



Virginia State Police

Firearms VCheck

Procedures Manual for Firearm Dealers August 2017

**Prepared by the
Virginia Department of State Police**




Approved
Superintendent

Introduction

The Virginia Firearms Transaction Program (VFTP) was designed and implemented by the Virginia Department of State Police to meet the mandates of legislation enacted by the 1989 Session of the Virginia General Assembly. Section 18.2-308.2:2, Code of Virginia, requires a criminal history record information check be performed on the purchaser prior to the transfer of a firearm.

The VFTP was the first of its kind in the nation. It has been replicated in many other states.

The VFTP is available via the Internet and a toll free 800-telephone number to the Firearms Transaction Center (FTC) Call Center. The VFTP is the point of contact for the National Instant Criminal Background Check System (NICS).

The procedures contained in this manual were developed in compliance with Title 18.2, Chapter 7, Code of Virginia, to provide guidance and information to licensed firearm dealers concerning state and federal firearm laws.

The FTC Lost or Stolen Gun Verification Program was designed and implemented by the Virginia Department of State Police as a component of the VFTP VCheck system to meet the mandates of legislation enacted by the 2014 Session of the Virginia General Assembly. Section 18.2-308.2:4, Code of Virginia, authorizes Virginia licensed firearms dealers to request a verification check from the Department to determine if a firearm has been reported to a law-enforcement agency as lost or stolen.

This manual provides:

- instruction on how to request criminal history record information checks prior to the sale, trade, or transfer of a firearm
- applicable Code sections
- notice of required forms
- information pertaining to the rights of prospective firearm purchasers if they are denied the purchase of a firearm
- instruction on how to request a verification check to determine if a gun has been reported as lost or stolen
- regulations promulgated by the Department of State Police
- regulations promulgated by the Department of Criminal Justice Services Division

Department of State Police Internet website: <http://www.vsp.virginia.gov>.

Distribution List

Superintendent's Office

Deputy Superintendent

Office of Performance Management and Internal Control

Planning and Research Manager

Professional Standards Unit

Professional Standards Unit Director

Bureau of Administrative and Support Services – SPHQ

BASS Director

Criminal Justice Information Services Division

CJIS Officer

Firearms Transaction Center Employees

BCI Field Divisions

Division Commander

BFO Field Divisions

Division Commander

External Distribution

Firearm Dealers

Procedures Manual for Firearm Dealers

Table of Contents

<u>Section I</u>	<u>Firearms Dealer Registration</u>	
	Requirements	A.
	How to Register	B.
	Change of Dealer Registration Information	C.
	Close of Business	D.
<u>Section II</u>	<u>Firearms Seller Registration</u>	
	Requirements	A.
	Exemption to Fingerprint Requirement	B.
	Seller Registration Packages	C.
	Use of Employee/Seller Identification Number	D.
<u>Section III</u>	<u>Requests for Forms</u>	
	Firearm Transaction Records SP-65 and SP-65A	A.
	Employee Registration Form and Fingerprint Cards	B.
	Request for Forms	C.
	State Police Query of Lost or Stolen Firearms Form SP-315	D.
<u>Section IV</u>	<u>Completion of Form SP-65</u>	
	Instructions	A.
	Purchaser Unable to Read or Write	B.
	Dealer Verification of Information	C.

<u>Section V</u>	<u>Identification and Residency Requirements</u>	
	<u>Virginia Resident Transactions</u>	A.
	<u>Nonresident Transactions</u>	B.
	<u>Law Enforcement Officers</u>	C.
	<u>Military Personnel</u>	D.
	<u>Non-citizen Transactions</u>	E.
<u>Section VI</u>	<u>Criminal History Record Information (CHRI) Check</u>	
	<u>State Requirements</u>	A.
	<u>Federal Requirements</u>	B.
	<u>Catalog or Law-Away Sales</u>	C.
	<u>Exemptions to CHRI Check</u>	D.
	<u>Fees Collected</u>	E.
	<u>Transaction Approval Requests</u>	F.
<u>Section VII</u>	<u>Types of Transactions</u>	
	<u>VCheck</u>	A.
	<u>800 Telephone Line</u>	B.
	<u>Transactions Requested by Mail</u>	C.
<u>Section VIII</u>	<u>Delayed, Approved, or Denied Transactions</u>	
	<u>VCheck</u>	A.
	<u>800 Telephone Line</u>	B.
<u>Section IX</u>	<u>Handgun Purchase Restriction</u>	

Repealed July 1, 2012

<u>Section X</u>	<u>Pawn Transactions or Return of Consigned Firearms</u>	
	Requirements	A.
	Pre-Pawn CHRI Check	B.
<u>Section XI</u>	<u>Purchase of Assault Firearms</u>	
	Definitions	A.
	Purchase Requirements	B.
	Prohibitions	C.
<u>Section XII</u>	<u>Appeal Processes</u>	
	Requirements	A.
	Options of Appeal	B.
	Restoration of Rights	C.
	Unique Firearms Identification Number (UFIN)	D.
<u>Section XIII</u>	<u>Final Processing of Firearm Transaction Records</u>	
	Virginia Firearms Transaction Record SP-65	A.
	Virginia Firearms Pre-Pawn Transaction Record SP-65A	B.
<u>Section XIV</u>	<u>Billing Information</u>	
	Requirements	A.
	Monthly Statement	B.
	Payment Process	C.
	Checks Returned due to Insufficient Funds	D.
	Pre-Payment	E.
	Late Charge	F.

[Questions Concerning Bill](#)..... G.

[Failure to Transmit Fees](#)..... H.

Section XV **Violations and Criminal Investigations**

[Incomplete SP-65 Forms](#)..... A.

[Criminal Investigations](#)..... B.

[Violation of Code Section 18.2-308.2:2](#)..... C.

[Violation of Code Section 18.2-308.2:3](#)..... D.

[Violation of Code Section 18.2-308.2:4](#)..... E.

Section XVI **Lost or Stolen Gun Verification Program**

[Requirements](#)..... A.

[State Police Query of Lost or Stolen Firearm \(SP-315\)](#)..... B.

[Data Entry Procedures](#)..... C.

[Verification Check Response to the Dealer](#)..... D.

[Electronic Failure](#)..... E.

[Records Retention](#)..... F.

Part One Appendix A **Questions and Answers**

Part One Appendix B **Definitions**

Part One Appendix C **References**

Part One Appendix D **State and Federal Prohibitors to the Purchase of a Firearm**

I. FIREARMS DEALER REGISTRATION

A. Requirements

1. Every federally licensed firearm dealer meeting the definition of a "dealer," licensed in the Commonwealth of Virginia, is required to register with the State Police. See Appendix B for the state and federal definition of a "dealer."
2. The Virginia Firearms Transaction Program (VFTP) was designed and implemented by the Virginia Department of State Police to meet the mandates of legislation enacted by the 1989 Session of the Virginia General Assembly. Section 18.2-308.2:2, Code of Virginia, requires a criminal history record information check be performed on the purchaser prior to the transfer of a firearm.
3. The VFTP is available via the Internet and a toll free 800-telephone number to the Firearm Transaction Center (FTC) Call Center. Registrants should consider Internet access (VCheck) as the primary method of access to the criminal history record information check process, and telephone call to the VFTP Call Center as a secondary or alternative access, only.
4. The VFTP is the point of contact for the National Instant Criminal Background Check System (NICS).

B. How to Register

1. Registration is initiated by completion of a Firearms Dealer Registration (SP-69) application. Form SP-69 may be requested or obtained as follows:
 - a. Telephone the FTC at (804) 674-2292.
 - b. Upon written request to the Firearms Transaction Center, Post Office Box 85608, Richmond, Virginia 23285-5608.
 - c. Downloaded and printed from the department's website, www.virginiatrooper.org.
 - d. Email the FTC at firearms@vsp.virginia.gov.
2. The completed SP-69 shall be mailed to the Firearms Transaction Center at Post Office Box 85608, Richmond, Virginia 23285-5608 or hand-delivered to the Department of State Police Administrative Headquarters at 7700 Midlothian Turnpike, Richmond, Virginia.
3. Upon receipt of the completed SP-69, the registration process will include the following:
 - a. The new registrant will be assigned a Dealet Identification Number (DIN).
 - b. The confidential toll free "800" telephone to the FTC Call Center will be provided.
 - c. The individual listed in block 9 of the SP-69 will be contacted by the FTC to coordinate access to VCheck. A signed copy of the federal firearms license may be requested for the purpose of authenticity prior to release of passwords or security codes.

VFTP Dealers Procedures Manual

- d. The registrant will be provided an initial supply of Virginia Firearms Transaction Record (SP-65) forms.
- e. The Procedures Manual for Firearm Dealers, VCheck Users Guide, and related brochures are accessible at <http://www.vsp.state.va.us/Firearms.shtm>

C. Change of Dealer Registration Information

- 1. Dealer registration records must be maintained current and accurate at all times. Registered firearms dealers shall notify the FTC promptly upon any change in registration information (telephone number, address, federal firearms license number, etc.) by contacting the FTC Help Desk by telephone at (804) 674-2292 or by email at firearms@vsp.virginia.gov.
- 2. Any DIN containing an inaccurate address and/or telephone number will be placed in an INACTIVE STATUS and reactivated only upon receipt of the correct or current information.

D. Close of Business

- 1. The FTC shall be provided written notice of close of business in advance of the actual closing date.
- 2. Unused SP-65 forms remain the property of the Department of State Police and shall be returned to the Department of State Police upon termination of business, surrender, or license expiration.

II. FIREARMS SELLER REGISTRATION

A. Requirements

1. Virginia Code 18.2-308.2:3 requires all sellers of firearms to submit to a national and state criminal history record information check and requires the issuance of a Employee/Seller Identification Number (EIN) by the Department of State Police for qualified individuals.
2. A criminal history background check must be performed for employees of a gun dealer to transfer firearms, whether full-time, part-time, permanent, temporary, paid or unpaid.
3. The national and state criminal history records check will be conducted by the State Police upon receipt of one applicant fingerprint card and a completed Firearms Dealer Employee Registration Form SP-69A.
4. Prior to permitting an applicant to begin employment as a seller of firearms, all dealers must obtain written affirmations from persons employed that they are not disqualified from possessing a firearm. The original SP-69A may be retained by the dealer as the employee's written affirmation.
5. Prior to permitting an applicant to begin employment as a seller of firearms, the dealer shall submit a completed employee fingerprint card and Copy 1 and 2 of the SP-69A to the Firearms Transaction Center to obtain an employee identification number.
6. Code 18.2-308.2:3 requires the issuance of an employee identification number by the Department of State Police for qualified employees.
7. A Seller/employee identification number is mandatory in all firearm transactions processed by the Firearms Transaction Center.

B. Exemption to the Fingerprint Requirement

1. In lieu of submitting fingerprints, any dealer holding a valid Federal Firearms License (FFL) issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) may submit a sworn and notarized affidavit to the Department of State Police on form SP-69B stating that the dealer has been subjected to a record check prior to the issuance and that the FFL was issued by the BAFTE.
2. The affidavit may contain the names of any employees that have been subjected to a record check and approved by the BATFE.
3. An SP-69B form may be obtained by calling the FTC Help Desk or via the Department's website at <http://www.vsp.state.va.us/forms.htm>.
4. This exemption shall apply regardless of whether the FFL was issued in the name of the dealer or in the name of the business or corporation.

VFTP Dealers Procedures Manual

C. Employee/Seller Registration Packages

1. The seller registration package consists of the necessary forms, instructions, and fingerprint cards to be distributed to all new employees of the registered firearms dealer.
2. A supply of Seller Registration Packages will be provided upon request.
 - a. Telephone the FTC at (804) 674-2788.
 - b. Upon written request to the Firearms Transaction Center, Post Office Box 85608, Richmond, Virginia 23285-5608.
 - c. Email the FTC at firearms@vsp.virginia.gov

D. Use of Employee/Seller Identification Number

1. This number is recorded in Block 16 of the SP-65.
2. This number identifies the individual who, at the time of transaction, reviewed the SP-65 to ensure that is completed in its entirety by the prospective buyer.
3. This number identifies the individual who reviewed and accepted the prospective buyer's primary and secondary forms of identification and completed Section B of the SP-65.
4. This number identifies the individual who may be called upon to officially identify the prospective buyer in instances of denial and subsequent arrest.
5. This number is the personal certification of the individual to whom it was assigned and shall not be utilized by any other employee.

III. REQUESTS FOR FORMS

A. Firearm Transaction Records SP-65 and SP-65A

The Virginia Firearms Transaction Program forms SP-65 and SP-65A are provided by the Department of State Police to dealers to record the sale or transfer of firearms as provided for in Sections 18.2-308.2:2 and 54.1-4201, Code of Virginia, and to obtain the prospective firearms transferee's consent for a criminal history record information check (CHRI) from the State Police.

1. SP-65 and SP-65A forms are issued to each dealer by transferor's transaction serial number and shall not be redistributed or loaned to another dealer.
2. Dealers may request additional forms at any time and shall be responsible for maintaining a sufficient inventory of forms and for ordering additional forms, taking into account shipping times.
3. Emergency distribution of forms will be provided via express mail at the expense of the dealer.

B. Firearms Dealer Employee Registration Form and Fingerprint Cards

1. SP-69A, SP-69B forms, and fingerprint cards are available for distribution upon request to the Firearms Transaction Center (FTC) at (804) 674-2788.
2. Only those fingerprint cards issued to you by the FTC may be utilized for this process.

C. Request for Forms

1. Written requests for additional forms should be directed to Firearms Transaction Center, Post Office Box 85608, Richmond, Virginia 23285-5608 or email firearms@vsp.virginia.gov.
2. Telephone requests for additional forms should be directed to (804) 674-2292. The confidential 800-telephone line is not to be utilized for form requests.
3. All written or telephone requests must include the dealer's DIN or FFL number.
4. Forms may be picked up directly at State Police Administrative Headquarters, 7700 Midlothian Turnpike, North Chesterfield, Virginia, 23235.

D. State Police Query of Lost or Stolen Firearms Form SP-315

1. The SP-315 is available on the State Police website at the following link: <http://www.vsp.state.va.us/FormsPublications.shtm>
2. Dealers may request the form to be provided by U.S. Mail, email, or fax. Additional copies of the form are the responsibility of the dealer.

VFTP Dealers Procedures Manual

IV. COMPLETION OF FORM SP-65

A. Instructions

1. The SP-65 form shall be completed in conjunction with the Federal Form 4473, and shall be completed in its entirety prior to the criminal history background check request.
2. Fee Collected - Shall be completed by the dealer. \$2.00 for Virginia residents and \$5.00 for non-Virginia residents and \$5.00 for mail in transaction(s). The fee collected does not differentiate with the type of request, VCheck or telephone.

Fee Collected: \$2.00 Resident \$5.00 Non-Resident \$5.00 Mail-in Transaction Transaction Serial Number **A000000**

3. Section A., (Blocks 1 – 6) shall be completed in their entirety by the purchaser. An INS-issued alien number or admission number is required for all non-citizens. See Sections V and XI for detailed information on non-citizen transactions, and the VCheck Users Guide for data entry requirements.

1. Transferee's (Buyer's) Name (Last, First, Middle)		
2. <input type="checkbox"/> Male <input type="checkbox"/> Female	3. Birth Date (Month, Date, Year)	4. Social Security Number or Other Identifying Number <i>(See Important Notice 1 on back of form)</i>
5. Race (Ethnicity) (Check one or more boxes)		
<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Asian <input type="checkbox"/> White		
6. Are you a citizen of the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(See Important Notice 4 on back of form for purchase of an assault firearm.)</i>		
If "No," what is your INS-issued alien number or admission number? _____		

4. Section A., (Blocks 7 – 9) shall be completed by the transferee. *The transaction shall be terminated immediately upon a "yes" response to either question.*

7. Have you been convicted of a felony offense or found guilty or adjudicated delinquent as a juvenile 14 years of age or older at the time of offense of a delinquent act which would be a felony if committed by an adult? <i>(See Exceptions on back of form.)</i> <i>Initial here to document reading and understanding of the Exceptions on back of form</i> →	
8. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner, or a child of such partner or are you subject to a protective order? <i>(See Important Notice 2 on back of form.)</i>	
9. Have you ever been acquitted by reason of insanity and prohibited from purchasing, possessing or transporting a firearm pursuant to §18.2-308.1:1 or any substantially similar law of any other jurisdiction, been adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person and prohibited from purchasing a firearm pursuant to § 18.2-308.1:2 or any substantially similar law of any other jurisdiction, or been involuntarily admitted to an inpatient facility or involuntarily ordered to outpatient mental health treatment and prohibited from purchasing a firearm pursuant to § 18.2-308.1:3 or any substantially similar law of any other jurisdiction?	

5. Signature and Date (Block 10) shall be completed by the transferee to certify that the answers to questions 7 – 9 are accurate and to provide consent for the background check. Block 11 is self-explanatory and may be utilized if applicable. Block 13 shall be completed by the dealer to record the unique approval number as provided by the State Police operator, or "DENIED" in instances of confirmed denial.

10. Transferee's Signature and Date (Month, Day, Year)	11. UFIN or UPIN (optional) <i>(See Important Notice 3 on back of form.)</i>	12. State Police Approval Number or Other Final Status
--	---	--

VFTP Dealers Procedures Manual

6. Section B., (Block 13) shall be completed by the dealer to document identification and residency of the prospective firearm purchaser. See Section V for Identification and Residency Requirements.

13. Establishment of Identification and Residency: 30 days must have elapsed since the date of issue of an original or duplicate driver's license unless a copy of the Virginia DMV driver's record shows the original date of issue was more than 30 days.
- A. Photo-ID Issued by a Governmental Agency: _____ Issue Date _____ State: _____
(Driver's License Number or Identification Card Number or Other)
- B. Nonresident Secondary ID: _____ (Must contain the exact name and address as appears on the Photo-ID)
- C. Military Personnel: Identification Card Permanent Orders to a Duty Post in Virginia or the Pentagon Leave and Earnings Statement

7. Section B., (Blocks 14 – 18) shall be completed by the dealer.

Block 14 must reflect the number of firearms by category intended to be transferred at the time of the background check. *Example: 1 pistol, 2 shotguns.* Additional firearm purchases made by the same buyer may not be added to the SP-65 or transferred to the buyer after the State Police have provided approval to the transaction. A separate transaction is required in this instance. "Other" may be checked if it is also selected on the corresponding federal form.

Block 16 identifies the individual who reviews the identification and residency documentation with the prospective purchaser and who completes Section B. This number is unique to the person it is assigned to and cannot be shared (see Section II). Block 17 requires only the last five numbers of the FFL. Block 18 must reflect the county or city in which the transaction takes place.

14. No. of Firearms by Category (Insert the number beside the corresponding category. "Other" is provided to accommodate federal requirements only.)					15. Dealer Identification Number (DIN)
Pistol(s)	Revolver(s)	Rifle(s)	Shotgun(s)	Other <input type="checkbox"/>	
16. Employee/Seller Identification Number (See Instructions on back of form).			17. Federal firearms License (Last 5 Digits)		18. Jurisdiction of Sale (County or City)

8. Section B (Blocks 19 – 20) shall be completed by the dealer in all instances. The individual making the actual transfer may or may not be the same individual whose Employee/Seller ID is listed in Block 16.

19. Transferor's (Seller's) Signature and Title	20. Transaction Date
---	----------------------

B. PURCHASER UNABLE TO READ OR WRITE

If the prospective purchaser or transferee is unable to read and/or write, the SP-65 form may be completed by other individuals, excluding the dealer. Two persons, other than the dealer or an employee of the dealer, must then sign the form alongside the purchaser or transferee's mark as witnesses to the transaction and to affirm the purchaser or transferee's identity.

C. DEALER VERIFICATION OF INFORMATION

The dealer shall verify information in Section A and complete Section B of the SP-65 form in compliance with instructions contained on the form.

VFTP Dealers Procedures Manual

V. IDENTIFICATION AND RESIDENCY REQUIREMENTS

A. Virginia Resident Transactions

The dealer shall determine residency and verify the prospective purchaser's identity as required in Section B of the SP-65. The individual must present a valid photo-ID form issued by a governmental agency of the Commonwealth of Virginia that denotes the individual's name, sex, and date of birth.

1. Where the primary form is a photo-ID issued by the Virginia Department of Motor Vehicles (DMV), the dealer shall not transfer a firearm to the prospective purchaser until 30 days after the date of issue of an original or duplicate driver's license unless a copy of his/her DMV driver's record is presented showing that the original date of issue was more than 30 days prior to the attempted purchase.
2. A State Department Driver's License is an acceptable primary form of identification: a photo-identification issued by a [Federal] Governmental Agency that indicates the individual's name, address, sex, and date of birth.
3. The DMV will not issue an original license, permit, or ID card to any applicant who has not presented evidence that he/she is a citizen of the United States, a legal permanent resident, or an authorized temporary resident alien of the United States. In the instance of temporary residence (nonimmigrant status), the driver's license or ID card will only be valid during the period of authorized stay in the United States.

B. Nonresident Transactions

1. Handguns - The sale of handguns to nonresident buyers is prohibited by federal law, with the exception of the purchase of a handgun by law enforcement officers in certain instances (see C.)
2. Rifles and Shotguns - Rifles and shotguns may be purchased by persons who are residents of other states under the terms of subsection A and B, Section 18.2-308.2:2, Code of Virginia; i.e., one photo-identification form issued by a governmental agency of the purchaser's state of residence. The noted statute requires the nonresident to present one other documentation of residence that contains an address identical to that shown on the photo-identification form. The following secondary forms of ID are determined acceptable by the Department of Criminal Justice Services Department of Criminal Justice Services Regulations (See Appendix C, 6VAC20-130-10):
 - a. A current lease.
 - b. Evidence of currently paid personal property tax or real estate tax.
 - c. A current utility or telephone bill.
 - d. A current voter registration card.
 - e. A current bank check.
 - f. A current passport.
 - g. A current automobile registration.
 - h. A current hunting or fishing license.

VFTP Dealers Procedures Manual

E. Noncitizen Transactions

1. Lawful Permanent Residence - The alien resident identification number must be recorded on the SP-65 form in the appropriate block.
2. Nonimmigrant Status - Since 1998, the Gun Control Act of 1968 (GCA) has prohibited any "alien" who has been admitted into the United States under a nonimmigrant visa from receiving or possessing a firearm that has a connection to interstate commerce. See Title 18, United States Code (U.S.C.), Section 922(g) (5) (B). In an interim final regulation published in 2002, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) interpreted this provision to cover all "nonimmigrant aliens," regardless of whether the alien required a visa in order to be admitted into the United States. In March of 2012, the U.S. Department of Justice's Office of Legal Counsel (OLC) determined this statutory prohibition applies only to aliens admitted into the United States with nonimmigrant visas, rather than all nonimmigrant aliens in the United States. Some nonimmigrant aliens, including most Canadian visitors, as well as aliens admitted under the Visa Waiver program, are allowed to be present in the United States without a nonimmigrant Visa. Those aliens, and others who are lawfully in the country without a visa, are not within the scope of the GCA prohibition.

Therefore, aliens admitted into the United States with nonimmigrant visas are prohibited from shipping, transporting, receiving, and possessing firearms. There are exceptions to the nonimmigrant alien prohibition, as follows:

- a. The nonimmigrant alien is in possession of a hunting license or permit lawfully issued in the United States.
- b. The nonimmigrant is an official representative of a foreign government who is accredited to the United States Government or their Government's mission to an international organization having its headquarters in the United States. The individual must provide the dealer with a letter, on official embassy or Department of State letterhead, advising that the firearm is being purchased "in the representative's official capacity."
- c. The nonimmigrant has received a waiver from the prohibition from the Attorney General of the United States.

VI. CRIMINAL HISTORY RECORD INFORMATION CHECK

A. State Requirements

1. Pursuant to Virginia Code Section 18.2-308.2:2, a criminal history record information (CHRI) check is required prior to the transfer of a firearm.
2. The transferee must consent to a CHRI check by signature on the Virginia Firearms Transaction Record/Consent (SP-65) Form. It is the dealer's responsibility to ensure that the SP-65 form is complete prior to requesting a CHRI check.
3. The making of any false oral or written statement or the exhibiting of any false or misrepresented identification associated with a criminal history record information check for the purchase or redemption of a firearm is a crime punishable as a felony.

B. Federal Requirements

In accordance with the Brady Act, Public Law 103-159, the FBI implemented the National Instant Criminal Background Check System (NICS) which must be queried by all federal firearm licensees to determine whether receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of Title 18, United States Code, or State Law. The Virginia State Police agreed to serve as Point of Contact (POC) for the NICS and for firearms dealers licensed in the Commonwealth, and incorporated NICS into the Virginia Firearms Transaction Program. All firearms transactions conducted by the Firearms Transaction Center include query of this national database.

C. Catalog or Lay-Away Sales

The CHRI check is conducted at the time of physical transfer of the firearm, not at the time the order is placed.

D. Exemptions to CHRI Check Requirements

A CHRI check is not required for:

1. Transactions between licensed firearm importers or collectors, manufacturers, or dealers. The reproduced federal firearm license presented must contain an original signature of the licensee to verify the identity and licensed status of the licensee. The Bureau of Alcohol, Tobacco, Firearms and Explosives advises that all responsible parties of a corporation do not necessarily meet the definition of a licensed dealer.
2. The sale of curios, relics, or antique firearms.
3. A CHRI check is not required when a licensee returns a repaired or customized firearm to the owner of the firearm, or replacement of a defective firearm to the person from whom it was received.
4. A law enforcement officer meeting the requirements of Section V, E, 3.

VFTP Dealers Procedures Manual

E. Fees Collected

Collect \$2.00 fee from Virginia residents. Collect \$5.00 fee from nonresidents.

F. Transaction Approval Requests

Transaction approval requests are available via the State Police VCheck program, 800 toll-free number or local telephone number to the State Police Call Center, or via U.S. Mail. See Section VIII for detailed information on types of transactions.

VII. TYPES OF TRANSACTIONS

A. VCheck

VCheck is Virginia's instant criminal background check program available via the Internet to all firearms dealers registered with the State Police Firearms Transaction Center.

1. The Virginia Firearms Transaction Record (SP-65) form shall be completed in its entirety prior to data entry.
2. Detailed data entry instructions and field requirements are provided in the VCheck Users Guide, which is available via link on the VCheck Home Page.

B. 800 Telephone Line

1. The 800 telephone line to the Firearms Transaction Center (FTC) Call Center should be utilized secondary to the VCheck program.
2. The Virginia Firearms Transaction Record (SP-65) shall be completed in its entirety immediately prior to contacting the FTC Call Center.
3. If an operator is not immediately available, all calls will be held in queue pending operator availability, and will be processed in the order they are received.
4. At those times when high volumes of telephonic transactions are being received and processed by the FTC Call Center, the number of transactions accepted during one telephone call may be restricted.
5. The following information must be provided to the FTC Call Center operator:
 - a. DIN
 - b. Seller ID
 - c. Document Number
 - d. Name of the customer by order of last name, first name, and middle name.
 - e. Sex, Race, and Date of Birth by order of month, day, year.
 - f. Social Security Number (optional) if the social security number is written on the SP-65 by the perspective purchaser, it must be provided to the FTC Call Center operator.
 - g. Country of citizenship if other than the United States, and Alien Registration Number or I-94 Number. See section V for additional information on noncitizen transactions.
 - h. Jurisdiction of sale.
 - i. Volume and category of firearms to be transferred.

VFTP Dealers Procedures Manual

6. Operator may respond, "Yes, approved" and give approval number. The firearm may be transferred immediately upon receipt of the approval number. The dealer shall record the approval number in the appropriate block on the form. The approval number provided by the State Police is accepted as the NICS Transaction Number (NTN).
7. The approval number is valid for 30 days. Example: A transaction is initiated on December 15 and approved on the same date. The purchaser does not pick up the gun until January 17. Another trans-action must be conducted before transferring the firearm to the purchaser.
8. Operator may respond, "This transaction is not approved at this time." The sale of the firearm(s) shall be held in abeyance until all files can be checked by the Department of State Police. The dealer will be requested to provide additional descriptive information pertaining to the prospective purchaser (height, weight, and place of birth) as indicated on the completed SP-65. See Section VIII for additional information on delayed transactions.
9. Additional firearm purchases made by the same buyer may not be added to the SP-65, or transferred to the buyer, after the State Police have provided approval to the transaction. A separate transaction is required in this instance.

C. Transactions Requested by Mail

Section 18.2-308.2:2, of the Code of Virginia, allows a CHRI check for the transfer of a firearm to be requested by mail, and authorizes up to 10 days processing time by the State Police. **If you wish to process a transaction in this manner, please contact the FTC supervisor prior to submitting a transaction for mail-in processing.**

VIII. DELAYED TRANSACTIONS

The instructions below shall be followed in conjunction with the VCheck User's Manual available on the State Police website and accessible via VCheck.

A. VCheck

1. Additional Information Required

- a. If a transaction is not immediately approved, "Add'l Info Required" will appear in the status field.
- b. Click on "Add'l Info Required" and follow the prompt to enter secondary descriptive information pertaining to the prospective purchaser.
- c. Once the additional information is entered, the status field will change to "delayed" and a date the firearm can be transferred without authorization by the State Police will be automatically generated, as follows:

Thurs., Jan. 14th, Delay Status Received

Fri., Jan. 15th, Day One

Sat., Jan. 16th, State Offices are Closed

Sun., Jan. 17th, State Offices are Closed

Mon., Jan. 18th, State Holiday

Tues., Jan. 19th, Day Two

Wed., Jan. 20th, Day Three

Thurs., Jan. 21st, Transfer May Occur

- d. If a final determination of eligibility is not established by the end of the third business day, the dealer may immediately complete the sale or transfer of the firearm(s). Please notify the FTC Help Desk as soon as possible in this instance.

2. Status Checks

- a. The current status of any transaction may be checked via "Advanced Search."
- b. The status may be delayed, further research, approved, or denied.
- c. The FTC will not contact you by telephone concerning approved transactions.
- d. The FTC will contact you by telephone to confirm notice of any denied transaction.
- e. The Firearms Transaction may be printed by clicking on "Print" located at the top right of the screen.

VFTP Dealers Procedures Manual

3. Approved Transaction

- a. The approval number is valid for 30 calendar days.
- b. Additional firearm purchases made by the same buyer may not be added to the SP-65, or transferred to the buyer, after the State Police have provided approval to the transaction. A separate transaction is required in this instance.

4. If Transaction is Denied

- a. The firearm may not be released to the individual attempting to purchase, trade, exchange, or redeem the firearm under any circumstance.
- b. The individual denied the purchase or pawn redemption of the firearm(s) shall be provided a VFTP Brochure or referred to the State Police website for the avenues the individual may pursue should he or she believe that they are not prohibited by state or federal law from purchasing or possessing a firearm. See Section XII for information on processes of appeal available to the denied individual.

B. 800 Telephone Line

1. Delayed Transaction

- a. The dealer will be requested to provide additional descriptive information pertaining to the prospective purchaser (height, weight, and place of birth) as indicated on the completed ATF 4473 form. State Police will notify the dealer of the final determination of eligibility status prior to the close of the third business day wherein all state offices are open. State offices are not considered open Saturday or Sunday and official state holidays. Example:

Thurs., Jan. 14th, Initial Non-Approval Received

Fri., Jan. 15th, Day One

Sat., Jan. 16th, State Offices are Closed

Sun., Jan. 17th, State Offices are Closed

Mon., Jan. 18th, State Holiday

Tues., Jan. 19th, Day Two

Wed., Jan. 20th, Day Three

Thurs., Jan. 21st, Transfer May Occur

- b. If not so advised by the end of the third business day, the dealer may immediately complete the sale or transfer of the firearm(s).
- c. If a firearm is transferred prior to a final determination of eligibility by the State Police, the dealer is requested to notify the State Police operator immediately.

VFTP Dealers Procedures Manual

2. If Transaction is Modified to Approval
 - a. The FTC will notify you by telephone of the approval status of the transaction.
 - b. Additional firearm purchases made by the same buyer may not be added to the SP-65, or transferred to the buyer, after the State Police have provided approval to the transaction. A separate transaction is required in this instance.

3. If Transaction is Denied
 - a. The FTC will notify you by telephone of the denial status of the transaction.
 - b. The firearm may not be released to the individual attempting to purchase, trade, exchange, or redeem the firearm under any circumstance.
 - c. The individual denied the purchase or pawn redemption of the firearm(s) shall be provided a VFTP Brochure or referred to the State Police website for the avenues the individual may pursue should he or she believe that they are not prohibited by state or federal law from purchasing or possessing a firearm. See Section XII for information on processes of appeal available to the denied individual.

IX. HANDGUN PURCHASE RESTRICTION

Removed pursuant to amendment and reenactment of Section 18.2-308.2:2 of the Code of Virginia effective July 1, 2012.

X. PAWN TRANSACTIONS OR RETURN OF CONSIGNED FIREARMS

A. Requirements

1. Pursuant to the permanent provisions of the national Brady Law, a CHRI check is required prior to the return of a pawned firearm to the owner of the firearm or to any other person redeeming the firearm, both before or after expiration of the bailment contract, and prior to the return of a consigned firearm to person who established the consignment contract.

B. Pre-Pawn CHRI Check

Federal law allows pawnbrokers the “option” of requesting a NICS (National Instant Criminal Background Check System) check at the time a person offers the firearm for pawn. Virginia Firearms Pre-Pawn Transaction Record (SP-65A) is provided for this purpose.

1. The individual subject to the bailment contract must meet primary and secondary ID requirements, as described in Section V.
2. The individual subject to the bailment contract must complete form SP-65A to document the transaction and to obtain the individual’s consent for a criminal history record information check (CHRI) from the State Police.
3. The dealer making the pawn transaction must complete form SP-65A pursuant to the instructions outlined in Section IV.
4. Both VCheck and the 800 telephone line will accommodate a pre-check transaction.
5. In response, the pawnbroker will receive either an instant approval indicating the individual is not prohibited from possessing or purchasing a firearm under state and federal law, or will receive an initial non-approval indicating research of eligibility is necessary.
6. The pawnbroker will be provided a final determination of eligibility as soon as possible in all instances of initial non-approval.
7. Regardless of the initial or final results of the “pre-check,” continuation of the bailment contract is at the discretion of the pawnbroker.
8. Upon a confirmed denial notification from the State Police, federal law requires the pawnbroker to notify the local police or sheriff’s department within 48 hours of the occurrence.

XI. PURCHASE OF ASSAULT FIREARMS

A. Definitions

1. "Assault Firearm" is defined as 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 that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.
2. "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.

B. Purchase Requirements

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. When a prospective purchaser of a firearm is entered into the VCheck system as a non-citizen, the VCheck system is programmed to automatically communicate with the U.S. Immigration and Customs Enforcement (ICE) for confirmation of the individual's permanent residence status in the United States.

C. Prohibitions

1. It shall be unlawful for any person to import into the Commonwealth or possess, purchase, sell or transfer within the Commonwealth, the Striker 12, commonly called a "streetsweeper" or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding twelve shotgun shells.
2. The sale, rental, or transfer of "assault firearms" by a licensed firearms dealer to any person who is not a resident of the United States or any person not lawfully admitted for permanent resident is prohibited pursuant to the Code of Virginia.

XII. APPEAL PROCESSES

A. Requirements

The individual denied the purchase, trade, exchange or pawn redemption of a firearm shall be provided a VFTP Brochure, which explains the avenues the individual may pursue should he or she believe that they are not prohibited by state or federal law from purchasing or possessing a firearm.

B. Options of Appeal

The denied individual may:

1. Contact the FTC at (804) 674-2292 to discuss the ineligible determination and/or to provide additional information deemed pertinent to the final determination of eligibility.
2. Contact the FTC at e-mail address firearms@vsp.virginia.gov to discuss the ineligible determination and/or to provide additional information deemed pertinent to the final determination of eligibility.
3. Fingerprint comparison may be necessary in some instances, and may support the issuance of a Unique Firearms Identification Number (UFIN) to facilitate future purchase approvals.
4. Review their criminal history record and request correction of the record if the record is found to be in error, pursuant to § 9.1-132, Code of Virginia, provided that any such action is initiated within 30 days of the denial. The denied individual may obtain a copy of his or her criminal history record by completion of a Criminal History Record Request Form SP-167. This form can be viewed, downloaded and/or printed by visiting the Department of State Police website at www.vsp.state.va.us.
5. Exercise their right to institute a civil action pursuant to § 9.1-135 of the Code of Virginia, provided that any such action be initiated within 30 days of the denial.
6. Elect to direct their challenge to the accuracy of a record, in writing, to: FBI, NICS Operations Center, Criminal Justice Information Services Division, 1000 Custer Hollow Road, Module C-3, Clarksburg, West Virginia 26306. Electronically submitted appeal requests must be made through the NICS Appeal Website at <http://www.fbi.gov/nics-appeals>. This process of appeal is authorized by 28 CFR 25.10.

C. Restoration of Rights

1. Persons who have been convicted of a felony are generally prohibited from possessing and purchasing firearms under both state and federal law. Likewise, provisions of both state and federal law contain mechanisms for a convicted felon to have his or her right to possess and purchase firearms restored. Under Virginia law, two methods are specifically provided:
 - a. Executive Pardon by the Governor
 - b. Restoration of political rights rights by the Governor and petitioning the circuit court for a "permit to possess or carry a firearm."

VFTP Dealers Procedures Manual

2. Removal of federal disabilities will automatically result where the individual was convicted in a state court and there has been a restoration of ALL civil rights at state level; i.e., the right to vote, hold public office, be a juror, and restoration of a person's rights to receive and possess all firearms. *State processes cannot restore firearms rights lost as the result of a "federal" felony conviction.*
3. It is the individual's responsibility to furnish the Department of State Police with evidence of restoration of rights as aforementioned.
4. Additional information may be obtained by contacting the Office of the Secretary of the Commonwealth.

D. Unique Firearms Identification Number (UFIN)

1. It may be necessary for the denied individual to submit fingerprint impressions for comparison with the fingerprint classification of the individual named in the prohibiting criminal record. Upon determination that the individual submitting the fingerprints is not the same individual, the denied transaction will be reversed to approval and a Unique Firearms Identification Number (UFIN) may be issued.
2. A UFIN will be issued only in instances where the associated criminal record cannot be amended to prevent future denials.
3. The individual assigned the UFIN should provide the UFIN to the firearms dealer, who in turn should relay the UFIN to the FTC Call Center immediately after entering the transaction in VCheck or via the 800-telephone line.
4. Although a complete criminal history record information check will continue to be performed at the time of purchase, the UFIN will prompt the FTC to check the appropriate appeals file for quick turnover of the transaction.
5. For specific instruction, denied individuals may be referred to a UFIN flyer available to the public on the Department of State Police website at www.vsp.state.va.us.

XIII. FINAL PROCESSING OF FIREARM TRANSACTION RECORDS

A. Virginia Firearms Transaction Record SP-65

1. The original SP-65 must be safeguarded by the dealer and maintained as a matter of record for a period of two years from the date of transaction.
2. Copy 1 shall be mailed or delivered to State Police by the last day of the same week following the CHRI request.
 - a. For purposes of these procedures, a week shall be seven consecutive days beginning 12:01 AM Sunday through 12:00 midnight Saturday. Copy 1 must be forwarded to the State Police, per the stipulated time frame, regardless of the status of the transaction; e.g., a final determination not rendered by the State Police by the close of the third business day, the customer declined the purchase, etc.
 - b. Firearms Transaction Center, Department of State Police, Post Office Box 85608, Richmond, Virginia, 23285-5608.

B. Virginia Firearms Pre-Pawn Transaction Record SP-65A

1. The original SP-65A must be safeguarded by the dealer and maintained as a matter of record for a period of two years from the date of transaction.
2. Copy 1 may be destroyed in instances of approval.
3. Copy 1 shall be mailed or delivered to State Police by the last day of the same week following the CHRI request in instances of confirmed denial.
 - a. For purposes of these procedures, a week shall be seven consecutive days beginning 12:01 AM Sunday through 12:00 midnight Saturday.
 - b. Firearms Transaction Center, Department of State Police, Post Office Box 85608, Richmond, Virginia, 23285-5608.

XIV. BILLING INFORMATION

A. Requirements

1. Pursuant to Section 18.2-308.2:2, of the Code of Virginia, 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 for Virginia residents, and a fee of \$5 for every transaction involving an out-of-state resident. The fee is to be transmitted to the Department of State Police by the last day of the following month.
2. The billing system developed by the State Police was developed as an accommodation to dealers in transmitting the required fees; however, the obligation rests with the dealer to pay the prescribed fees.

B. Monthly Statement

Billing invoices are updated on the first day of each month and are available on VCheck for viewing and/or printing on the first day of each month. A statement will be mailed to the dealer on the first day of each month, as requested, indicating:

1. Number of transactions.
2. Transaction number, date, type of transaction, and amount charged per transaction.
3. Total amount due.

C. Payment Process

1. Dealers shall forward the exact amount as shown on the statement along with the Remittance Page of the bill to State Police.
2. Payment shall be made only by company check, money order, or cashier's check payable to "Virginia State Police" and forwarded to the State Police FTC, Post Office Box 85608, Richmond, Virginia 23285-5608.
3. Cash shall not be transmitted through the mail.

D. Checks Returned Due to Insufficient Funds

1. A \$50.00 bank fee will be assessed for checks returned for insufficient funds.
2. Upon occurrence of two checks returned due to insufficient funds, the dealer shall be notified that future payments will be accepted only in the form of money order or cashier's check.

VFTP Dealers Procedures Manual

E. Pre-Payment

1. Pre-payment is acceptable, however, the DIN must be included with payment.
2. Funds will not be returned from an account paid in advance unless the DIN is no longer valid; it will be absorbed by activity.
3. Funds will not be transferred from one active account to another.

F. Late Charge

1. An amount owed becomes a Past-Due Receivable when payment is not received, in full, by the last day of the month, and a late charge penalty of \$5.00 is automatically assessed the account.
2. Late fees will accumulate monthly until account is brought current.

G. Questions Concerning Bill

Discrepancies or questions shall be directed to the FTC Bookkeeper at (804) 674-2666, Monday through Friday between the hours of 8:00 AM and 4:30 PM, except holidays.

H. Failure to Transmit Fees

1. Failure to submit payment in compliance with these procedures, without just cause, will result in the DIN being placed in an inactive status with access to the record checks denied, which will prevent the sale or transfer of firearms.
2. Reinstatement will be granted only upon written request after account has been brought current.
3. Timely mail delivery is at the risk of the sender.

XV. CRIMINAL VIOLATIONS AND INVESTIGATIONS

A. Incomplete SP-65 Forms

1. The Department of State Police continuously reviews SP-65 forms supporting CHRI checks and notifies those dealers determined in violation of the provisions of the statute; e.g., form not signed by purchaser, form not completed in its entirety, identification documentation not listed, etc.
2. Continued non-compliance could result in criminal charges and the offending firearm dealer being denied access to the VFTP, which would prevent the selling of firearms.

B. Criminal Investigations

Firearms dealers shall admit to his/her place of business during regular business hours the chief law-enforcement officer, or designee, of the jurisdiction in which the dealer is located, 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 federal and state records related to a firearms transaction. (Section 54.1-4201, Code of Virginia)

C. Violation of Code Section 18.2-308.2:2

1. It is a Class 5 felony for any dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of the law.
2. It is a Class 2 misdemeanor for a dealer to request, obtain, or disseminate criminal history record information under false pretenses.
3. It is a Class 5 felony for any person to willfully and intentionally make a materially false statement on the required consent form.
4. It is a Class 6 felony for any person, except for a law-enforcement officer in the performance of his official duties or other person under the direct supervision of the law-enforcement officer, to attempt to solicit or otherwise entice a firearms dealer to transfer or otherwise convey a firearm other than to an actual buyer. A person who willfully and intentionally aids or abets a person violating this provision is likewise guilty of a Class 6 felony. "Actual buyer" means a person who executes the consent form required in subsection B or C, or other such firearm transaction records as may be required by federal law.

D. Violation of Code Section 18.2-308.2:3

1. It is a Class 2 misdemeanor for any person to willfully and intentionally request, obtain, or seek to obtain criminal history record information under false pretenses, or to willfully and intentionally disseminate or seek to disseminate criminal history record information except as authorized by this section and Section 18.2-308.2:2.
2. It is a Class 5 felony for any person to willfully and intentionally make a materially false statement on the personal descriptive information required in this section.

VFTP Dealers Procedures Manual

3. It is a Class 1 misdemeanor for any person to offer for transfer any firearm in violation of this section.

E. Violation of Code Section 18.2-308.2:4

Any person who willfully and intentionally makes a material false statement on the consent form required for the Lost or Stolen Gun Verification Check is guilty of a Class 1 misdemeanor.

XVI. LOST OR STOLEN GUN VERIFICATION PROGRAM

A. Requirements

1. Pursuant to Section 18.2-308.2:4, of the Code of Virginia, a dealer who is receiving by sale, transfer, or trade a firearm from a person who is not a dealer may choose to obtain a verification check from the Department to determine if the firearm has been reported to a law-enforcement agency as lost or stolen at no cost to the licensee or customer. A verification check is query of the FBI's National Crime Information Center (NCIC) Lost or Stolen Gun File.
2. The provisions of this section shall not apply to transactions between persons who are licensed as firearms importers, manufacturers, or dealers pursuant to 18 U.S.C. § 921 et seq.
3. Any person who willfully and intentionally makes a material false statement on the consent form is guilty of a Class 1 misdemeanor.
4. If a dealer chooses to obtain a verification check, the procedures in this section shall be followed.

B. State Police Query of Lost or Stolen Firearm (SP-315)

The person selling, transferring, or trading the firearm to the dealer shall present a valid photo identification issued by a state or federal governmental agency and shall consent in writing by completion of a State Police Query of Lost or Stolen Firearms (SP-315). In this instance the person selling, transferring or trading the firearm is acknowledging that they are the rightful owner and/or entitled to sell the property listed and agree to the verification check by the Department of State Police. The SP-315 is available on the State Police website at: <http://www.vsp.state.va.us/FormsPublications.shtm#Firearms>.

1. Identify the Firearms Dealer

To identify the firearms dealer, or employee acting on behalf of the licensee, the following blocks shall be completed in their entirety:

Business Name:		
Dealer Identification No:	Date:	Time:
Name and State Police Issued Firearms Employee Identification Number:		

2. Identify the Firearm(s)

- a) Each SP-315 may contain up to four firearms which will support up to four separate queries of the NCIC Lost and Stolen Gun File.
- b) The serial number and make are required to perform the check. The caliber and model are free text fields used only to assist the Firearms

VFTP Dealers Procedures Manual

Transaction Center as necessary to determine probable identification if a potential match occurs based on the serial number and make.

Serial No.:	Search Field
Caliber:	Free Text Field
Make:	Search Field (click on question mark icon for data entry requirements)
Model:	Free Text Field

3. Identification and Signature Consent of the Customer

- a) To establish personal identification and residence, a dealer shall require a prospective transferee to present one photo-identification form containing a verifiable identification number issued by a governmental agency of the Commonwealth or a similar photo-identification form from another state government or by the U.S. Department of Defense.

Government-Issued Photo-Identification Number of Customer:	
State:	Exp Date:

- b) The following blocks shall be completed in their entirety:

Printed Name:		
Address:		
Sex:	Race:	Date of Birth:
Signature:		

C. Data Entry Procedures

A verification check may be conducted onsite via the VCheck system (preferred method) or by calling the 800-telephone line of the Firearms Transaction Center (FTC) Call Center.

- 1. VCheck
 - a) Click on Gun Query
 - b) Click on New
 - c) Refer to B.2. of this section for field definitions.
 - d) The NCIC listing of firearm “Make” codes in a PDF format is available by clicking the question indicator directly beside the Make field. The listing may be printed or “find” may be utilized to navigate through the PDF listing.

VFTP Dealers Procedures Manual

- e) Once the data fields are complete, transmit, and refresh as necessary until a response is received.
 - f) Search capability is provided within the retention periods outlined in part F of this section.
2. If you choose to telephone the FTC Call Center, please have the information outlined in B.2. of this section immediately available. Otherwise, it will be necessary to discontinue the call in order for the information to be obtained.

D. Verification Check Response to the Dealer

The firearms dealer shall receive information from the Department as to whether the firearm has been reported as lost or stolen.

- 1. The Department shall provide its response to the requesting dealer electronically or by return call without delay.
- 2. If the verification check discloses that the firearm cannot be lawfully sold, transferred, or traded, the Department shall have until the end of the dealer's next business day to advise the dealer that its records indicate the firearm cannot be lawfully sold, transferred, or traded pursuant to state or federal law.
- 3. One of the below statuses will be returned to the dealer by VCheck and/or telephone call:
 - a) A temporary status of **PENDING** will indicate the search request is received and is in process.
 - b) A final status of **NOT ON FILE** will indicate that the firearm has not been reported to a law-enforcement agency as lost or stolen.
 - c) A final status of **LE NOTIFIED** will indicate a probable match with a firearm reported to the NCIC Lost or Stolen Gun File, and law-enforcement has been notified by the Firearms Transaction Center of the occurrence. No attempt to detain the individual possessing the firearm or to retain the firearm shall be made by the firearms dealer or employee of the dealer. The State Police Query of Lost or Stolen Firearms form SP-315 shall be made available to the responding officer.

E. Electronic Failure

In the case of electronic failure or other circumstances beyond the control of the Department, 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 Department 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 the firearm cannot be lawfully sold, transferred, or traded pursuant to state or federal law.

VFTP Dealers Procedures Manual

F. Records Retention

1. The dealer shall maintain the consent form for a period of 12 months from the date of the transaction if the firearm is determined to be lost or stolen.
2. If the firearm is determined not to be lost or stolen, the consent form shall be destroyed by the dealer within two weeks from the date of such determination.

APPENDIX A

QUESTIONS AND ANSWERS

The following questions and answers are intended to help you understand State Law and Federal Regulations as they pertain to the Virginia Firearms Transaction Program (VFTP) and National Instant Criminal Background Check System (NICS).

1. How does the Brady Law affect the VFTP in respect to multiple handgun purchases?

All licensed firearms dealers are required to report to the State Police the purchase of multiple handguns or the purchase of two or more handguns to the same individual within 5 consecutive days on forms provided by the Bureau of Alcohol, Tobacco, and Firearms [BATF F 3310.4]. BATF requires that this form be completed and submitted to the State Police on the date of the sale of multiple handguns. The completed form should be addressed to the Department of State Police FTC, Post Office Box 85608, Richmond, Virginia 23285-5608.

2. How does BATFE Ruling 2001-5 effect secondary identification requirements?

Title 27, Code of Federal Regulations, Part 178.124, BATF Ruling 2001-5 requires the firearms licensee to establish the identity, place of residence, and age of an unlicensed person before selling or delivering a firearm to such person. The purchaser is required to identify him/herself in any manner customarily used in commercial transactions. Satisfactory identification of a purchaser must identify the purchaser's name, date of birth, place of residence, and signature. Unlike Federal law, Virginia law specifically requires two forms of identification: a named primary form of identification and one of a specific list of secondary forms of identification deemed acceptable for purchaser identification. While Virginia law allows for other forms of secondary identification that meet the proof of residency requirements, the required information must be contained in a single document and cannot come from a combination of documents as allowed in BATF Ruling 2001-5. Examples of potentially acceptable secondary forms of identification are, but not limited to, a current credit card bill, a current bank statement, or a current automobile insurance identification card provided they contain the name and address of the purchaser identical to the primary identification.

3. Does a "post office box" address for a firearm purchase meet identification requirements of the VFTP?

Section 18.2-308.2:2, Code of Virginia, requires that the primary and secondary forms of identification consist of the identical address and does not exclude post office addresses. Therefore, in this instance, the prospective firearm purchaser has met statutory identification requirements. A post office box address is not acceptable on the Federal Form 4473. Please refer to BATF Ruling 2001-5 for additional information on completing the 4473 in this instance.

4. Are military permanent duty station orders acceptable if the Commanding Officer's name, or designee, is stamped or computerized instead of bearing an original signature?

A stamped or computerized signature is acceptable.

VFTP Dealers Procedures Manual

5. Is the holder of an FFL for Curios and Relics subject to a criminal history background check by the State Police prior to the purchase of a firearm?

No. Part I of Code Section 18.2-308.2:2 exempts transactions between persons who are licensed as firearms importers or collectors, manufacturers, or dealers pursuant to 18 U.S.C. Section 921, et seq., from the criminal history background check. The exemption does not apply if the firearm(s) to be purchased are not curios or relics.

6. Is the holder of a FFL for Curios and Relics required to register with the State Police?

No. Section 18.2-308.2:2 requires that every licensed firearms "dealer" register with the Department of State Police in order to request CHRI checks be conducted by this agency prior to the sale or transfer of a firearm and makes no requirement for collectors of curios and relics to register.

7. Why does the State Police charge a \$5.00 late charge penalty?

The fees you collect for firearm sales are the Commonwealth's monies and the monthly notices sent to you are to assist you in records keeping and submitting those monies to the State Police. The Virginia Debt Collection Act, Section 2.1-726, et seq., requires that each state agency take all appropriate and cost effective actions to aggressively collect its accounts receivable. Late fees are assessed when the firearms transaction fees are not received by the last day of the month following the transaction.

8. If a new resident of Virginia opts to have his or her firearms transferred to his/herself via arrangement between an out-of-state firearms dealer and a Virginia dealer, must the transaction be called into the FTC?

Yes. A NICS check is required in this instance.

9. Can a dealer sell a handgun to a non-Virginia resident?

It is in violation of Title 27 Section 78.96, Code of Federal Regulations, to sell or transfer a handgun to a non-Virginia resident. This process can be completed by transfer of the intended handgun to a licensed dealer in the prospective purchaser's state of residence in order for the handgun to be further transferred in accordance with the laws of that state.

10. Why does the FTC operator ask, "are you at your place of business" during the firearm transaction call-in process?

Federal law requires that a licensed firearms dealer engage in business only at his or her licensed premises, at a gun show, or special event authorized by BATF (178.100, Title 27 of the Code of Federal Regulations).

11. Does the FTC place priority on the firearm transactions received from gun show events?

No. Firearms transactions received on the 800-telephone line are processed in their order of receipt. However, the FTC provides personnel to conduct transactions onsite at anticipated high volume gun shows via laptop computers. The FTC encourages dealers at these events to utilize VCheck when possible.

VFTP Dealers Procedures Manual

12. Why do the FTC operators sometimes accept only a couple of transactions during one call and at other times accept multiple transactions during one call?

To provide equitable service to all dealers, the FTC operator must determine the appropriate amount of transactions to accept during a single call in consideration of the volume of transactions being received and the number of dealers awaiting connection with an operator at that time. The FTC maintains the computer capability to determine, at any given time, the number of dealers awaiting connection with an operator and the length of time the dealer has been "on hold." Firearms dealers are encouraged to use VCheck.

13. If I run out of SP-65 forms, may I borrow forms from another store?

No. The forms are consigned to specific accounts (DIN's) and cannot be borrowed or transferred. All dealers are reminded to maintain a sufficient inventory of forms at all times and to notify FTC as far in advance as possible when requesting additional forms.

14. Can a nonresident pawn and redeem a handgun?

A non-resident may redeem a handgun. Completion of an SP-65 form and a CHRI check is required.

15. After the dealer receives an approval number for transfer from the State Police operator, can additional firearms be added to the transaction?

No.

16. Is a DMV Identification Card acceptable as a form of secondary identification when the primary identification is a DMV Driver's License?

No. Both the DMV issued Identification Card and Driver's License are considered primary forms of identification. A separate secondary form of identification/residency is required.

17. How long is the transaction approval number valid?

The approval number is valid for a period of 30 calendar days from the date of approval. The transaction will no longer be visible on VCheck once thirty-days have elapsed from the date of approval.

18. Do all transactions on non-citizen buyers result in an initial non-approval?

Yes. The VFTP programmatically transmits a query to the Immigration and Customs Law Enforcement (ICE) Support Center for confirmation of lawful alien status to determine whether or not a non-citizen is prohibited from purchasing a firearm under 18 U.S.C. 922 (g)(5) and (y). The transaction must be initially delayed to allow time for this process.

19. Is a federal law enforcement officer exempt from the background check requirement prior to the purchase of a firearm?

Yes, if the federal officer is purchasing firearms based on a certification letter from his or her employer. Refer to Section V, E for detailed information on the purchase of firearms by law enforcement officers.

VFTP Dealers Procedures Manual

20. Under state law, is this acceptable identification to purchase a firearm – Unexpired Driver's License issued by a state other than Virginia that contains a Virginia residential address and secondary ID with the same Virginia residential address?

To purchase a **handgun** the answer is NO; this person has retained legal residence of the other state. With exception of photo-identifications issued by the Department of Defense, to establish residency in Virginia the primary ID must be a photo-identification form issued by a *governmental agency of the Commonwealth*. See Virginia Code Section 18.2-308.2:2 paragraph B1. This is, however, acceptable documentation to purchase a **long-gun**: See Virginia Code Section 18.2-308.2:2 paragraph B5.

21. What if the name on the primary ID and secondary ID are not spelled exactly the same? For example, Brian and Bryan?

The seller should be confident that both pertain to the same person. If it is other than a minor discrepancy, such as a completely different last name, probable identification is not determined and that person should be directed to DMV to have their license corrected or updated before the document is accepted.

22. What are the state or federal requirements when "other" (Frame, Receiver, etc) is selected on the federal form 4473?

The state statute governing the Virginia Firearms Transaction Program (Section 18.2-308.2:2, Code of Virginia) does not address categories of firearms other than a rifle, shotgun, pistol, or revolver. Therefore, the category on the state SP-65 form that best accommodates the "other" being sold that requires a NICS check shall be selected. Under federal law, 18 USC 922 (b)(1) and 922 (b)(3), ATF advises that when "other " is selected on the federal form 4473, the purchaser must be at least 21 years of age and a resident of the state where the sale occurs.

APPENDIX B

DEFINITIONS

The term “**dealer**” means:

Chapter 42 of Title 54.1-4200 of the Code of Virginia

- Any person engaged in the business of selling firearms at wholesale or retail.
- Any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.
- Any person who is a pawnbroker.

Public Law 99-38, Title 18 United States Code, Chapter 44, Section 921, Paragraph 11

- Any person engaged in the business of selling firearms at wholesale or retail.
- Any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms.
- Any person who is a pawnbroker.

The term “**licensed dealer**” means:

Any dealer who is licensed under the provisions of Title 18 USC., Section 921.

The term “**handgun**” means:

Any pistol or revolver or other firearm originally designed, made, and intended to fire a projectile by means of an explosion from one or more barrels when held in one hand. (Section 18.2-308.2:2, Code of Virginia.)

The term “**curios or relics**” means:

"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 center fire 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

VFTP Dealers Procedures Manual

collectors' items, or that the value of like firearms available in ordinary commercial channels is substantially less.

The term “**antique firearm**” means:

Virginia Code Section 18.2-308.2:2, as amended and reenacted by the 2003 Virginia General Assembly, redefines the definition of an antique firearm to follow the definition in federal law and adds a definition of curio (and relic) firearms taken from the Code of Federal Regulations and includes them as antique firearms.

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 rim-fire or conventional center-fire fixed ammunition or (ii) uses rim-fire or conventional center-fire 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 to fire a projectile by means of an explosion from one or more barrels when held in one hand.
4. Any curio or relic as defined above.

The term “**actual buyer**” means:

A person who executes the consent form required in subsection B or C of Virginia Code Section 18.2-308.2:2 as amended and reenacted by the 2007 General Assembly, or other such firearm transaction records as may be required by federal law.

APPENDIX C

REFERENCES

Code Section 18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.2C2>

Code Section 18.2-308.2:3. Criminal background check required for employees of a gun dealer to transfer firearms.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.2C3>

Department of Criminal Justice Services Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases, Revised

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+6VAC20-130-10>

Code Section 18.2-308.2:01. Prohibiting the selling, etc., of firearms to certain persons.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.2C01>

Code Section 18.2-308.8. Importation, sale, possession, or transfer of Striker 12's prohibited; penalty.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.8>

State and Federal Prohibitions to the Purchase of a Firearm

Unique Firearms Identification Number

Guide to Appeal Denied Firearms Transactions

http://www.vsp.state.va.us/Firearms_Brochures.shtm

Code Section 18.2-308.2:4. Firearm Verification Check

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.2C4>

APPENDIX D

STATE AND FEDERAL PROHIBITORS TO THE PURCHASE OF A FIREARMS

- Under indictment for a felony offense.
- Convicted of a felony offense or adjudicated delinquent as a juvenile.
- Convicted in any court of a misdemeanor crime punishable by more than 2 years even if the maximum punishment was not received.
- Named in a protective or restraining order.
- The subject of an outstanding felony or misdemeanor warrant.
- An unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any controlled substance? *The Federal Gun Control Act defines an addicted person, or unlawful user, as a person who has a conviction for use or possession of a controlled substance within the past year or persons found through a drug test to use a controlled substance unlawfully, provided that the test was administered within the past year.*
- A person who has been adjudicated legally incompetent, mentally incapacitated, or involuntarily committed to a mental institution at any time, or voluntarily admitted to a mental institution subsequent to a temporary detention order.
- A person who has been discharged from the Armed Forces under dishonorable conditions.
- Illegally in the United States or a nonimmigrant alien. *A nonimmigrant alien is prohibited from receiving a firearm unless he or she falls within an exception to the nonimmigrant alien prohibition.*
- A person who, having been a citizen of the United States, has renounced citizenship of the United States.
- Convicted of a misdemeanor crime of domestic violence. *This includes all misdemeanors that involve the use, threat of, or attempted use of physical force (e.g., simple assault, assault and battery) if the offense is committed by one of the following parties: a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.*
- A person who, within a 36 consecutive month period, has been convicted under Virginia law, of two misdemeanor offenses for Possession of Controlled Substance and/or Possession of Marijuana? (Handgun Purchases Only)