

NEW FIREARMS LEGISLATION

Virginia General Assembly Regular Session 2020

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*Please note that this presentation is not intended to cover bills from the presently ongoing special session of the General Assembly

SB 70/HB 2 UNIVERSAL BACKGROUND CHECKS

- Requires a background check for any firearm sale and directs the Department of State Police to establish a process for transferors to obtain such a background check from licensed firearms dealers. A person who sells a firearm to another person without obtaining the required background check is guilty of a Class 1 misdemeanor. The bill also provides that a purchaser who receives a firearm from another person without obtaining the required background check is guilty of a Class 1 misdemeanor. The bill removes the provision that makes background checks of prospective purchasers or transferees at firearms shows voluntary. The bill also provides that the State Police shall have three business days to complete a background check before a firearm may be transferred.

HB 1083 ALLOWING ACCESS TO FIREARMS BY MINORS; PENALTY.

- Provides that any person who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger the life or limb of any person under the age of 14 is guilty of a Class 1 misdemeanor. Previous law provided that any person who recklessly leaves a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of 14 is guilty of a Class 3 misdemeanor.

SB 240/HB 674 FIREARMS; REMOVAL FROM PERSONS POSING SUBSTANTIAL RISK; PENALTIES

- Creates a procedure by which any attorney for the Commonwealth or law-enforcement officer may apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an emergency substantial risk order to prohibit a person who poses a substantial risk of injury to himself or others from purchasing, possessing, or transporting a firearm. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm. An emergency substantial risk order shall expire on the fourteenth day following issuance of the order. The bill requires a court hearing in the circuit court for the jurisdiction where the order was issued within 14 days from issuance of an emergency substantial risk order to determine whether a substantial risk order should be issued.

SB 240/HB 674 FIREARMS; REMOVAL FROM PERSONS POSING SUBSTANTIAL RISK; PENALTIES

- Seized firearms shall be retained by a law-enforcement agency for the duration of an emergency substantial risk order or a substantial risk order or, for a substantial risk order and with court approval, may be transferred to a third party 21 years of age or older chosen by the person from whom they were seized. The bill allows the complainant of the original warrant to file a motion for a hearing to extend the substantial risk order prior to its expiration. The court may extend the substantial risk order for a period not longer than 180 days. The bill provides that persons who are subject to a substantial risk order, until such order has been dissolved by a court, are guilty of a Class 1 misdemeanor for purchasing, possessing, or transporting a firearm; are disqualified from having a concealed handgun permit; and may not be employed by a licensed firearms dealer. The bill also provides that a person who transfers a firearm to a person he knows has been served with a warrant or who is the subject of a substantial risk order is guilty of a Class 4 felony. The bill creates a computerized substantial risk order registry for the entry of orders issued pursuant to provisions in the bill.

HB 1004/SB 479 PROTECTIVE ORDERS; POSSESSION OF FIREARMS, SURRENDER OR TRANSFER OF FIREARMS, PENALTY.

- Prohibits any person subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) from knowingly possessing a firearm while the order is in effect, provided that for a period of 24 hours after being served with a protective order such person may continue to possess such firearm for the purposes of selling or transferring it to any person who is not otherwise prohibited by law from possessing such firearm. A violation of this provision is a Class 6 felony.
- The bill provides procedures for designating a local law-enforcement agency to receive and store firearms, as well as a process to return such surrendered firearms.
- The bill also makes it a Class 4 felony for any person to sell, barter, give, or furnish any firearm to any person he knows is prohibited from possessing or transporting a firearm who is subject to a permanent protective order.

SB 69/HB 12 HANDGUNS; LIMITATION ON PURCHASES, PENALTY.

- Prohibits any person who is not a licensed firearms dealer from purchasing more than one handgun in a 30-day period and establishes such an offense as a Class 1 misdemeanor.
- The bill exempts from this provision (i) persons who have been issued a certificate by the Department of State Police under certain circumstances and with an enhanced background check, (ii) law-enforcement agencies and officers, (iii) state and local correctional facilities, (iv) licensed private security companies, (v) persons who hold a valid Virginia concealed handgun permit, (vi) persons whose handgun has been stolen or irretrievably lost or who are trading in a handgun, (vii) purchases of handguns in a private sale, and (viii) purchases of antique firearms.

HB 1080 FIREARMS OR OTHER WEAPONS; UNAUTHORIZED TO POSSESS ON SCHOOL PROPERTY.

- Amends § 18.2-308.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-280.2:4, to provide that no school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute.

SB 64 PARAMILITARY ACTIVITIES; PENALTY

- Amends § 18.2-433.2 of the Code of Virginia, to provide that a person is guilty of unlawful paramilitary activity if such person brandishes a firearm or any air-operated or gas-operated weapon or any object similar in appearance while assembled with one or more persons for the purpose of and with the intent to intimidate any person or group of persons. Such unlawful paramilitary activity is punishable as a Class 5 felony.

SB 71 FIREARMS; POSSESSION ON SCHOOL PROPERTY

- Amends § 18.2-308.1 of the Code of Virginia to add public, private, or religious preschools and licensed child day centers that are not operated at the residence of the provider or of any of the children to the list of schools where possessing a firearm on school property or on a school bus is prohibited.

HB 9 FIREARMS; REPORTING THOSE LOST OR STOLEN, CIVIL PENALTY

- Amends the Code of Virginia by adding in Article 4 of Chapter 7 of Title 18.2 a section numbered 18.2-287.5, to require that, if a firearm is lost or stolen from a person who lawfully possessed it, such person shall report the loss or theft of the firearm to any local law-enforcement agency or the Department of State Police within 48 hours after such person discovers the loss or theft or is informed by a person with personal knowledge of the loss or theft.

HB 264 / SB 263 CONCEALED HANDGUN PERMITS; DEMONSTRATION OF COMPETENCE, EFFECTIVE DATE.

- Amends §§ 18.2-308.02 and 18.2-308.06 of the Code of Virginia to remove the option for concealed handgun permit applicants to demonstrate competence with a handgun by completing an electronic, video, or online course conducted by a state-certified or National Rifle Association-certified firearms instructor. The bill has a delayed effective date of January 1, 2021.

HB 421 / SB 35 FIREARMS, AMMUNITION, ETC.; CONTROL BY LOCALITIES BY GOVERNING POSSESSION, ETC., WITHIN LOCALITY.

- Amends §§ 15.2-915 and 15.2-915.5 and repeals § 15.2-915.1 of the Code of Virginia, to authorize any locality by ordinance to prohibit the possession or carrying of firearms, ammunition, or components or any combination thereof in (i) any building, or part thereof, owned or used by such locality for governmental purposes; (ii) any public park owned by the locality; (iii) any recreation or community center facility; or (iv) any public street, road, alley, sidewalk or public right-of way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. Provisions limiting the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers and others are also repealed. The bill also provides that any firearm received by the locality pursuant to a gun buy-back program shall be destroyed by the locality unless the person surrendering such firearm requests in writing that such surrendered firearm be sold.

REQUIREMENTS OF SECTION 15.2-915

- Section 15.2-915 does state that the Board of Supervisors may ban firearms from the following locations: “(i) any building, or part thereof, owned or used by such locality for governmental purposes; (ii) any public park owned by the locality; (iii) any recreation or community center facility; or (iv) any public street, road, alley, sidewalk or public right-of way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit” (the “Potentially Regulated Locations”).
- In order to regulate firearms in the Potentially Regulated Locations, an ordinance must be approved. Va. Code Section 15.2-1427 generally requires that ordinances must be adopted after descriptive notice of the ordinance is run in a newspaper of general circulation.
- Dinwiddie has always had a practice of holding public hearings prior to the approval of an ordinance.

RESOLUTIONS REGARDING 15.2-915

- The County Attorney's Office has been asked for legal advice whether the Board of Supervisors can pass a resolution stating that it is not the intent of the Board to regulated firearms in Potentially Regulated Locations.
- Such a resolution is legally permissible, but it can only express a current intent not to take action and cannot bind a future board.

THE END

- Are there any questions?