

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

6 VAC 20 -130 Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases
Department of Criminal Justice Services
Town Hall Action/Stage: 4524 / 7754
March 31, 2017

Summary of the Proposed Amendments to Regulation

The *Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases* identifies the process for conducting a criminal background check. As a result of a periodic review,¹ the Criminal Justice Services Board (Board) proposes to amend this regulation to: 1) address current VCheck technology, 2) remove language that is either obsolete or conflicts with the requirements set forth in the Code of Virginia (Code), and 3) clarify existing language. VCheck is an online criminal background check program made available to firearms dealers by the Virginia State Police.

Result of Analysis

The benefits exceed the costs for all proposed changes.

Estimated Economic Impact

Currently, almost all criminal background checks associated with purchasing a firearm are conducted by using the VCheck system. The VCheck is an instant criminal background check program authorized by the Virginia State Police and is available via the Internet to all

¹ More information about the periodic review can be found on the Virginia Regulatory Town Hall at <http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1476>.

firearms dealers registered with the State Police Firearms Transaction Center. The existing regulation references the use of telephone calls and the mail to obtain criminal history checks, but does not mention VCheck. The Board proposes to add a definition of VCheck and add language referencing the use of VCheck or other authorized communication response systems in all sections of the regulation referring to obtaining criminal history checks by telephone and mail. Including VCheck in the regulation would not affect costs or options in practice, but would be beneficial in that readers of the regulation would be better informed of what occurs and is allowed in practice.

The Board's proposal to remove text that is either obsolete or conflicts with the Code would be beneficial in that it would reduce the likelihood that readers of the regulation would be misled concerning requirements in effect. The Board's proposal to amend language to improve clarity would also be beneficial to the extent that it improves comprehension by readers of the regulation.

Businesses and Entities Affected

The regulation affects the Virginia State Police, the 4,374 firearms dealers in the Commonwealth,² and individuals attempting to purchase firearms. Most of the firearms dealers are likely small businesses. For 2014, the Virginia State Police reported processing 405,838 requests for criminal history record information on prospective buyers. The proposed amendments affect anyone who may read the regulation, potentially including persons from the entities listed above.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not significantly affect the use and value of private property.

² Source: *Firearms Commerce in the United States Annual Statistical Update 2016*, a report by the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives. The report stated that in 2015 the Commonwealth of Virginia had 4,374 federal firearms licenses.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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