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SENATE BILL NO. 74

Offered January 12, 2022

Prefiled January 4, 2022

A BILL to amend and reenact §§ 15.2-915 and 15.2-915.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-915.6, relating to control of firearms by localities.

 Patron—Chase

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-915 and 15.2-915.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-915.6 as follows:

§ 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. However, no locality shall adopt any workplace rule, other than for the purposes of a community services board or behavioral health authority as defined in § 37.2-100, that prevents an employee of that locality from storing at that locality's workplace a lawfully possessed firearm and ammunition in a locked private motor vehicle. 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, juvenile detention facility, or state-governed entity, department, or agency.

B. Any local ordinance, resolution, or motion adopted prior to July 1, 2004, 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.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action challenging (i) an ordinance, resolution, or motion as being in conflict with this section or (ii) an administrative action taken in bad faith as being in conflict with this section.

D. For purposes of this section, "workplace" means "workplace of the locality."

E. Notwithstanding the provisions of this section, a locality may adopt an ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof (i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) in any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality; or (iv) in any public street, road, alley, or 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. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose.

Any such ordinance may include security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, or public streets, roads, alleys, or sidewalks or public rights-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 by a person with any firearms, ammunition, or components or combination thereof, such as the use of metal detectors and increased use of security personnel.

The provisions of this subsection shall not apply to the activities of (i) a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education in accordance

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59 with the provisions of 10 U.S.C. § 2101 et seq. or (ii) any intercollegiate athletics program operated by
60 a public or private institution of higher education and governed by the National Collegiate Athletic
61 Association or any club sports team recognized by a public or private institution of higher education
62 where the sport engaged in by such program or team involves the use of a firearm. Such activities shall
63 follow strict guidelines developed by such institutions for these activities and shall be conducted under
64 the supervision of staff officials of such institutions.

65 F. Notice of any ordinance adopted pursuant to subsection E shall be posted (i) at all entrances of
66 any building, or part thereof, owned or used by the locality, or by any authority or local governmental
67 entity created or controlled by the locality, for governmental purposes; (ii) at all entrances of any public
68 park owned or operated by the locality, or by any authority or local governmental entity created or
69 controlled by the locality; (iii) at all entrances of any recreation or community center facilities operated
70 by the locality, or by any authority or local governmental entity created or controlled by the locality;
71 and (iv) at all entrances or other appropriate places of ingress and egress to any public street, road,
72 alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public
73 and is being used by or is adjacent to a permitted event or an event that would otherwise require a
74 permit.

75 **§ 15.2-915.5. Disposition of firearms acquired by localities.**

76 A. No locality or agent of such locality may participate in any program in which individuals are
77 given a thing of value provided by another individual or other entity in exchange for surrendering a
78 firearm to the locality or agent of such locality unless the governing body of the locality has enacted an
79 ordinance, pursuant to § 15.2-1425, authorizing the participation of the locality or agent of such locality
80 in such program.

81 B. Any ordinance enacted pursuant to this section shall require that any firearm received, except a
82 firearm of the type defined in § 18.2-288 or 18.2-299 or a firearm the transfer for which is prohibited
83 by federal law, shall be destroyed by the locality unless the person surrendering the firearm requests in
84 writing that the firearm be offered for sale by public auction or sealed bids to a person licensed as a
85 dealer pursuant to 18 U.S.C. § 921 et seq. Notice of the date, time, and place of any sale conducted
86 pursuant to this subsection shall be given by advertisement in at least two newspapers published and
87 having general circulation in the Commonwealth, at least one of which shall have general circulation in
88 the locality in which the property to be sold is located. At least 30 days shall elapse between publication
89 of the notice and the auction or the date on which sealed bids will be opened. Any firearm remaining in
90 possession of the locality or agent of the locality after attempts to sell at public auction or by sealed
91 bids shall be disposed of in a manner the locality deems proper, which may include destruction of the
92 firearm or, subject to any registration requirements of federal law, sale of the firearm to a licensed
93 dealer.

94 **§ 15.2-915.6. Limitations on authority of localities to bring lawsuits.**

95 *No locality shall have the authority to bring suit against a firearms or ammunition marketer,*
96 *manufacturer, distributor, dealer, seller, or trade association for damages, abatement, injunctive relief,*
97 *or any other remedy resulting from or relating to the lawful design, marketing, manufacture,*
98 *distribution, sale, or transfer of firearms or ammunition to the public. The right to bring any such*
99 *action is hereby reserved exclusively to the Commonwealth. Any action brought by the Commonwealth*
100 *pursuant to this section shall be brought by the Attorney General on behalf of the Commonwealth.*

101 *This section shall not prohibit (i) a locality from bringing an action against a firearms or*
102 *ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach of*
103 *contract or warranty or negligence as to firearms or ammunition purchased by the locality or (ii) an*
104 *action for injuries resulting from negligence or breach of warranty or contract.*

105 *The provisions of this section applicable to a locality shall also apply equally to any state*
106 *governmental entity, including a department, agency, or authority.*