

state of Vermont and in the contiguous state in which the purchase is made.

4015. Purchase of firearms by nonresidents. Residents of a state contiguous to the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

Title 24. Municipal and County Governments

Part 2. Municipalities

Chapter 61. Regulatory Provisions; Police Power of Municipalities

Subchapter 11. Miscellaneous Regulatory Powers

2295. Authority of municipal and county governments to regulate firearms, ammunition, hunting, fishing and trapping. Except as

otherwise provided by law, no town, city or incorporated village, by ordinance, resolution or other enactment, shall directly regulate hunting, fishing and trapping or the possession, ownership, transportation, transfer, sale, purchase, carrying, licensing or registration of traps, firearms, ammunition or components of firearms or ammunition. This section shall not limit the powers conferred upon a town, city or incorporated village under section 2291(8) of this title. The provisions of this section shall supersede any inconsistent provisions of a municipal charter.

[Current through 2004 Legislative Session]

VIRGINIA VA. CODE

Title 15.2. Counties, Cities and Towns

Chapter 9. General Powers of Local Governments

15.2-915. Control of firearms; applicability to authorities and local governmental agencies.

A. No locality shall adopt or enforce any ordinance, resolution or motion, as permitted by § 15.2-1425, and no agent of such locality shall take any administrative action, governing the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. For purposes of this section, a statute that does not refer to firearms, ammunition, or components or combination thereof, shall not be construed to provide express authorization.

Nothing in this section shall prohibit a locality from adopting workplace rules relating to terms and conditions of employment of the workforce. Nothing in this section shall prohibit a law-enforcement officer, as defined in § 9.1-101 from acting within the scope of his duties.

The provisions of this section applicable to a locality shall also apply to any authority or to a local governmental entity, including a department or agency, but not including any local or regional jail or juvenile detention facility.

B. Any local ordinance, resolution or motion adopted prior to the effective date of this act governing the purchase, possession, transfer, ownership, carrying or transporting of firearms, ammunition, or components or combination thereof, other than those expressly authorized by statute, is invalid.

15.2-915.2. Regulation of transportation of a loaded rifle or shotgun. The governing body of any county or city may by ordinance make it unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within such locality. Any violation of such ordinance shall be punishable by a fine of not more than \$100. Game wardens, sheriffs and all other law-enforcement officers shall enforce the provisions of this section. No ordinance adopted pursuant to this section shall be enforceable unless the governing body adopting such ordinance so notifies the Director of the Department of Game and Inland Fisheries by registered mail prior to May 1 of the year in which such ordinance is to take effect.

The provisions of this section shall not apply to duly authorized law-enforcement officers or military personnel in the performance of their

lawful duties, nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

15.2-915.3. Requiring fingerprinting for concealed handgun permit. Notwithstanding § 15.2-915, a county or city may by ordinance require any applicant for a concealed handgun permit to submit to fingerprinting for the purpose of obtaining the applicant's state or national criminal history record.

15.2-915.4. Counties, cities and towns authorized to regulate use of pneumatic guns.

A. A locality may prohibit, by ordinance, the shooting of pneumatic guns in any areas of the locality that are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof, and may require supervision by a parent, guardian, or other adult supervisor approved by a parent or guardian of any minor below the age of 16 in all uses of pneumatic guns on private or public property. The ordinance may specify that minors above the age of 16 may, with the written consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor, whether permitted by a parent or guardian to use a pneumatic gun or not, shall be responsible for obeying all laws, regulations and restrictions governing such use. Any penalty for a pneumatic gun offense set forth in such an ordinance shall not exceed a Class 3 misdemeanor.

B. No such ordinance authorized by subsection A shall prohibit the use of pneumatic guns at facilities approved for shooting ranges or on other property where firearms may be discharged.

C. Training of minors in the use of pneumatic guns shall be done only under direct supervision of a parent, guardian, Junior Reserve Officers Training Corps instructor, or a certified instructor. Training of minors above the age of 16 may also be done without direct supervision if approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Ranges and instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, any service of the Department of Defense, or any person authorized by these authorities to certify ranges and instructors.

D. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equip-

ment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

E. As used in this section, "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

Chapter 12. General Powers and Procedures of Counties

15.2-1206. Pistols and revolvers; license tax on dealers. The governing body of any county may impose a license tax of not more than twenty-five dollars on persons engaged in the business of selling pistols and revolvers to the public.

15.2-1207. Same; reports of sales. The governing body of any county may require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, within ten days after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and caliber of the weapon sold. The clerk shall keep a record of the reports.

15.2-1208. Same; in certain counties. Chapter 297 of the Acts of 1944, approved March 29, 1944, requiring permits to sell or purchase pistols or revolvers in any county having a density of population of more than 1,000 a square mile, is repealed. Any records or copies thereof that were created pursuant to this section that are in the custody of any county shall be destroyed no later than July 31, 2004. Upon destroying the records, the county shall certify to the circuit court that such destruction has been completed.

15.2-1209.1. Counties may regulate carrying of loaded firearms on public highways. The governing body of any county is hereby empowered to adopt ordinances making it unlawful for any person to carry or have in his possession while on any part of a public highway within such county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking; and to provide a penalty for violation of such ordinance not to exceed a fine of \$100. The provisions of this section shall not apply to persons carrying loaded firearms in moving vehicles, or to persons acting at the time in defense of persons or property.

Title 18.2. Crimes and Offenses Generally

Chapter 5. Crimes Against Property

Article 1. Arson and Related Crimes

18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices; penalties. For the purpose of this section:

"Device" means any instrument, apparatus or contrivance, including its component parts, that is capable of producing or intended to produce an explosion but shall not include fireworks as defined in § 27-95.

"Explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustible agents or other ingredients in such proportions, quantities or packaging that an ignition by fire, friction, concussion, percussion, detonation or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder, powders for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents and smokeless powder.

"Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or other chemical compound, having a wick or other substance or device which, if set or ignited, is capable of igniting such flammable material or chemical compound but does not include a similar device commercially manufactured and used solely for the purpose of illumination or cooking.

"Hoax explosive device" means any device which by its design, construction, content or characteristics appears to be or to contain a bomb or other destructive device or explosive but which is an imitation of any such device or explosive.

Any person who (i) possesses materials with which fire bombs or explosive materials or devices can be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii) manufactures, transports, distributes, possesses or uses a fire bomb or explosive materials or devices shall be guilty of a Class 5 felony. Any person who constructs, uses, places, sends, or causes to be sent any hoax explosive device so as to intentionally cause another person to believe that such device is a bomb or explosive shall be guilty of a Class 6 felony.

Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or possession of any material, substance, or device by a member of the armed forces of the United States, fire fighters or law-enforcement officers, nor shall it prohibit the manufacture, transportation, distribution, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose, subject to the provisions of §§ 27-97 and 27-97.2.

Chapter 7. Crimes Involving Health And Safety

Article 4. Dangerous Use of Firearms or Other Weapons

18.2-284. Selling or giving toy firearms. No person shall sell, barter, exchange, furnish, or

dispose of by purchase, gift or in any other manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by action of an explosion of a combustible material, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense.

Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

Article 5. Uniform Machinegun Act

18.2-288. Definitions. When used in this article:

(1) "Machine gun" applies to any weapon which shoots or is designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

18.2-289. Use of machine gun for crime of violence. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a Class 2 felony.

18.2-290. Use of machine gun for aggressive purpose. Unlawful possession or use of a machine gun for an offensive or aggressive purpose is hereby declared to be a Class 4 felony.

18.2-291. What constitutes aggressive purpose. Possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found;

(2) When the machine gun is in the possession of, or used by, a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the machine gun has not been registered as required in § 18.2-295; or

(4) When empty or loaded shells which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

18.2-292. Presence prima facie evidence of use. The presence of a machine gun in any room, boat or vehicle shall be prima facie evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

18.2-293. What article does not apply to. The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, machine guns to the armed forces or law-enforcement officers of the United States or of any state or of any political subdivision thereof, or the transportation required for that purpose; and

(2) Machine guns and automatic arms issued to the national guard of Virginia by the United States or such arms used by the United States army or navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such

arms as may be provided for the officers of the State Police or officers of penal institutions.

18.2-293.1. What article does not prohibit. Nothing contained in this article shall prohibit or interfere with:

(1) The possession of a machine gun for scientific purposes, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; and

(2) The possession of a machine gun for a purpose manifestly not aggressive or offensive.

Provided, however, that possession of such machine guns shall be subject to the provisions of § 18.2-295.

18.2-294. Manufacturer's and dealer's register; inspection of stock. Every manufacturer or dealer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provisions of this section shall be punishable as a Class 3 misdemeanor.

18.2-295. Registration of machine guns. Every machine gun in this Commonwealth shall be registered with the Department of State Police within twenty-four hours after its acquisition or, in the case of semi-automatic weapons which are converted, modified or otherwise altered to become machine guns, within twenty-four hours of the conversion, modification or alteration. Blanks for registration shall be prepared by the Superintendent of State Police, and furnished upon application. To comply with this section the application as filed shall be notarized and shall show the model and serial number of the gun, the name, address and occupation of the person in possession, and from whom and the purpose for which, the gun was acquired or altered. The Superintendent of State Police shall upon registration required in this section forthwith furnish the registrant with a certificate of registration, which shall be valid as long as the registrant remains the same. Certificates of registration shall be retained by the registrant and produced by him upon demand by any peace officer. Failure to keep or produce such certificate for inspection shall be a Class 3 misdemeanor, and any peace officer, may without warrant, seize the machine gun and apply for its confiscation as provided in § 18.2-296. Upon transferring a registered machine gun, the transferor shall forthwith notify the Superintendent in writing, setting forth the date of transfer and name and address of the transferee. Failure to give the required notification shall constitute a Class 3 misdemeanor. Registration data shall not be subject to inspection by the public.

18.2-297. How article construed. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

18.2-298. Short title of article. This article may be cited as the "Uniform Machine Gun Act."

Article 6. "Sawed-off" Shotgun and "Sawed-off" Rifle Act"

18.2-299. Definitions. When used in this article:

"Sawed-off shotgun" means any weapon, loaded or unloaded, originally designed as a shoulder weapon, utilizing a self-contained cartridge from which a number of ball shot pellets or projectiles may be fired simultaneously from a smooth or rifled bore by a single function of the firing device and which has a barrel length of less than 18 inches for smooth bore weapons and 16 inches for rifled weapons. Weapons of less than .225 caliber shall not be included.

"Sawed-off rifle" means a rifle of any caliber, loaded or unloaded, which expels a projectile by action of an explosion of a combustible material and is designed as a shoulder weapon with a barrel or barrels length of less than 16 inches or which has been modified to an overall length of less than 26 inches.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

"Person" applies to and includes firm, partnership, association or corporation.

18.2-300. Possession or use of "sawed-off" shotgun or rifle.

A. Possession or use of a "sawed-off" shotgun or "sawed-off" rifle in the perpetration or attempted perpetration of a crime of violence is a Class 2 felony.

B. Possession or use of a "sawed-off" shotgun or "sawed-off" rifle for any other purpose, except as permitted by this article and official use by those persons permitted possession by § 18.2-303, is a Class 4 felony.

18.2-303. What article does not apply to. The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, "sawed-off" shotguns or "sawed-off" rifles to the armed forces or law-enforcement officers of the United States or of any state or of any political subdivision thereof, or the transportation required for that purpose; and

(2) "Sawed-off" shotguns, "sawed-off" rifles and automatic arms issued to the National Guard of Virginia by the United States or such arms used by the United States Army or Navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions.

18.2-303.1. What article does not prohibit. Nothing contained in this article shall prohibit or interfere with the possession of a "sawed-off" shotgun or "sawed-off" rifle for scientific purposes, the possession of a "sawed-off" shotgun or "sawed-off" rifle possessed in compliance with federal law or the possession of a "sawed-off" shotgun or "sawed-off" rifle not usable as a firing weapon and possessed as a curiosity, ornament, or keepsake.

18.2-304. Manufacturer's and dealer's register; inspection of stock. Every manufacturer or dealer shall keep a register of all "sawed-off" shotguns and "sawed-off" rifles manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every "sawed-off" shotgun and "sawed-off" rifle, the name, address, and occupation of the person to whom the "sawed-off" shotgun or "sawed-off" rifle was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal,

sheriff or police officer to inspect his entire stock of "sawed-off" shotguns and "sawed-off" rifles, and "sawed-off" shotgun or "sawed-off" rifle barrels, and shall produce the register, herein required, for inspection. A violation of any provision of this section shall be punishable as a Class 3 misdemeanor.

18.2-307. Short title of article. This article may be cited as the "Sawed-Off Shotgun and Sawed-Off Rifle Act."

Article 7. Other Illegal Weapons

18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; ... or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;

2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;....

18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited.

A. If any person possesses any (i) stun weapon or taser as defined in this section, (ii) knife, except a pocket knife having a folding metal blade of less than three inches, or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm, upon (a) the property of any public, private or parochial elementary, middle or high school, in-

cluding buildings and grounds, (b) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

B. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or parochial elementary, middle or high school, including buildings and grounds, (ii) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (iii) any school bus owned or operated by any such school, he shall be guilty of a Class 6 felony; however, if the person possesses any firearm within a public, private or parochial elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person shall be sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities, (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose, (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises, (iv) any law-enforcement officer, (v) any person who possesses a knife or blade which he uses customarily in his trade, or (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp 60 hertz shock and (ii) used for the purpose of temporarily incapacitating a person; and

"Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile and (ii) used for the purpose of temporarily incapacitating a person.

18.2-308.1:1. Possession or transportation of firearms by persons acquitted by reason of insanity; penalty; permit.

A. It shall be unlawful for any person acquitted by reason of insanity and committed to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, pursuant to § 19.2-181, on a charge of treason, any felony or any offense punishable as a misdemeanor under Title 54.1 or a Class 1 or Class 2 misdemeanor under this title, except those misdemeanor violations of (i) Article 2 (§ 18.2-266 et seq.) of Chapter 7 of this title, (ii) Article 2 (§ 18.2-415 et seq.) of Chapter 9 of this title, or (iii) § 18.2-119, or (iv) an ordinance of

any county, city, or town similar to the offenses specified in (i), (ii), or (iii), to knowingly and intentionally possess or transport any firearm. A violation of this section shall be punishable as a Class 1 misdemeanor.

B. Any person so acquitted may, upon discharge from the custody of the Commissioner, petition the circuit court in which he resides for a permit to possess or carry a firearm. The court may, in its discretion and for good cause shown, grant the petition and issue a permit, in which event the provisions of subsection A do not apply.

18.2-308.1:2. Purchase, possession or transportation of firearm by persons adjudicated legally incompetent or mentally incapacitated; penalty. It shall be unlawful for any person who has been adjudicated (i) legally incompetent pursuant to former § 37.1-128.02 or former § 37.1-134, (ii) mentally incapacitated pursuant to former § 37.1-128.1 or former § 37.1-132 or (iii) incapacitated pursuant to Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1 and whose competency or capacity has not been restored pursuant to former § 37.1-134.1 or § 37.1-134.16, to purchase, possess, or transport any firearm. A violation of this section shall be punishable as a Class 1 misdemeanor.

18.2-308.1:3. Purchase, possession or transportation of firearm by persons involuntarily committed; penalty.

A. It shall be unlawful for any person involuntarily committed pursuant to § 37.1-67.3 to purchase, possess or transport a firearm during the period of such person's commitment. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any person prohibited from purchasing, possessing or transporting firearms under this section may, at any time following his release from commitment, petition the circuit court in the city or county in which he resides to re-store his right to purchase, possess or transport a firearm. The court may, in its discretion and for good cause shown, grant the petition. The clerk shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any such order.

18.2-308.1:4. Purchase or transportation of firearm by persons subject to protective orders; penalty. It shall be unlawful for any person who is subject to (i) a protective order entered pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or § 19.2-152.10; (ii) an order issued pursuant to subsection B of § 20-103; (iii) an order entered pursuant to subsection E of § 18.2-60.3; or (iv) an order issued by a tribunal of another state, the United States or any of its territories, possessions or commonwealths, or the District of Columbia pursuant to a statute that is substantially similar to those cited in clauses (i), (ii), or (iii) to purchase or transport any firearm while the order is in effect. Any person with a concealed handgun permit shall be prohibited from carrying any concealed firearm, and shall surrender his permit to the court entering the order, for the duration of any protective order referred to herein. A violation of this section is a Class 1 misdemeanor.

18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited. Any person who, within a thirty-six consecutive month period, has been convicted of two misdemeanor offenses under § 18.2-250 or § 18.2-250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the

date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

18.2-308.2. Possession or transportation of firearms, stun weapons, tasers or concealed weapons by convicted felons; penalties; petition for permit; when issued.

A. It shall be unlawful for (i) any person who has been convicted of a felony or (ii) any person under the age of 29 who was found guilty as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or stun weapon or taser as defined by § 18.2-308.1 or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § 18.2-308. However, such person may possess in his residence or the curtilage thereof a stun weapon or taser as defined by § 18.2-308.1. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony shall be sentenced to a mandatory minimum term of imprisonment of two years. The minimum, mandatory terms of imprisonment prescribed for violations of this section and shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, explosive material or other weapon while carrying out his duties as a member of the armed forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, or (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms.

C. Any person prohibited from possessing, transporting or carrying a firearm, explosive material, stun weapon or taser under subsection A, may petition the circuit court of the jurisdiction in which he resides for a permit to possess or carry a firearm, explosive material, stun weapon or taser; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by the Governor or other appropriate authority. The court may, in its discretion and for good cause shown, grant such petition and issue a permit. The provisions of this section shall not apply to any person who has been granted a permit pursuant to this subsection.

D. For the purpose of this section, "explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other

high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § 27-95.

18.2-308.2:01. Possession or transportation of certain firearms by aliens. It shall be unlawful for any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence to knowingly and intentionally possess or transport any assault firearm or to knowingly and intentionally carry about his person, hidden from common observation, an assault firearm. It shall be unlawful for any person who is not a citizen of the United States and who is not lawfully present in the United States to knowingly and intentionally possess or transport any firearm or to knowingly and intentionally carry about his person, hidden from common observation, any firearm. A violation of this section shall be punishable as a Class 6 felony.

For purposes of this section, "assault firearm" means any semi-automatic center-fire rifle or pistol that 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.

18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain persons. Any person who sells, barter, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to §§ 18.2-308.1:1, 18.2-308.2 or § 18.2-308.7 shall be guilty of a Class 6 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit pursuant to § 18.2-308.2 C or § 18.2-308.1:1 B, (ii) been pardoned or had his political disabilities removed in accordance with § 18.2-308.2 B or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms; firearm safety information to be provided.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only, in addition to the information required by subdivision B 1, the identical information required to be included on the firearms transaction record required by regulations administered by the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the Treasury, except that the copies of such forms mailed or delivered to the Department of State Police shall not include any information related to the firearm purchased or transferred.

B1. 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 as specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or trans-

ferred 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 B 2 of this section to complete the sale or other such transfer. 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, and other documentation of residence. Except where the photo-identification was issued by the United States Department of Defense, the other documentation of residence shall show an address identical to that shown on the photo-identification form, such as 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; other current identification allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and ATF Ruling 2001-5; or other documentation of residence determined to be acceptable by the Department of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders assigning the purchaser to a duty post in Virginia shall be the only other required documentation of residence. For the purposes of this section and establishment of residency for firearm purchase, residency shall be deemed to be the permanent duty post of a member of the armed forces. When the photo-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, and such identification form 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, sell or otherwise transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license 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. To establish citizenship or lawful admission for a permanent residence for purposes of purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth certificate or a certificate of birth abroad issued by the United States State Department, a certificate of citizenship or a certificate of naturalization issued by the United States Citizenship and Immigration Services, an unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a current selective service registration card, or an immigrant visa or other documentation of status as a person lawfully admitted for permanent residence issued by the United States Citizenship and Immigration Services.

Upon receipt of the request for a criminal history record information check, the State Police shall (i) 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, (ii) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (iii) 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. If the criminal history record information check indicates the prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision B 1 of this subsection may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision B 1 of this subsection and is told by the State Police that a response will not be available by the end of the dealer's next 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 § 9-192, 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.

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 under the terms of subsections A and B upon furnishing

the dealer with proof of citizenship or status as a person lawfully admitted for permanent residence and 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.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall 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 not a resident of Virginia 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. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within 24 hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within 10 days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of this Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer in Virginia by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. 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 § 9-192 or institute a civil action as provided in § 9-194, provided any such action is initiated within 30 days of such denial.

F. 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 guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Antique firearm":

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 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.

"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 rim-fire 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.

H. 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.

I. 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 of the United States, the Commonwealth or any local government, or (iii) antique firearms, curios or relics.

J. 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 fire-

arms shall apply. A National Instant Criminal Background Check System (NICS) check shall be performed prior to such purchase, trade or transfer of firearms.

J1. 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 shall be 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 guilty of a Class 6 felony.

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 guilty of a Class 5 felony. 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.

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 guilty of a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years.

O. 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.

P. Except as provided in subdivisions 1, 2 and 3 of this subsection, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any 30-day period. A violation of this subsection shall be 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 herein, 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 Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 9-6.14:1 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 forthwith 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 forthwith pursuant to this subsection. Applications and certificates issued under this subsection shall be maintained as records as provided in subdivision 3 of subsection B. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subsection and all records provided for in subdivision 3 of subsection B.

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. State and local correctional facilities;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms as herein defined; or
- 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 (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, the 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; or

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

3. For the purposes of this subsection, "purchase" shall not include the exchange or re-

placement 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.

18.2-308.2.3. Criminal background check required for employees of a gun dealer to transfer firearms; exemptions; penalties.

A. No person, corporation or proprietorship licensed as a firearms dealer pursuant to 18 U.S.C. § 921 et seq. shall employ any person to act as a seller, whether full-time or part-time, permanent, temporary, paid or unpaid, for the transfer of firearms under § 18.2-308.2.2, if such employee would be prohibited from possessing a firearm under §§ 18.2-308.1:1, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.2, or 18.2-308.2:01 or is an illegal alien, or is prohibited from purchasing or transporting a firearm pursuant to § 18.2-308.1:4 or § 18.2-308.1:5.

B. Prior to permitting an applicant to begin employment, the dealer shall obtain a written statement or affirmation from the applicant that he is not disqualified from possessing a firearm and shall submit the applicant's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

C. Prior to August 1, 2000, the dealer shall obtain written statements or affirmations from persons employed before July 1, 2000, to act as a seller under § 18.2-308.2.2 that they are not disqualified from possessing a firearm. Within five working days of the employee's next birthday, after August 1, 2000, the dealer shall submit the employee's fingerprints and personal descriptive information to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the request.

C1. In lieu of submitting fingerprints pursuant to this section, any dealer holding a valid federal firearms license (FFL) issued by the Bureau of Alcohol, Tobacco and Firearms (ATF) may submit a sworn and notarized affidavit to the Department of State Police on a form provided by the Department, stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the ATF. The affidavit may also contain the names of any employees that have been subjected to a record check and approved by the ATF. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business. The affidavit shall contain the valid FFL number, state the name of each person requesting the exemption, together with each person's identifying information, including their social security number and the following statement: "I hereby swear, under the penalty of perjury, that as a condition of obtaining a federal firearms license, each person requesting an exemption in this affidavit has been subjected to a fingerprint identification check by the Bureau of Alcohol, Tobacco and Firearms and the Bureau of Alcohol, Tobacco and Firearms subsequently determined that each person satisfied the requirements of 18 U.S.C. § 921 et seq. I understand that any person convicted of making a false statement in this affidavit is guilty of a Class 5 felony and that in addition to any other penalties imposed by law, a conviction under this section shall result in the forfeiture of my federal firearms license."

D. The Department of State Police, upon receipt of an individual's record or notification that no record exists, shall submit an eligibility report to the requesting dealer within 30 days of the applicant beginning his duties for new employees or within 30 days of the applicant's birthday for a person employed prior to July 1, 2000.

E. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the dealer shall not be disseminated except as provided in this section.

F. The applicant shall bear the cost of obtaining the criminal history record unless the dealer, at his option, decides to pay such cost.

G. Upon receipt of the request for a criminal history record information check, the State Police shall establish a unique number for that firearm seller. Beginning September 1, 2001, the firearm seller's signature, firearm seller's number and the dealer's identification number shall be on all firearm transaction forms. The State Police shall void the firearm seller's number when a disqualifying record is discovered. The State Police may suspend a firearm seller's identification number upon the arrest of the firearm seller for a potentially disqualifying crime.

H. This section shall not restrict the transfer of a firearm at any place other than at a dealership or at any event required to be registered as a gun show.

I. Any person 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 by this section and § 18.2-308.2:2, shall be guilty of a Class 2 misdemeanor.

J. Any person willfully and intentionally making a materially false statement on the personal descriptive information required in this section shall be guilty of a Class 5 felony. Any person who offers for transfer any firearm in violation of this section shall be guilty of a Class 1 misdemeanor. Any dealer who willfully and knowingly employs or permits a person to act as a firearm seller in violation of this section shall be guilty of a Class 1 misdemeanor.

K. There is no civil liability for any seller for the actions of any purchaser or subsequent transferee of a firearm lawfully transferred pursuant to this section.

L. The provisions of this section requiring a seller's background check shall not apply to a licensed dealer.

M. Any person who willfully and intentionally makes a false statement in the affidavit as set out in subdivision C 1 shall be guilty of a Class 5 felony.

N. For purposes of this section:

"Dealer" means any person, corporation or proprietorship 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.

"Place of business" means any place or premises where a dealer may lawfully transfer firearms.

"Seller" means for the purpose of any single sale of a firearm any person who is a dealer or an agent of a dealer, who may lawfully transfer firearms and who actually performs the criminal background check in accordance with the provisions of § 18.2-308.2.2.

"Transfer" means any act performed with intent to sell, rent, barter, trade or otherwise transfer ownership or permanent possession of a firearm at the place of business of a dealer.

18.2-308.3. Use or attempted use of restricted ammunition in commission or attempted commission of crimes prohibited; penalty.

A. When used in this section:

"Restricted firearm ammunition" applies to bullets, projectiles or other types of ammunition that are: (i) coated with or contain, in whole or in part, polytetrafluorethylene or a similar product, (ii) commonly known as "KTW" bullets or "French Arcanes," or (iii) any cartridges containing bullets coated with a plastic substance with other than lead or lead alloy cores, jacketed bullets with other than lead or lead alloy cores, or cartridges of which the bullet itself is wholly comprised of a metal or metal alloy other than lead. This definition shall not be construed to include shotgun shells or solid plastic bullets.

B. It shall be unlawful for any person to knowingly use or attempt to use restricted firearm ammunition while committing or attempting to commit a crime. Violation of this section shall constitute a separate and distinct felony and any person found guilty thereof shall be guilty of a Class 5 felony.

18.2-308.4. Possession of firearms while in possession of certain controlled substances.

A. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It shall be unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 or more than one pound of marijuana. Violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

18.2-308.5. Manufacture, import, sale, transfer or possession of plastic firearm prohibited. It shall be unlawful for any person to manufacture, import, sell, transfer or possess any plastic firearm. As used in this section "plastic firearm" means any firearm, including machine guns and sawed-off shotguns as defined in this chapter, containing less than 3.7 ounces of electromagnetically detectable metal in the barrel, slide, cylinder, frame or receiver of which, when subjected to inspection by X-ray machines commonly used at airports, does not generate an image that accurately depicts its shape. A violation of this section shall be punishable as a Class 5 felony.

18.2-308.6. Possession of unregistered firearm mufflers or silencers prohibited; penalty. It shall be unlawful for any person to possess any firearm muffler or firearm silencer which is not registered to him in the National Firearms Registration and Transfer Record. A violation of this section shall be punishable as a Class 6 felony.

18.2-308.7. Possession or transportation of certain firearms by persons under the age of eighteen; penalty. It shall be unlawful for any person under 18 years of age to knowingly and intentionally possess or transport a handgun or assault firearm anywhere in the Commonwealth. For the purposes of this section, "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 and "assault firearm" means any (i) semi-automatic centerfire 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 or (ii) shotgun with a magazine which will hold more than seven rounds of the longest ammunition for which it is chambered. A violation of this section shall be a Class 1 misdemeanor.

This section shall not apply to:

1. Any person (i) while in his home or on his property; (ii) while in the home or on the property of his parent, grandparent, or legal guardian; or (iii) while on the property of another who has provided prior permission, and with the prior permission of his parent or legal guardian if the person has the landowner's written permission on his person while on such property;

2. Any person who, while accompanied by an adult, is at, or going to and from, a lawful shooting range or firearms educational class, provided that the weapons are unloaded while being transported;

3. Any person actually engaged in lawful hunting or going to and from a hunting area or preserve, provided that the weapons are unloaded while being transported; and

4. Any person while carrying out his duties in the armed forces of the United States or the National Guard of this Commonwealth or any other state.

18.2-308.8. Importation, sale, possession or transfer of Striker 12's prohibited; penalty. It shall be unlawful for any person to import, sell, possess or transfer the following firearms: the Striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun like kind with a spring tension drum magazine capable of holding twelve shotgun shells. A vio-

lation of this section shall be punishable as a Class 6 felony.

18.2-309. Furnishing certain weapons to minors; penalty.

A. If any person sells, barter, gives or furnishes, or causes to be sold, bartered, given or furnished, to any minor a dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor, such person shall be guilty of a Class 1 misdemeanor.

B. If any person sells, barter, gives or furnishes, or causes to be sold, bartered, given or furnished, to any minor a handgun, having good cause to believe him to be a minor, such person shall be guilty of a Class 6 felony. This subsection shall not apply to any transfer made between family members or for the purpose of engaging in a sporting event or activity.

18.2-311.1. Removing, altering, etc., serial number or other identification on firearm. Any person, firm, association or corporation who or which intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who or which causes to be removed, defaced, altered, changed, destroyed or obliterated in any manner or way the name of the maker, model, manufacturer's or serial number, or any other mark or identification on any pistol, shotgun, rifle, machine gun or any other firearm shall be guilty of a Class 1 misdemeanor.

Title 19.2. Criminal Procedure

Chapter 22.2. Miscellaneous Forfeiture Provisions

19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported or carried in violation of law. Any firearm, stun weapon or taser as defined by § 18.2-308.1, or any weapon concealed, possessed, transported or carried in violation of §§ 18.2-283.1, 18.2-287.4, 18.2-308.1:2, 18.2-308.1:3, 18.2-308.1:4, 18.2-308.2, 18.2-308.2:01, 18.2-308.2:1, 18.2-308.4, 18.2-308.5, 18.2-308.7, or § 18.2-308.8 shall be forfeited to the Commonwealth and disposed of as provided in § 19.2-386.29.

19.2-386.29. Forfeiture of certain weapons used in commission of criminal offense. All pistols, shotguns, rifles, dirks, bowie knives, switchblade knives, ballistic knives, razors, slingshots, brass or metal knuckles, blackjacks, stun weapons and tasers, and other weapons used by any person in the commission of a criminal offense, shall, upon conviction of such person, be forfeited to the Commonwealth by order of the court trying the case. The court shall dispose of such weapons as it deems proper by entry of an order of record. Such disposition may include the destruction of the weapons or, subject to any registration requirements of federal law, sale of the firearms to a licensed dealer in such firearms in accordance with the provisions of Chapter 22 (§ 19.2-369 et seq.) of this title regarding sale of property forfeited to the Commonwealth.

The proceeds of any sale of such weapon shall be paid in accordance with the provisions of Article VIII, Section 8 of the Constitution of Virginia. In addition, the court may authorize the seizing law-enforcement agency to use the weapon for a period of time as specified in the order. When the seizing agency ceases to so use the weapon, it shall be disposed of as otherwise provided in this section.

However, upon petition to the court and notice to the attorney for the Commonwealth, the court, upon good cause shown, shall return any such weapon to its lawful owner after conclusion of all

relevant proceedings if such owner (i) did not know and had no reason to know of the conduct giving rise to the forfeiture and (ii) is not otherwise prohibited by law from possessing the weapon. The owner shall acknowledge in a sworn affidavit to be filed with the record in the case or cases that he has retaken possession of the weapon involved.

Title 52. Police (State)

Chapter 1. Department of State Police

52-4.4. Duties relating to criminal history record information checks required by licensed firearms dealers. The Superintendent of the Department of State Police shall establish a toll-free telephone number which shall be operational seven days a week between the hours of 8:00 a.m. and 10:00 p.m., except December 25, for purposes of responding to inquiries from licensed firearms dealers, as such term is defined in 18 U.S.C. § 921 et seq., pursuant to the provisions of § 18.2-308.2:2. The Department shall hire and train such personnel as are necessary to administer the provisions of this section.

52-8.4:1. Regulations for firearms shows. The Superintendent of State Police shall provide a form for use by promoters of firearms shows for the purpose of notifying the State Police and the chief of police, or the sheriff in localities without police departments, of their intent to conduct a firearms show pursuant to § 54.1-4201.1.

Title 54.1. Professions and Occupations

Chapter 42. Dealers in Firearms

54.1-4200. Definitions. For the purpose of this chapter, unless the context requires a different meaning:

"Dealer in firearms" means (i) any person, firm, partnership, or corporation engaged in the business of selling, trading or transferring firearms at wholesale or retail; (ii) any person, firm, partnership, or corporation engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or (iii) any person, firm, partnership, or corporation that is a pawnbroker.

"Engaged in business" means as applied to a dealer in firearms a person, firm, partnership, or corporation that devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through repetitive purchase or resale of firearms, but such term shall not involve a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

"Firearms show" means any gathering or exhibition, open to the public, not occurring on the permanent premises of a dealer in firearms, conducted principally for the purposes of exchanging, selling or trading firearms as defined in § 18.2-308.2:2.

54.1-4201. Inspection of records.

A. Every dealer in firearms shall keep at his place of business, for not less than a period of two years, the original consent form required to be completed by § 18.2-308.2:2 for each firearm sale.

B. Every dealer in firearms shall admit to his place of business during regular business hours the chief law-enforcement officer, or his designee, of the jurisdiction in which the dealer is lo-

cated, or any law-enforcement official of the Commonwealth, and shall permit such law-enforcement officer, in the course of a bona fide criminal investigation, to examine and copy those records related to the acquisition or disposition of a particular firearm required by this section. This section shall not be construed to authorize the seizure of any records.

54.1-4201.1. Notification by sponsor of firearms show to State Police and local law-enforcement authorities required; records; penalty.

A. No promoter of a firearms show shall hold such show without giving notice at least thirty days prior to the show to the State Police and the sheriff or chief of police of the locality in which the firearms show will be held. The notice shall be given on a form provided by the State Police. A separate notice shall be required for each firearms show.

"Promoter" means every person, firm, corporation, club, association, or organization holding a firearms show in the Commonwealth.

The promoter shall, not later than seventy-two hours prior to the opening of the show, by mail, by hand or by fax, transmit to the authorities to which prior notice is required, a list of vendors or exhibitors who have registered to sell or exhibit in the show.

The promoter shall maintain for the duration of the show a list of all vendors or exhibitors in the show and a copy of the prior notice for immediate inspection by any law-enforcement authorities, and within seventy-two hours after the conclusion of the show, by mail, by hand or by fax, transmit a copy of the complete vendor or exhibitor list to the law-enforcement authorities to which prior notice was required. The vendor or exhibitor list shall contain the full name and residence address and the business name and address, if any, of the vendors or exhibitors.

B. A willful violation of this section shall be a Class 3 misdemeanor.

C. The provisions of this section shall not apply to firearms shows held in any town with a population of not less than 1,995 and not more than 2,010, according to the 1990 United States census.

54.1-4202. Penalties for violation of the provisions of this chapter. Any person convicted of a first offense for willfully violating the provisions of this chapter shall be guilty of a Class 2 misdemeanor. Any person convicted of a second or subsequent offense under the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

Title 59.1. Trade and Commerce

Chapter 11.1. Firearms

59.1-148.4. Sale of firearms by law-enforcement agencies prohibited; exception. A law-enforcement agency of this Commonwealth shall not sell or trade any firearm owned and used or otherwise lawfully in its possession except (i) to another law-enforcement agency of the Commonwealth, (ii) to a licensed firearms dealer, (iii) to the persons as provided in § 59.1-148.3 or (iv) as authorized by a court in accordance with § 19.2-386.29.

[Current through 2004 Regular Session & Special Sessions I & II, including 2004 Va. Acts 62 (HB 484), 128 (HB 286), 347 (HB 79), 354 (HB 375), 355 (HB 382), 393 (SB 227), 423 (HB 167), 429 (HB 414), 461 (HB 1059), 462 (HB 1060), 837 (HB 530), 876 SB 99, 885 (SB 341), 900 (HB 215), 901 (HB 238), 903 (HB 402), 904 (HB 404), 905 (HB 444), 922 (HB 1144), 923 (HB 1150), 926 (HB 1205), 929 (HB 1302), 930 (HB 1303), 995 (HB 1058) & 1012 (SB 326)]

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Title 14. Crimes

Chapter 113. Weapons

2252. Confiscation of illegally held weapons. Whoever violates the provisions of sections 298, 2251 or 2253 of this title, or any other provision of law prohibiting the possession, bearing, transporting, carrying or effective control of a firearm, ammunition or other weapon shall, in addition to the punishment therein prescribed, also have said firearm, ammunition or other weapon confiscated to the Government of the Virgin Islands.

2253. Carrying of firearms; openly or concealed; evidence of intent to commit crime of violence; definitions.

(a) Whoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or concealed any firearm, as defined in Title 23, section 451(d) of this code, loaded or unloaded, may be arrested without a warrant, and shall be sentenced to imprisonment of not less than six months nor more than five years and shall be fined \$ 15,000, except that if such person shall have been convicted of a felony in any state, territory, or federal court of the United States, or if such firearm or an imitation thereof was had, possessed, borne, transported or carried by or under the proximate control of such person during the commission or attempted commission of a crime of violence, as defined in subsection (d) hereof, then such person shall be fined \$25,000 and imprisoned not less than fifteen (15) years nor more than twenty (20) years. The foregoing applicable penalties provided for violation of this section shall be in addition to the penalty provided for the commission of, or attempt to commit, the felony or crime of violence.

(b) Whoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or con-

cealed any machine gun or sawed-off shotgun, as defined in subsection (d)(2) and (3) of this section, loaded or unloaded, may be arrested without a warrant, and shall be sentenced to imprisonment of not less than two years nor more than seven years and shall be fined \$25,000, except that if such person shall have been convicted of a felony in any state, territory or federal court of the United States, or if such machine gun or sawed-off shotgun or an imitation thereof was held, possessed, borne, transported by or under the proximate control of such person during the commission or attempted commission of a crime of violence, as herein defined, then such person shall be fined \$ 50,000 and imprisoned not less than fifteen (15) years nor more than twenty (20) years. The foregoing applicable penalties provided for violation of this section shall be in addition to the penalty provided for the commission of, or attempt to commit, the crime of violence.

(c) In the trial of a person for committing or attempting to commit a crime of violence, as herein defined, the fact that he was armed with a firearm, used or attempted to be used, and had no license to carry the same, as required in Title 23, chapter 5 of the Code, shall be evidence of his intention to commit said crime of violence.

(d) As used in this chapter –

(1) "Crime of violence" shall have the same definition as that contained in Title 23, section 451(e) of this Code.

(2) "Machine gun" means any firearm, as defined in Title 23, section 451(d) of this Code, which shoots automatically more than 12 shots without reloading.

(3) "Sawed-off shotgun" means any firearm, as defined in Title 23, section 451(d) of this Code, designed to fire through a smooth bore either a number of ball shot or a single projectile, the barrel of which is less than 20 inches in length.

(4) The term "possession" as used in this section means both actual and constructive possession.

(5) "Constructive possession" means having the power and the intention at any given time to exercise dominion or actual control over the firearm either directly or through another person.

2254. Minimum sentences; no probation or parole. ...

(b) Notwithstanding any other provision of law, with respect to a person convicted pursuant to section 2251 of this chapter of having, possessing, bearing, transporting, carrying or having under his proximate control a deadly or dangerous weapon as therein described, during the commission or attempted commission of a crime of violence, and with respect to a person convicted pursuant to subsection (a) or (b) of section 2253 of this chapter, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for probation, parole, or any other form of release prior to serving the mandatory minimum term of imprisonment prescribed by subsection (a) of this section or subsection (a) or (b) of section 2253, as the case may be.

2256. Possession or sale of ammunition.

(a) Any person, who unless authorized by law, possesses, sells, purchases, manufactures, advertises for sale, or uses any firearm ammunition shall be guilty of a felony and shall be fined not less than \$10,000 and imprisoned not less than seven years.

(b) Any person who, unless authorized by law possesses, sells, purchases, manufactures, advertises for sale, or uses armor piercing or exploding ammunition for use in a firearm shall be guilty of a felony and shall be fined not less than \$10,000 and imprisoned not less than ten years.

(c) As used in this section –

(1) "Firearm" means any firearm as defined in title 23, section 451(d) of this Code.