The sale and possession of firearms is regulated by both federal and state laws. Federal law, among other things, regulates the licensing and oversight of firearms manufacturers and dealers, prohibits certain individuals from purchasing and possessing firearms, and requires gun dealers to conduct background checks before completing gun sales. Many states have enacted additional laws intended to supplement federal regulation of firearms, including prohibiting additional categories of individuals from possessing firearms, regulating where and how individuals may carry firearms in public places, restricting or banning certain types of firearms and accessories, and requiring background checks for additional types of gun sales, including sales by private sellers at gun shows or on the Internet. Many states also enact laws that mirror the federal law to enable local law enforcement and prosecutors to enforce these laws in state courts.

**PROHIBITED PURCHASERS**

Laws prohibiting certain persons from purchasing firearms help keep guns out of the hands of individuals who may be dangerous.

**Federal law** prohibits the sale of firearms to several categories of people including convicted felons, minors, individuals with a history of drug use or mental illness, and certain domestic violence perpetrators.

**Virginia law** exceeds federal law in this area. Virginia has added disqualifiers to the federal categories, including: two or more drug misdemeanor convictions in a 36-month period; various mental health histories; a domestic violence protective order that is still in effect, and an adjudication for certain juvenile offenses.

Other states have enacted similar laws. For example, twenty-seven other states and the District of Columbia also prohibit drug abusers, persons convicted of drug-related misdemeanors, and/or persons under the influence of controlled substances from purchasing or possessing some or all firearms. Twenty-six other states prohibit persons with certain juvenile convictions from purchasing or possessing firearms.

**PRIVATE SALE BACKGROUND CHECKS**

Background checks identify and prevent persons who are ineligible to purchase firearms from obtaining them.

**Federal Law** requires federally licensed firearms dealers to perform background checks on prospective firearms purchasers. Federal law does not require a background check when a firearm is sold by someone who is not a licensed dealer.

**Virginia law** does not require a background check on the purchaser of a firearm when the seller is not a licensed dealer.

Other states exceed federal law in this area. Eight states and D.C. require private sale background checks on some or all firearms purchases. Four of these states (Connecticut, Colorado, Delaware and New York) enacted or strengthened existing laws requiring private sale background checks in 2013. In addition, in 2013, Illinois enacted a law that requires private sellers to verify with the state police that a potential purchaser has a firearms license prior to transferring a firearm (a firearms license is valid for 10 years in Illinois).

**DOMESTIC VIOLENCE & FIREARMS**

Firearms pose a particular threat to victims of domestic violence. Laws that prohibit domestic abusers from purchasing a firearm are associated with a reduction in the number of intimate partner homicides.

**Federal law** prohibits any person who has been convicted of a domestic violence misdemeanor or who is subject to a domestic violence protective order from possessing firearms or ammunition.

**Virginia law** exceeds federal law in this area by authorizing courts to prohibit defendants from purchasing or possessing firearms in cases where the defendant is charged with (but not yet convicted of) a domestic violence misdemeanor. Virginia also prohibits anyone subject to a domestic violence protective order, including an ex parte order, from purchasing or transporting a firearm while the order is in effect, but, it does not prohibit firearm possession by such individuals (a concealed handgun permit holder must surrender his or her permit and may not carry a concealed firearm while the order is in effect). Virginia does not explicitly authorize or require the removal of firearms or ammunition at the scene of a domestic violence incident.

Other states exceed federal law in this area. Twenty-nine other states have laws that are stronger than federal law prohibiting domestic violence perpetrators from purchasing or possessing firearms. In 2013, Colorado, Connecticut and Utah strengthened state laws providing mechanisms to disarm domestic violence perpetrators.

**WAITING PERIODS**

Waiting periods give law enforcement officials sufficient time to perform background checks and provide a "cooling off" period to help guard against impulsive acts of violence.

**Federal law** does not require a waiting period. If the FBI is unable to complete a background check within three business days, the dealer may complete the transfer by default.

**Virginia law** does not require a waiting period.

Other states require waiting periods. Eleven states and the District of Columbia currently have waiting periods that apply to the purchase of some or all firearms.
LICENSING OF GUN OWNERS

Licensing laws are meant to ensure that gun owners know how to safely use and store firearms and to decrease illegal gun sales and possession by ensuring that all licensees are eligible to possess firearms under federal and state law. Federal law does not require licensing of gun owners or purchasers. Virginia law does not require licensing of gun owners or purchasers. Other states require licensing of gun owners and/or purchasers. Twelve states require licenses to possess and/or permits to purchase some or all firearms. In 2013, Connecticut and Maryland added new licensing requirements.

ASSAULT WEAPONS

Assault weapons are designed with military features to allow rapid and accurate spray firing to kill people quickly and efficiently. Federal law prohibited manufacture, transfer, and possession of assault weapons between 1994 and 2004. When the law expired in 2004, Congress did not renew the ban. Virginia law does not ban assault weapons. Virginia does prohibit a firearms dealer from transferring any assault firearm to a person who is not a citizen or lawfully admitted for permanent residence in the U.S. Such persons may not possess or transport assault firearms or carry a hidden assault firearm. In addition, no person may import, sell, possess or transfer the one specified model of assault firearm (“Striker 12”) or any semi-automatic folding-stock shotgun with a spring tension drum magazine capable of holding twelve shotgun shells. Virginia also prohibits a person under 18 years of age from possessing or transporting an assault firearm and prohibits the carrying of certain loaded high-powered firearms in public places in certain cities. Other states have enacted assault weapons bans. Seven states and D.C. ban assault weapons. Three of these states (Connecticut, Maryland and New York) strengthened these bans in 2013.

LARGE CAPACITY AMMUNITION MAGAZINES

Due to their ability to hold so many rounds of ammunition, large capacity magazines significantly increase the lethality of the automatic and semi-automatic firearms and are often used in mass shootings. Federal law prohibited the possession and sale of large capacity magazines between 1994 and 2004. When the ban expired in 2004, Congress did not renew the law. Virginia law does not prohibit the sale or possession of large capacity ammunition magazines. Other states have enacted laws banning large capacity ammunition magazines. Eight states and D.C. ban ammunition magazines that have the capacity to hold a specified number of rounds of ammunition. Of these, four states (Colorado, Connecticut, Maryland and New York) have enacted new large capacity ammunition magazine bans or strengthened existing bans in 2013.

REPORTING LOST OR STOLEN FIREARMS

Laws that require firearm owners to report lost or stolen firearms help deter gun trafficking and assist lawful gun owners by facilitating the recovery of their lost or stolen property. Federal law requires licensed firearms dealers, but not individual gun owners, to report lost or stolen firearms to law enforcement. Virginia law does not require firearm owners to report lost or stolen firearms. Other states require reporting of lost or stolen firearms. Ten states and D.C. require some or all firearms owners to report the loss or theft of their firearms to law enforcement. Three of these states (Delaware, Illinois and Maryland) enacted these laws in 2013.

ENDNOTES

7California, Connecticut, Colorado, District of Columbia, Delaware, Maryland, New York, Pennsylvania, Rhode Island.
10California, Connecticut, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, and Rhode Island.
12California, Connecticut, District of Columbia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, and Rhode Island.
13California, Connecticut, District of Columbia, Hawaii (assault pistols), Maryland, Massachusetts, New Jersey, and New York.

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Performing a background check with every gun sale is the easiest and most effective way to prevent dangerous weapons from falling into the hands of criminals, violent abusers, and the dangerously mentally ill. Right now, federal law doesn’t require a background check on private gun sales, which account for approximately 40% of all gun sales in America.

For example, Radcliffe Haughton walked into a salon in Wisconsin in October, killing his estranged wife and two others, and injuring 4 other innocent women. Haughton was known for his abusive behavior. His wife, Zina, had filed a restraining order against him after he had vowed to burn her and her two daughters with gas, because he believed Zina was cheating on him. Because of the restraining order, Haughton was prohibited from owning a gun and would not have passed a background check. Nevertheless, he purchased a semi-automatic weapon from a private seller, who was not required to perform a background check. Two days later, Haughton was able to walk into the salon with a dangerous, semiautomatic handgun and kill his wife and injure so many others. If a background check were required for every gun sale, it would have been much more difficult for Haughton to legally purchase a gun—and may have saved the lives of his wife and her coworkers.

THE FACTS

40% of all guns in the US are sold through private sellers—at gun shows and increasingly over the internet—and require no criminal background check. That would be like 4 out of every 10 people being allowed to bypass security at the airport.

30% of guns involved in trafficking are connected to gun shows, where background checks aren’t required.

Most of America agrees that background checks are important to keeping guns out of the wrong hands. **Even 74% of NRA members and 87% of non-NRA gun owners support requiring criminal background checks of anyone purchasing a gun.**

Fact:
The federal background check requirement doesn’t apply to private sellers at gun shows, at flea markets, or if they sell firearms in-state over the internet.
STATE LAWS

Seventeen states and the District of Columbia have extended the background check requirement beyond federal law to at least some private sales. Six states (California, Colorado, Connecticut, Delaware, New York, Rhode Island) and the District of Columbia require universal background checks at the point of sale for all transfers of all classes of firearms, including purchases from unlicensed sellers; Maryland and Pennsylvania laws do the same, but are limited to handguns.

Two states (Illinois and Oregon) require a background check whenever a firearm is sold at a gun show. Four states (Hawaii, Illinois, Massachusetts and New Jersey) require any firearm purchaser, including a purchaser from an unlicensed seller, to obtain a permit issued after a background check, and four more states (Iowa, Michigan, Nebraska and North Carolina) do the same only for handguns. Illinois enacted law in 2013 requiring that unlicensed sellers verify a potential purchaser’s license before the transfer is complete (the license is valid for up to 10 years).

Nevada and Oregon have laws allowing voluntary background checks by unlicensed sellers.

2013 STATE LEGISLATION

In 2013, five states strengthened or added laws that extend the background check requirement to include some or all private sales (CO, CT, DE, MD, NY). In Nevada, a bill that would have required background checks for all private sales was vetoed.

In Virginia, several bills to require background checks for some or all private sales were introduced, but all failed. The strongest bills, (HB 2025 and SB 379), would have required all private firearms sales, whether or not at a gun show, to be facilitated by a licensed dealer with a background check prior to transfer. Five other bills (HB 364, SB 1001, SB 1136, SB 1281, and SB1232), would have required all private sales at gun shows to be facilitated by a licensed dealer.

Another bill (SB 1372), would have required that state police be available to conduct background checks for transactions between private parties at gun shows if both parties to the transaction agreed to the background check.

Two gun lobby bills (HB 237 and SB 612), would have exempted all long gun purchasers from the state background check requirement (the federal background check requirement would still apply). Similar bills (HB 592 and HB 859), would have exempted concealed handgun permit holders. All four of these bills also failed.
**EVERYTHING YOU NEED TO KNOW ABOUT VIRGINIA AND GUNS IN PUBLIC PLACES**

**WHY IT MATTERS**

Historically, most states either prohibited or severely limited the carrying of firearms in public. Over the past three decades, however, state laws have changed dramatically. In that time, many states have weakened their laws to permit more people to carry guns in public places with fewer restrictions and have reduced or eliminated the authority of local law enforcement to deny permits to potentially dangerous individuals.

**STATE LICENSING SCHEMES**

All but four states require that individuals receive a license or permit before carrying a firearm in public. States generally take two approaches to issuing licenses to carry firearms in public places. In “Shall issue” states, authorities are required to issue a license to carry firearms to any individual who meets the minimum statutory requirements, regardless of whether there is anything in that person’s history that would suggest that they may pose a danger to the community. In “May issue” states, authorities are given the discretion to grant or deny a permit to an individual who meets minimum requirements based on other factors, such as history of violence or proven necessity for carrying a firearm.

Ten states (California, Connecticut, Delaware, Hawaii, Iowa, Maryland, Massachusetts, New Jersey, New York, and Rhode Island) and the District of Columbia are “may issue” states. The four states that allow a person to carry a firearm in public without a permit are Alaska, Arizona, Vermont, and Wyoming.

The remaining states are shall issue states.

**SAFETY TRAINING**

A Virginia concealed weapon permit applicant must provide proof that he or she has demonstrated competence with a handgun. In 2009, Virginia enacted a law providing that this requirement may be fulfilled by participation in electronic, video, or online training.

In 2013, the law was re-written to further expand the types of training that fulfill the requirement. The new law provides a long list of options including a hunter safety course, any National Rifle Association firearms training course, evidence of equivalent experience with a firearm through participation in organized shooting competition, having previously held a license to carry a firearm in Virginia, and any other firearms training which the court deems adequate.

**WHO CAN CARRY HIDDEN FIREARMS IN VIRGINIA**

Virginia is a “shall issue” state. However, law enforcement may petition a court for a finding that an applicant is likely to use a weapon unlawfully or negligently to endanger others. If such a finding is made, the applicant will be denied a concealed handgun permit. The petition must set forth criminal convictions or specific acts that would lead to such a finding and must be based upon personal knowledge of the applicant.

A permit will also be denied if the applicant is under 21, fails to provide proof that he or she has demonstrated competence with a handgun (described in more detail below) and has one or more disqualifying factors such as a history of mental health adjudications and commitments; criminal convictions, a history of domestic violence, or a history of controlled substance and alcohol abuse.

Note that in 2012, Virginia repealed the law allowing local governments to require fingerprinting as part of a concealed handgun permit application.

**RECIPROCITY**

Virginia law recognizes a concealed handgun permit issued by another state if:

(i) the other state provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day; and

(ii) the state’s laws are adequate to prevent possession of a permit by persons who would be denied a permit in Virginia.

The State Police, in consultation with the Office of the Attorney General, determines whether states meet the requirements. The State Police must maintain a registry of such states and may also enter into agreements for reciprocal recognition with any qualifying state.
GUNS IN SCHOOLS

Virginia prohibits the possession of any firearm on the grounds, or in the buildings of, any elementary, middle or high school; a school bus; and property that is exclusively used for school-sponsored functions or extracurricular activities while they are taking place. There are exceptions for an unloaded firearm in a closed container in a motor vehicle, an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle, and a concealed handgun possessed by a permit holder in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school.

A bill that failed in 2013 (HB 1557) would have required each school board to designate, at each school in the district, at least one person to carry a concealed handgun on school property. The designated person could be a teacher, principal, or other employee employed for at least 3 years, a school volunteer with a valid concealed handgun permit, or a retired law-enforcement officer who had lived in the school’s district for at least three years.

State law does not prohibit firearms on campuses of higher education, but schools may decide for themselves whether to restrict firearms on campus. In January of 2011, the Supreme Court of Virginia rejected a challenge to George Mason University’s regulation restricting the possession and carrying of firearms inside campus buildings and at campus events. The court pointed out that the regulation was tailored, restricting weapons only in those places where people congregate and are most vulnerable. Individuals could still carry or possess weapons on the open grounds of this public university, and in other places on campus not enumerated in the regulation.

In July of 2011, Virginia’s Attorney General responded to a request from state Senator Emmett Hanger regarding the legality of the University of Virginia’s policy which generally prohibited firearms on campus. The Attorney General opined that the University could not ban the carrying of concealed handguns by concealed handgun permit holders with a policy as opposed to a regulation (when issuing a regulation, a public university must follow additional procedural hurdles not required for a policy). He also opined that University of Virginia ban is vulnerable to legal challenge because it is broader than the George Mason ban which is tailored to certain places. Later that year, the University replaced the policy with a regulation but did not tailor the ban which still generally prohibits firearms anywhere on campus.

A bill that failed in 2012 (HB 1226), would have codified and expanded upon the George Mason ruling by allowing the governing body of any educational institution to regulate the possession and transportation of firearms and ammunition on the institution’s property up to and including a complete ban. Another unsuccessful bill introduced in 2012 (HB 91), would have prohibited the governing body of a public institution of higher education from regulating in any way the carrying of a concealed handgun, on campus or in school buildings, by a full-time faculty member who holds a concealed handgun permit.

GUNS IN VEHICLES

A Virginia law enacted in 2010 allows any person, regardless of a concealed handgun permit, to carry a lawfully possessed handgun while in a personal, private motor vehicle or vessel if the handgun is secured in a container or compartment. In 2013, Virginia enacted a law prohibiting a local government from adopting a rule that prevents an employee of the locality from storing a lawfully possessed firearm or ammunition in a locked private motor vehicle at the workplace.
EVERYTHING YOU NEED TO KNOW ABOUT VIRGINIA & SHOOT FIRST/STAND YOUR GROUND LAWS

WHY IT MATTERS

When George Zimmerman was acquitted in the death of Trayvon Martin on July 16, 2013, the nation reacted—shocked by a situation in which an unarmed teenager could be shot and killed without consequence. Sadly, Florida’s extremely weak gun laws set the stage for Trayvon Martin’s senseless death.

The combination of weak concealed weapon laws and “stand your ground” laws—or more appropriately called “shoot first” laws—create dangerous opportunities for everyday conflicts to escalate into lethal events and shield aggressive shooters from justice. What’s even more astonishing is that, in light of America’s robust self-defense laws, shoot first laws are completely unnecessary.

Twenty-seven states have enacted some version of the controversial law. Seven additional states, including Virginia, permit the use of deadly force in self-defense in public with no duty to retreat through a combination of statutes, judicial decisions, and/or jury instructions.

WHY IT MATTERS

SHOOT FIRST LAWS RADICALLY DEPART FROM TRADITIONAL PRINCIPLES.

Every state’s law includes a right to defend oneself if a person reasonably believes that he or she is in danger of immediate death or serious bodily harm.

American law has long acknowledged the right to defend oneself in the home, and outside the home if one feels threatened and cannot escape the situation. Shoot first laws dramatically distort this principle—allowing people to act as armed vigilantes and use deadly force in public, even if it can be avoided. These laws also shield criminals from justice by making it difficult for law enforcement to prosecute people who claim that they were acting in self-defense.

VIRGINIA LAW ALLOWS THE USE OF DEADLY FORCE IN PUBLIC WITH NO DUTY TO RETREAT (even if a safe means of retreat is available) if the person has a reasonable fear of harm, and is completely without fault in provoking the threatening situation. As noted above, the shoot first defense in Virginia was not enacted into law by the legislature. Rather, Virginia courts have outlined this defense through case law. Therefore, the defense may be invoked during a criminal trial, but would not enable a shooter to escape arrest or liability during an earlier stage in the criminal process.

Legislators in Virginia have introduced legislation, without success, in 2012 and 2013 that would have codified case law on self-defense in the home. The legislation did not address self-defense in public.

WEAK CONCEALED HANDGUN LAWS GRANT LICENCES TO KILL.

When paired with weak concealed weapon laws, shoot first laws provide aggressive citizens who meet very minimal requirements the right to resort to deadly force without ramification.

Currently, 41 states, including Virginia, have lax concealed weapon laws. 37 states require law enforcement officers to issue concealed handgun licenses to individuals who meet very minimal requirements; four states even allow people to carry concealed weapons statewide without permits.

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