



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Mark R. Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071

MEMORANDUM

TO: Col. W.S. Flaherty, Superintendent
Department of State Police

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: November 10, 2014

SUBJECT: Regulations Relating to Verification Checks on
Firearm Transfers – 19 VAC 30-230-10 *et seq.*

In response to a request from the Department of State Police, I have reviewed the proposed regulations, 19 VAC 30-230-10 *et seq.*, relating to verification checks on certain firearms transfers. Virginia Code § 18.2-308.2:4(H) requires the Superintendent of State Police to promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided to the Department in those instances where a dealer, that is any person licensed as a dealer pursuant to 18 U.S.C. § 921 *et seq.*, who has received by sale, transfer, or trade a firearm from a person who is not a dealer and chooses 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.

Upon review of the aforesaid regulations, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by Virginia Code § 18.2-308.2:4(H) of the Code of Virginia, and in conformity with existing statutory provisions. I am of the opinion that the regulations are exempted from Administrative Process Act pursuant to Virginia Code § 2.2-4002(B)(6), as an agency action that is a customary police function.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the

extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.