

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 128

An Act to amend and reenact § 18.2-308.1 of the Code of Virginia, relating to possession of weapon on school property.

[H 286]

Approved March 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.1 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited.

A. If any person possesses any (i) stun weapon or taser as defined in this section, (ii) knife, except a pocket knife having a folding metal blade of less than three inches, or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm, upon (a) the property of any public, private or parochial elementary, middle or high school, including buildings and grounds, (b) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

B. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or parochial elementary, middle or high school, including buildings and grounds, (ii) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (iii) any school bus owned or operated by any such school, he shall be guilty of a Class 6 felony; however, if the person possesses any firearm within a public, private or parochial elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person shall not be eligible for probation and shall be sentenced to a minimum, mandatory term of imprisonment of five years, which shall not be suspended in whole or in part and which shall be served consecutively with any other sentence.

The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities, (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose, (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises, (iv) any law-enforcement officer ~~while engaged in his duties as such~~, (v) any person who possesses a knife or blade which he uses customarily in his trade, or (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp 60 hertz shock and (ii) used for the purpose of temporarily incapacitating a person; and

"Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile and (ii) used for the purpose of temporarily incapacitating a person.