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SENATE BILL NO. 328

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on March 4, 2022)

(Patron Prior to Substitute—Senator Reeves)

A BILL to amend and reenact §§ 2.2-5515, 15.2-1721.1, and 52-11.3 of the Code of Virginia, and to repeal §§ 19.2-83.4 through 19.2-83.7 of the Code of Virginia, relating to acquisition and use of military property by law-enforcement agencies.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-5515, 15.2-1721.1, and 52-11.3 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-5515. Acquisition of military property.

A. No agency of the Commonwealth or director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101 shall acquire or purchase (i) weaponized unmanned aerial vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no established commercial flight application; (iii) grenades or similar explosives or grenade launchers from a surplus program operated by the federal government; (iv) ~~armored multi-wheeled vehicles that are mine-resistant, ambush-protected, and configured for combat, also known as MRAPs, from a surplus program operated by the federal government;~~ (v) bayonets; (vi) firearms of .50 caliber or higher; (vii) ~~ammunition of .50 caliber or higher; or (viii) or~~ (v) weaponized tracked armored vehicles.

Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle, also known as HMMWVs, or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided by law.

B. Any agency of the Commonwealth or director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101 that has previously acquired any item listed in subsection A is prohibited from using such items unless such agency, director, or chief executive has received a waiver to use such items from the Criminal Justice Services Board. Any waiver request made to the Criminal Justice Services Board, except a waiver request from the Department of State Police, shall be limited to special weapons and tactics unit or other equivalent unit use only. The Department of State Police may seek a waiver for any of its units. The Criminal Justice Services Board may grant a waiver upon a showing of good cause by the requesting agency, director, or chief executive that the continued use of the item that is the subject of the waiver request has a bona fide public safety purpose.

Any agency, director, or chief executive that has filed a waiver request with the Criminal Justice Services Board may continue to use such prohibited items while such waiver request is pending before the Criminal Justice Services Board. If such waiver request is denied, the agency, director, or chief executive that filed such waiver shall no longer use such prohibited item.

C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property that is not specifically prohibited pursuant to subsection A from the federal government.

D. The provisions of this section shall not apply to the Virginia National Guard or Virginia Defense Force.

§ 15.2-1721.1. Acquisition of military property by localities.

A. No locality, sheriff, chief of police, or director or chief executive of any agency or department employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 or any public or private institution of higher education that has established a campus police department pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 shall acquire or purchase (i) weaponized unmanned aerial vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no established commercial flight application; (iii) grenades or similar explosives or grenade launchers from a surplus program operated by the federal government; (iv) ~~armored multi-wheeled vehicles that are mine-resistant, ambush-protected, and configured for combat, also known as MRAPs, from a surplus program operated by the federal government;~~ (v) bayonets; (vi) firearms of .50 caliber or higher; (vii) ~~ammunition of .50 caliber or higher; or (viii) or~~ (v) weaponized tracked armored vehicles. Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle, also known as HMMWVs, or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided by law.

B. Any locality, sheriff, chief of police, or director or chief executive of any agency or department employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 that has previously acquired any item listed in subsection A is prohibited from using such items unless such locality, sheriff, chief of police, or director or chief executive has received a waiver to use such items from the Criminal Justice Services Board. Any waiver request made to the Criminal Justice Services Board shall be limited to special weapons and tactics unit or other equivalent unit use only. The Criminal Justice Services Board may grant a waiver upon a showing of good cause by the requesting locality, sheriff, chief of police, or director or chief executive that the continued use of the item that is the subject of the waiver request has a bona fide public safety purpose.

Any locality, sheriff, chief of police, or director or chief executive that has filed a waiver request with the Criminal Justice Services Board may continue to use such prohibited items while such waiver request is pending before the Criminal Justice Services Board. If such waiver request is denied, the locality, sheriff, chief of police, or director or chief executive that filed such waiver shall no longer use such prohibited item.

C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property that is not specifically prohibited pursuant to subsection A from the federal government.

§ 52-11.3. Acquisition of military property.

A. The Superintendent of State Police is authorized to apply for and accept grants or loans of personal property from the U.S. Department of Defense for use in the law-enforcement activities of the Department of State Police or any other law-enforcement agency of the Commonwealth or its political subdivisions. In connection with the receipt of such property, the Department of State Police and any other law-enforcement agency to which the property is transferred may agree to hold the United States government harmless against claims for damages arising out of the use of the property received. Such other law-enforcement agencies may also agree to hold the Commonwealth harmless against such claims.

B. Notwithstanding the provisions of subsection A, the Superintendent shall not acquire or purchase (i) weaponized unmanned aerial vehicles; (ii) aircraft that are configured for combat or are combat-coded and have no established commercial flight application; (iii) grenades or similar explosives or grenade launchers from a surplus program operated by the federal government; (iv) ~~armored multi-wheeled vehicles that are mine-resistant, ambush-protected, and configured for combat, also known as MRAPs, from a surplus program operated by the federal government;~~ (v) bayonets; (vi) ~~firearms of .50 caliber or higher;~~ (vii) ~~ammunition of .50 caliber or higher; or (viii) or (v) weaponized tracked armored vehicles.~~

Nothing in this subsection shall restrict the acquisition or purchase of an armored high mobility multi-purpose wheeled vehicle, also known as HMMWVs, or preclude the seizure of any prohibited item in connection with a criminal investigation or proceeding or subject to a civil forfeiture. Any property obtained by seizure shall be disposed of at the conclusion of any investigation or as otherwise provided by law.

C. Nothing in this section shall be construed as prohibiting the acquisition, purchase, or otherwise acceptance of any personal protective equipment, naloxone or other lifesaving medication, or any personal property that is not specifically prohibited pursuant to subsection B from the federal government.

2. That §§ 19.2-83.4 through 19.2-83.7 of the Code of Virginia of the Code of Virginia are repealed.