shall remove the names and other personal identifying information from the data before it is released to the institution of higher education or research organization or other institution in the Commonwealth.

3. Data provided under this subsection shall be used only for the purposes of the administration of criminal justice as defined in § 9.1-101, except as otherwise provided in this subsection. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this subsection. However, this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

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

2. That the provisions of the first enactment of this act shall become effective on July 1, 2028.

3. That the Department of State Police shall create a verification process for a seller of a firearm to contact the Department to obtain verification of a purchaser's firearm purchaser license.

494 4. That the provisions of this act may result in a net increase in periods of imprisonment or
495 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
496 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
497 therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing
498 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of
499 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of
500 commitment to the custody of the Department of Juvenile Justice.