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HOUSE BILL NO. 1303

Offered January 20, 2004

A BILL to amend and reenact §§ 18.2-299, 18.2-433.1, and 22.1-277.07 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-915.2 and 18.2-287.01, relating to use of pneumatic guns.

Patron—Lingamfelter

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-299, 18.2-433.1, and 22.1-277.07 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 15.2-915.2 and 18.2-287.01 as follows:

§ 15.2-915.2. Regulation of pneumatic guns; applicability to authorities and local governmental agencies.

No locality, local governmental agency or authority shall adopt any ordinance, resolution or motion, as permitted by § 15.2-1425, and no agent of such locality, local governmental agency or authority shall take any administrative action, governing pneumatic guns, or components or combination thereof, other than those expressly authorized by §§ 18.2-299, 18.2-287.01, 18.2-433.1, and 22.1-277.07. For purposes of this section, a statute that does not refer to pneumatic guns or components or combinations thereof, shall not be construed to provide express authorization.

§ 18.2-287.01. Counties, cities and towns authorized to regulate use of pneumatic guns by minors in public places.

A. The governing body of any county, city or town may, by ordinance, restrict the use of pneumatic guns, as defined in § 18.2-433.1, in public places to designated areas only and may require supervision by a parent or guardian or another adult supervisor approved by a parent or guardian of any minor below the age at which the minor may be licensed to operate a motor vehicle in all uses of any pneumatic gun on private or public property. The ordinance may specify that minors above the minimum age for obtaining a license to operate a motor vehicle may, with the written consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor, whether permitted by a parent or guardian to use a pneumatic gun or not, shall be responsible for obeying all laws, regulations and restrictions governing such use. Penalties for pneumatic gun offenses set forth in such an ordinance shall not exceed Class 3 misdemeanor penalties. Use of a pneumatic gun shall be for recreation, marksmanship, or training in marksmanship, safety and responsible management of a gun.

B. Training of minors below the age at which the minor may be licensed to operate a motor vehicle shall be done only under direct supervision by a parent, guardian, Junior Reserve Officers Training Corps (JROTC) instructor, or a certified instructor. Training of minors above the minimum age for obtaining a license to operate a motor vehicle shall be done under the supervision of a parent, guardian, JROTC instructor or a certified instructor, and in addition may be done independently as assigned or approved by the minor's instructor, with the permission of and under the responsibility of a parent or guardian, and in compliance with all requirements of this section. Ranges and instructors may be certified by the National Rifle Association, a state or federal agency that has developed a certification program, any service of the Department of Defense, or any person authorized by these authorities to certify ranges and instructors. No local authority shall prohibit establishment of indoor or outdoor ranges for pneumatic guns, or programs of training with pneumatic guns such as the programs operated by the National Rifle Association, JROTC, 4H Clubs, Woodmen of the World, Boy Scouts or Girl Scouts including Cub Scouts and Brownies, shooting ranges affiliated with the Virginia Shooting Sports Association and approved by its Youth Marksmanship Coordinator, and other similar programs utilizing certified ranges and instructors.

C. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use of paintball guns when face and ear protection equipment suitable for preventing injury to the eyes, ears, nose and throat is provided and signs are provided to warn against entry of the paintball area by persons who are unprotected or unaware that paintball guns are in use. Face protection shall be designed to prevent ingestion of paintballs or paint from paintballs by the wearer.

§ 18.2-299. Definitions.

When used in this article:

INTRODUCED

HB1303

59 "Sawed-off shotgun" ~~applies to~~ *means* any weapon, loaded or unloaded, originally designed as a
60 shoulder weapon, utilizing a self-contained cartridge from which a number of ball shot pellets or
61 projectiles may be fired simultaneously from a smooth or rifled bore by a single function of the firing
62 device and which has a barrel length of less than ~~eighteen~~ 18 inches for smooth bore weapons and
63 ~~sixteen~~ 16 inches for rifled weapons. Weapons of less than .225 caliber shall not be included.

64 "Sawed-off rifle" means a rifle of any caliber, loaded or unloaded, which expels a projectile by
65 action of an explosion *of a combustible material* and is designed as a shoulder weapon with a barrel or
66 barrels length of less than ~~sixteen~~ 16 inches or which has been modified to an overall length of less than
67 ~~twenty-six~~ 26 inches.

68 "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any
69 of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim,
70 disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

71 "Person" applies to and includes firm, partnership, association or corporation.

72 § 18.2-433.1. Definitions.

73 As used in this article:

74 "Civil disorder" means any public disturbance within the United States or any territorial possessions
75 thereof involving acts of violence by assemblages of three or more persons, which causes an immediate
76 danger of or results in damage or injury to the property or person of any other individual.

77 "Explosive or incendiary device" means (i) dynamite and all other forms of high explosives, (ii) any
78 explosive bomb, grenade, missile, or similar device, or (iii) any incendiary bomb or grenade, fire bomb,
79 or similar device, including any device which consists of or includes a breakable container including a
80 flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of
81 igniting such flammable liquid or compound, and can be carried or thrown by one individual acting
82 alone.

83 "Firearm" means any weapon that will or is designed to or may readily be converted to expel single
84 or multiple projectiles by the action of an explosion of a combustible material; or the frame or receiver
85 of any such weapon.

86 "Law-enforcement officer" means any officer as defined in subdivision 9 of § 9.1-101 or any such
87 officer or member of the armed forces of the United States, any state, any political subdivision of a
88 state, or the District of Columbia, and such term shall specifically include, but shall not be limited to,
89 members of the National Guard, as defined in § 101 (9) of Title 10, United States Code, members of the
90 organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the
91 District of Columbia, not included within the definition of National Guard as defined by such § 101 (9),
92 and members of the armed forces of the United States.

93 "Pneumatic gun" means any implement, designed as a gun, which will expel a BB or a pellet by
94 action of pneumatic pressure.

95 "Paintball gun" means any implement, designed as a gun, which will expel plastic balls filled with
96 paint for the purpose of marking the point of impact of the paintballs by action of pneumatic pressure.

97 § 22.1-277.07. Expulsion of students under certain circumstances; exceptions.

98 A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free
99 Schools Act of 1994), a school board shall expel from school attendance for a period of not less than
100 one year any student whom such school board has determined, in accordance with the procedures set
101 forth in this article, to have brought a firearm onto school property or to a school-sponsored activity as
102 prohibited by § 18.2-308.1, or to have brought a firearm as defined in subsection ~~D or an air rifle or BB~~
103 ~~gun on school property or to a school-sponsored activity~~, *or any firearm muffler or firearm silencer*. A
104 school administrator, pursuant to school board policy, or a school board may, however, determine, based
105 on the facts of a particular situation, that special circumstances exist and no disciplinary action or
106 another disciplinary action or another term of expulsion is appropriate. A school board may promulgate
107 guidelines for determining what constitutes special circumstances. In addition, a school board may, by
108 regulation, authorize the division superintendent or his designee to conduct a preliminary review of such
109 cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations
110 shall ensure that, if a determination is made that another disciplinary action is appropriate, any such
111 subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.
112 *Students determined through the procedures set forth in this article to have brought onto school*
113 *property or to a school-sponsored activity a pneumatic gun without permission from the school*
114 *administrator or the military commanding officer of any Junior Reserve Officers Training Corps*
115 *operated at the school may be suspended from school attendance for a period not to exceed one year.*

116 B. The Board of Education is designated as the state education agency to carry out the provisions of
117 the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated
118 to the Commonwealth under this act.

119 C. Each school board shall revise its standards of student conduct no later than three months after the
120 date on which this act becomes effective. Local school boards requesting moneys apportioned to the

Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. Schools operating Junior Reserve Officers Training Corps, or JROTC, programs shall facilitate the marksmanship training that is a normal element of such programs. Such programs may include training in use of pneumatic guns, and safety and responsibility with pneumatic guns. The school administrator shall provide space suitable for such training, which shall be designed and operated for the safety of all people and property within the range of the pneumatic guns in use, and approved by the range safety officials of the National Rifle Association, the JROTC training authority, or any state or federal agency that has established a pneumatic gun training certification program. Schools lacking the capability to provide for such ranges at the school shall provide off-campus facilities for use by the students and instructors in this program, and shall provide all transportation necessary to full implementation of the program.

DE. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, ~~except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter that is homemade or was not made by a duly licensed weapon manufacturer, any fully automatic firearm, any sawed-off shotgun or sawed-off rifle as defined in § 18.2-299 or any firearm prohibited from civilian ownership by federal law;~~ and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" shall not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device.

"Firearm" means any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, or ~~(i) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel single or multiple projectiles by the action of an explosion of a combustible material; (ii) or the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device.~~ "Firearm" shall not include any ~~weapon in~~ gun which ~~ammunition may be discharged~~ discharges a BB, pellet or paintball by pneumatic pressure.

"One year" means 365 calendar days as required in federal regulations.

"Pneumatic gun" means any implement designed as a gun that will expel a BB, pellet or paintball by action of pneumatic pressure.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

E. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

F. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.