



**Fiscal Impact Statement for Proposed Legislation**  
**Virginia Criminal Sentencing Commission**

**House Bill No. 1424**  
*(Patron – Hope)*

**LD#:** 24104525

**Date:** 01/09/2024

**Topic:** Permits to purchase firearms

**Fiscal Impact Summary:**

<ul style="list-style-type: none"> <li>• <b>State Adult Correctional Facilities:</b> \$50,000 *</li> <li>• <b>Local Adult Correctional Facilities:</b> Cannot be determined</li> <li>• <b>Adult Community Corrections Programs:</b> Cannot be determined</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Juvenile Direct Care:</b> Cannot be determined **</li> <li>• <b>Juvenile Detention Facilities:</b> Cannot be determined **</li> </ul> <p>** Provided by the Department of Juvenile Justice</p>
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\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

**Summary of Proposed Legislation:**

The proposal requires a person purchasing a firearm from a firearms dealer to present a valid permit issued by the Department of State Police, which allows the holder to purchase a firearm. The bill prohibits a firearms dealer from selling, renting, trading, or transferring from his inventory a firearm to any person until such permit has been presented. The proposal establishes procedures for individuals to apply for a permit and prohibits the permitting of any person who (i) is under the age of 21; (ii) is prohibited from purchasing, possessing, or transporting a firearm; (iii) within the two years prior to the date of application, has been convicted of any crime against a person or firearm related offense that is punished as a Class 1 misdemeanor; (iv) is an unlawful user of or addicted to any controlled substance; (v) has not completed a firearms safety or training course within the two years prior to the date of application; or (vi) for whom the issuance would not be in the interest of the public health, safety, or welfare of the Commonwealth as determined by the Department of State Police because the person is found to be lacking in essential character or temperament necessary to be entrusted with a firearm. The permit is valid for five years from the date of issuance. Additionally, no dealer shall sell or otherwise transfer a firearm to a prospective purchaser until 14 days after the date of issue of a permit to purchase a firearm.

Under the proposed § 18.2-308.2:6, any person who willfully and intentionally makes a materially false statement on the application form for a permit would be guilty of a Class 5 felony.<sup>1</sup> Permits may be voided or revoked for reasons specified and any person who fails to return a voided/revoked permit to the

<sup>1</sup> The proposed felony would be eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court.

Superintendent of State Police within five days' notice of revocation would be guilty of a Class 1 misdemeanor.

Currently, under § 18.2-308.2:2, permits are not required to purchase a firearm from a licensed firearm dealer; however, prospective buyers must complete a criminal record check consent form and, except under limited circumstances, a dealer may not complete the transaction until he has received notification from the Virginia State Police that the prospective buyer is not prohibited from possessing a firearm. Under the proposal, the existing requirements for a criminal record check would continue with addition of the requirement for presenting permits. Misdemeanor and felony offenses currently defined in § 18.2-308.2:2 would remain unchanged.

Under § 18.2-308.2:2(K), making a materially false statement on a consent form that is required to purchase a firearm from a licensed dealer is a Class 5 felony. Under § 18.2-308.2:2 (L), it is a Class 6 felony for any firearms dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of the provision. Pursuant to § 18.2-308.2:2(M), purchasing a firearm with the intent to transfer it to an individual who is ineligible to purchase a firearm from a dealer is a Class 4 felony that carries a mandatory minimum term of one year. Offenders who transfer more than one firearm in violation of § 18.2-308.2:2(M) are subject to a mandatory minimum term of five years. Subsection N of § 18.2-308.2:2 makes it a Class 4 felony for any person ineligible to purchase or possess a firearm to solicit, employ, or assist any person in purchasing a firearm in violation of § 18.2-308.2:2(M); a violation of this subsection also carries a mandatory minimum term of five years.<sup>2</sup>

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapon violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable as a Class 6 felony.

**Analysis:**

Existing data sources do not contain sufficient detail to estimate the number of additional misdemeanor or felony convictions may result if the proposal were enacted. However, individuals convicted of a felony as a result of the proposed requirements may be sentenced similarly to those convicted under the existing provisions (see below).

**Offenders Convicted of Select Felony Firearm Offenses, FY2022-FY2023**

<b>Primary Offense</b>	<b>Total Number of Cases</b>	<b>Percent Sentenced to Probation</b>	<b>Percent Sentenced to Jail</b>	<b>Median Jail Sentence</b>	<b>Percent Sentenced to Prison</b>	<b>Median Prison Sentence</b>
False statement on firearm consent form (§ 18.2-308.2:2(K)) <sup>+</sup>	270	81.9%	14.4%	7.0 mos.	3.7%	1.1 yrs.
Dealer sell/transfer firearm in violation of section (§ 18.2-308.2:2(L)) <sup>++</sup>	0	N/A	N/A	N/A	N/A	N/A
Solicit, etc., dealer to transfer firearm to another (§ 18.2-308.2:2(L1)) <sup>++</sup>	2	100%	N/A	N/A	N/A	N/A
Purchase firearm to provide to ineligible person (§ 18.2-308.2:2(M,i)) <sup>++</sup>	0	N/A	N/A	N/A	N/A	N/A
Transport firearm out of state to provide to ineligible person	0	N/A	N/A	N/A	N/A	N/A

<sup>2</sup> Under current law, felony offenses defined in §§ 18.2-308.2:2 and 18.2-311.2 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

(§ 18.2-308.2:2(M,ii)) <sup>++</sup>						
Solicit violation of § 18.2-308.2:2(M) - (§ 18.2-308.2:2(N)) <sup>++</sup>	3	0%	0%	N/A	100%	7.0 yrs.

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense at sentencing.

<sup>+</sup>Source: Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2022-FY2023;

<sup>++</sup>Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2022-FY2023

Offenders convicted of the proposed Class 1 firearm misdemeanor who accumulate three or more firearm convictions could be found guilty of a Class 6 felony under § 18.2-311.2. According to the Circuit Court Case Management System (CMS) data for fiscal year (FY) 2018 through FY2023, three offenders were convicted of a felony under § 18.2-311.2 for a third or subsequent weapon offense as the primary, or most serious, offense. All three offenders received a state-responsible (prison) term for which the median sentence was 1.3 years.

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2018 through FY2023, 22 offenders were convicted of a Class 5 felony under § 18.2-434 for falsely subscribing a written declaration. Of these 22 cases, falsely subscribing a written declaration was the most serious offense in 12 sentencing events. Of these 12 sentencing events, 6 defendants (50%) received probation without an active term of incarceration, 4 defendants (33.3%) received a local-responsible (jail) sentence of less than 12 months, and 2 defendants (16.7%) received a state-responsible (prison sentence) of 1 year or more. For defendants given a jail term, the median sentence was 10 days and, for those given a prison term, the median sentence was 1.8 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal establishes a new Class 5 felony and adds requirements for purchasing firearms that could potentially result in more felony violations of § 18.2-308.2:2. In addition, offenders convicted of the proposed Class 1 misdemeanor offense could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more misdemeanor weapon convictions. The proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth; however, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases affected cannot be determined, the potential impact on community corrections cannot be quantified.

**Virginia’s Sentencing Guidelines.** Felony convictions under § 18.2-308.2:2 (except subsection K) and the proposed § 18.2-308.2:6 are not covered by the Sentencing Guidelines when one of these offenses is the primary, or most serious, in a case. Such convictions, however, could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. Felony offenses in subsections M and N of § 18.2-308.2:2 are defined as violent under § 17.1-805(C) for Guidelines purposes. Other felonies affected by the proposal, including the proposed felony (§ 18.2-308.2:6), are not defined as violent in that section. No adjustment to the Guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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