

VIRGINIA ACTS OF ASSEMBLY -- 2007 SESSION

CHAPTER 87

An Act to amend and reenact §§ 3.1-1029, 9.1-101, 9.1-400, 9.1-500, 9.1-801, 18.2-51.1, 18.2-283.1, 18.2-287.01, 18.2-308, 29.1-200, 29.1-201, 29.1-204, 29.1-205, 29.1-207, 29.1-208, 29.1-212, 29.1-213, 29.1-217, 29.1-218, 29.1-300.2, 29.1-337, 29.1-349, 29.1-355, 29.1-516, 29.1-517, 29.1-521.3, 29.1-530, 29.1-539, 29.1-548, 29.1-552, 29.1-553, 29.1-556, 29.1-739, 29.1-739.1, 29.1-739.2, 29.1-745, 51.1-212, and 65.2-402.1 of the Code of Virginia, relating to the use of the term "conservation police officer" in place of "game warden."

[H 1867]

Approved February 21, 2007

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-1029, 9.1-101, 9.1-400, 9.1-500, 9.1-801, 18.2-51.1, 18.2-283.1, 18.2-287.01, 18.2-308, 29.1-200, 29.1-201, 29.1-204, 29.1-205, 29.1-207, 29.1-208, 29.1-212, 29.1-213, 29.1-217, 29.1-218, 29.1-300.2, 29.1-337, 29.1-349, 29.1-355, 29.1-516, 29.1-517, 29.1-521.3, 29.1-530, 29.1-539, 29.1-548, 29.1-552, 29.1-553, 29.1-556, 29.1-739, 29.1-739.1, 29.1-739.2, 29.1-745, 51.1-212, and 65.2-402.1 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-1029. Enforcement of chapter; summons.

Any ~~game warden~~ *conservation police officer* or law-enforcement officer as defined in § 9.1-101, excluding certain Alcoholic Beverage Control Board members, may enforce this chapter and the regulations promulgated under this chapter as well as those who are so designated by the Commissioner. Those designated by the Commissioner are hereby authorized to issue a summons to any violator of the provisions of this chapter to appear at a time and place to be specified in such summons.

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice information system" means a system including the equipment, facilities, procedures,

agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) ~~game warden~~ *conservation police officer* who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the State Lottery Department; or (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department or sheriff's office. Full-time sworn members of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers" when fulfilling their duties pursuant to § 46.2-217.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special ~~game warden~~ *conservation police officer* who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

"Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any position listed in the definition of deceased person in this section, has become mentally or physically incapacitated so as to prevent the further performance of duty where such incapacity is likely to be permanent. The term shall also include any state employee included in the definition of a

deceased person who was disabled on or after January 1, 1966.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

§ 9.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Department of Alcoholic Beverage Control, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Department of Alcoholic Beverage Control, or the Department of Motor Vehicles;

b. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has ten or more law-enforcement officers; or

c. Any ~~game warden~~ *conservation police officer* as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or county.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or rescue squad that has been recognized by an ordinance or resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety program of such county, city or town; an arson investigator; a member of the Virginia National Guard or the Virginia State Defense Force while such a member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any police agent appointed under the provisions of § 56-353; any regular or special ~~game warden~~ *conservation police officer* who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the State Lottery Department; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical service providers; penalty; lesser-included offense.

If any person maliciously causes bodily injury to another by any means including the means set out in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, firefighter, as defined in § 65.2-102, search and rescue personnel as defined hereinafter, or emergency medical services personnel, as defined in § 32.1-111.1 engaged in the performance of his public duties as a law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel, such person shall be guilty of a felony punishable by imprisonment for a period of not less than five years nor more than 30 years and, subject to subsection (g) of § 18.2-10, a fine of not more than \$100,000. Upon conviction, the sentence of such person shall include a mandatory minimum term of imprisonment of two years.

If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to another by any means, knowing or having reason to know such other person is a law-enforcement officer, firefighter, as defined in § 65.2-102, search and rescue personnel, or emergency medical services personnel, engaged in the performance of his public duties as a law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel, he shall be guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory minimum term of imprisonment of one year.

Nothing in this section shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may

be available under common law.

As used in this section, "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof, who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; any ~~game warden~~ *conservation police officer* appointed pursuant to § 29.1-200 and auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733 and auxiliary deputy sheriffs appointed pursuant to § 15.2-1603.

As used in this section, "search and rescue personnel" means any employee or member of a search and rescue organization that is authorized by a resolution or ordinance duly adopted by the governing body of any county, city or town of the Commonwealth.

The provisions of § 18.2-51 shall be deemed to provide a lesser-included offense hereof.

§ 18.2-283.1. Carrying weapon into courthouse.

It shall be unlawful for any person to possess in or transport into any courthouse in this Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon and (iii) any other dangerous weapon, including explosives, tasers, stun weapons and those weapons specified in subsection A of § 18.2-308. Any such weapon shall be subject to seizure by a law-enforcement officer. A violation of this section is punishable as a Class 1 misdemeanor.

The provisions of this section shall not apply to any police officer, sheriff, law-enforcement agent or official, ~~game warden~~ *conservation police officer*, conservator of the peace, magistrate, court officer, or judge while in the conduct of such person's official duties.

§ 18.2-287.01. Carrying weapon in air carrier airport terminal.

It shall be unlawful for any person to possess or transport into any air carrier airport terminal in the Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind, (ii) frame, receiver, muffler, silencer, missile, projectile or ammunition designed for use with a dangerous weapon, and (iii) any other dangerous weapon, including explosives, tasers, stun weapons and those weapons specified in subsection A of § 18.2-308. Any such weapon shall be subject to seizure by a law-enforcement officer. A violation of this section is punishable as a Class 1 misdemeanor. Any weapon possessed or transported in violation of this section shall be forfeited to the Commonwealth and disposed of as provided in subsection A of § 18.2-308.

The provisions of this section shall not apply to any police officer, sheriff, law-enforcement agent or official, or ~~game warden~~ *conservation police officer*, or conservator of the peace employed by the air carrier airport, nor shall the provisions of this section apply to any passenger of an airline who, to the extent otherwise permitted by law, transports a lawful firearm, weapon, or ammunition into or out of an air carrier airport terminal for the sole purposes, respectively, of (i) presenting such firearm, weapon, or ammunition to U.S. Customs agents in advance of an international flight, in order to comply with federal law, (ii) checking such firearm, weapon, or ammunition with his luggage, or (iii) retrieving such firearm, weapon, or ammunition from the baggage claim area.

Any other statute, rule, regulation, or ordinance specifically addressing the possession or transportation of weapons in any airport in the Commonwealth shall be invalid, and this section shall control.

§ 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit; and

7. Any State Police officer retired from the Department of State Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any ~~game warden~~ *conservation police officer* retired from the Department of Game and Inland Fisheries, and any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; or (iii) who has reached 55 years of age, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;
3. [Repealed.]

4. Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in chancery;

5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

6. Harbormaster of the City of Hopewell.

D. (Effective until July 1, 2007 - see Editor's notes) Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the

electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and send a copy of the certified application to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

D. (Effective July 1, 2007 - see Editor's notes) Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and send a copy of the certified application to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be

deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

D1. (Effective July 1, 2007 - see Editor's note) Whenever any person moves from the address shown on the concealed handgun permit, he shall, within 30 days, notify the issuing court of his change of address. The court shall issue a new concealed handgun permit as provided in subsection H and provide the Department of State Police with the permit information as required in subsection K.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance or of public drunkenness within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or of a criminal offense of illegal possession or distribution of marijuana or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or distribution of marijuana or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

H. (Effective until July 1, 2007 - see Editor's notes) The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, or of the clerk of court who has been authorized to sign such permits by the issuing judge; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

H. (Effective July 1, 2007 - see Editor's notes) The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, or of the clerk of court who has been authorized to sign such permits by the issuing judge; and the date of issuance. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United

States, or the Armed Forces reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

I. (Effective until July 1, 2007 - see Editor's notes) Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, a new five-year permit unless there is good cause shown for refusing to reissue a permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

I. (Effective July 1, 2007 - see Editor's notes) If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person shall carry a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia; however, nothing herein shall prohibit any sworn law-enforcement officer from carrying a concealed handgun on the premises of such restaurant or club or any owner or event sponsor or his employees from carrying a concealed handgun while on duty at such restaurant or club if such person has a concealed handgun permit.

J4. Any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, who holds a concealed handgun permit, may have the permit suspended by the court that issued the permit during the period of incompetency, incapacity or disability.

J5. (Effective July 1, 2007 - see Editor's note) The Department of State Police shall conduct a state and national criminal background check through the National Instant Criminal Background Check System (NICS) and the Virginia Criminal Information Network (VCIN) on all valid concealed handgun permits annually. Upon receipt of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsections E, J1, J2 or J4, the Superintendent of the Department of State Police or his designee shall revoke the permit of a disqualified person. The Department of State Police shall notify the disqualified person in writing at his last known address of the revocation notice. The disqualified person shall forfeit and immediately surrender his permit for a concealed handgun to the Department of State Police. The Department of State Police shall notify the court having issued the permit of such disqualifying information. If the Department of State Police revokes the permit, the specific reasons for the revocation shall be stated in the revocation notice. The person shall have the right to appeal the decision of the Department of State Police with the issuing court as provided in subsection I. Any person who knowingly is in possession of

a revoked concealed handgun permit while in possession of a concealed handgun is guilty of a Class 6 felony.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; or (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"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.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101, campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § 9.1-101.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law

or is prohibited by the owner of private property.

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.

P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatus mutandis, to the provisions of this subsection.

The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;
6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;
7. Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association-certified firearms instructor;
8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or
9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class, an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer.

The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.

R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.

S. For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this section, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.

§ 29.1-200. Appointment of conservation police officers.

A. The Director shall appoint regular and special ~~game warden~~ *conservation police officers* as he may deem necessary to enforce the game and inland fish laws and shall issue a certificate of appointment to each ~~game warden~~ *conservation police officer*.

B. All appointments to sworn law-enforcement positions above the rank of ~~game warden~~ *conservation police officer* within the Department shall be made by the Director of the Department from among the sworn ~~game wardens~~ *conservation police officers*, except for those positions designated in subdivision 20 of § 2.2-2905, or whenever the Director determines, in writing, that a position requires knowledge, skills, or abilities such that a sufficient pool of qualified candidates does not exist within the Department.

§ 29.1-201. Bond.

Before entering upon the discharge of his official duties, each ~~game warden~~ *conservation police officer* shall post bond with a guaranty company, authorized to do business within this Commonwealth as surety, for \$1,000 payable to the Commonwealth of Virginia. The bonds shall be posted with the condition that the ~~game warden~~ *conservation police officer* will (i) account for and legally apply all money which he receives in his official capacity, (ii) pay all judgments rendered against him for malicious prosecution or for unlawful search, arrest or imprisonment, and (iii) faithfully perform all of the duties enjoined upon him by law. These bonds shall be filed with the Department and shall be subject to the approval of the Director or his designated officer. The premium on the bonds shall be paid out of the game protection fund.

§ 29.1-204. Assisting the Director; supervision.

The ~~game wardens~~ *conservation police officers* shall assist the Director in discharging his official duties. Each regular and special ~~game warden~~ *conservation police officer* shall be under the supervision of certain ~~game wardens~~ *conservation police officers* specified by the Director.

§ 29.1-205. Power to make arrests.

All ~~game wardens~~ *conservation police officers* are vested with the authority, upon displaying a badge or other credential of office, to issue a summons or to arrest any person found in the act of violating any of the provisions of the hunting, trapping, inland fish and boating laws.

Regular ~~game wardens~~ *conservation police officers* are vested with the same authority as sheriffs and other law-enforcement officers to enforce all of the criminal laws of the Commonwealth.

Any special ~~game warden~~ *conservation police officer* shall have general police power while performing his duty on properties owned or controlled by the Board.

Any commissioned, warrant or petty officers of the United States Coast Guard and of the United States Coast Guard Reserve while engaged on active duty, in the conduct of their official duties in uniform, and any officers of the customs as defined by 19 U.S.C. § 1709 (b), in the conduct of their official duties in uniform, shall have the same power to make arrests under Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 as ~~game wardens~~ *conservation police officers*.

§ 29.1-207. Impeding conservation police officer, etc., in discharge of his duty.

If any person, by threats or force, attempts to intimidate or impede any law-enforcement officer enforcing the game, inland fish and boating laws, he shall be guilty of a Class 2 misdemeanor and shall be subject to arrest by the officer and to the procedures set forth in § 29.1-210.

§ 29.1-208. Searches and seizures.

All ~~game wardens~~ *conservation police officers* are vested with the authority to search any person arrested as provided in § 29.1-205 together with any box, can, package, barrel or other container, hunting bag, coat, suit, trunk, grip, satchel or fish basket carried by, in the possession of, or belonging to such person. ~~Game wardens~~ *Conservation police officers* shall also have the authority, immediately subsequent to such arrest, to enter and search any refrigerator, building, vehicle, or other place in which the officer making the search has reasonable ground to believe that the person arrested has concealed or placed any wild bird, wild animal or fish, which will furnish evidence of a violation of the hunting, trapping and inland fish laws. Such a search may be made without a warrant, except that a dwelling may not be searched without a warrant. Should any container as described in this section reveal any wild bird, wild animal or fish, or any part thereof, which has been illegally taken, possessed, sold, purchased or transported, the ~~game warden~~ *conservation police officer* shall seize and hold as evidence the container, together with such wild bird, wild animal or fish, and any unlawful gun, net, or other device of any kind for taking wild birds, wild animals or fish which he may find.

§ 29.1-212. Precaution against fire.

The ~~game warden~~ *conservation police officer* shall caution persons of the danger from fires and, if possible, extinguish all fires left burning by anyone. When possible, he shall notify any interested persons of fires raging beyond his control, so that the fires may be extinguished.

§ 29.1-213. Taking samples of water believed to be polluted.

Any ~~game warden~~ *conservation police officer* appointed under the provisions of this title may, and shall when requested by a member of the governing body of a county, city or town, take samples of water from any stream in this Commonwealth when he has reason to believe that the water may be polluted. Any ~~game warden~~ *conservation police officer* collecting any water sample shall take the sample in a clean container, seal it, and send it to the State Water Control Board. With the sample, the ~~game warden~~ *conservation police officer* shall enclose a signed statement showing in reasonable detail the time and place at which the sample was taken. The ~~warden officer~~ shall keep the original of the statement and send the copy with the sample.

§ 29.1-217. Special conservation police officers receiving no compensation from Commonwealth.

A. On request of any employer owning more than 500 acres in this Commonwealth, the Director may appoint as special ~~game wardens~~ *conservation police officers* persons employed by the owner. No such special ~~game warden~~ *conservation police officer* shall receive any compensation from the Commonwealth for his services as such. Any such special ~~game warden~~ *conservation police officer* shall give the bond required by § 29.1-201 prior to serving. The powers and authority of such special ~~game warden~~ *conservation police officer* shall not extend beyond the lands of his employer. The Director may require any special ~~game warden~~ *conservation police officer* to perform duties on such lands as are required for the enforcement of this chapter.

B. On request of two or more adjoining landowners who own 1,000 or more contiguous acres in this Commonwealth, the Director may appoint as special ~~game wardens~~ *conservation police officers* persons employed by one or more of the landowners. No such special ~~game warden~~ *conservation police officer* shall receive any compensation from the Commonwealth for his services as such. Any such special ~~game warden~~ *conservation police officer* shall give the bond required by § 29.1-201 prior to serving. The powers and authority of such special ~~game warden~~ *conservation police officer* shall not extend beyond the lands of the adjoining landowners requesting the appointment of the special ~~game warden~~ *conservation police officer*. The Director may require any special ~~game warden~~ *conservation police officer* to perform duties on such lands as are required for the enforcement of this chapter.

C. The Commonwealth and the Department shall not be liable in any manner for the acts or omissions of special ~~game wardens~~ *conservation police officers* appointed pursuant to this section occurring during the performance of their duties as special ~~game wardens~~ *conservation police officers*.

D. Each request for appointment of a special ~~game warden~~ *conservation police officer* shall be accompanied by a nonrefundable fee of \$100 to defray the cost of processing the request.

§ 29.1-218. Defense of conservation police officer prosecuted on criminal charge.

If any ~~game warden~~ *conservation police officer* appointed by the Director is prosecuted on any criminal charge arising out of any act committed in performing his official duties, the Director may employ special counsel approved by the Governor to defend the officer. The compensation for special counsel employed pursuant to this section, shall, subject to the approval of the Governor, be paid out of the funds appropriated for the administration of the Department.

§ 29.1-300.2. Hunter education program.

The Department shall provide for a course of instruction in hunter safety, principles of conservation, and sportsmanship, and for this purpose may cooperate with any reputable association or organization having as one of its objectives the promotion of hunter safety, principles of conservation, and sportsmanship.

The Board shall establish six full-time hunter education coordinator positions. Each coordinator will be assigned to a ~~game warden~~ *conservation police officer* district and have the responsibility for providing hunter education training in that district.

The Department may designate as a hunter safety instructor any person found by it to be competent

to give instruction in the courses required by this article. A person so appointed shall give such course of instruction, and, upon completion thereof, shall issue to the person instructed a certificate of competency as provided by the Board in hunter safety, principles of conservation, and sportsmanship.

The Board shall prescribe a minimum level of skill and knowledge to be required of all hunter safety instructors, and may limit the number of students per instructor in all required classes.

The Board may revoke the certificate of any instructor when, in the opinion of the Board, it is in the best interest of the Commonwealth to do so.

The Board shall promulgate rules and regulations in order to administer and enforce the provisions of §§ 29.1-300.1 through 29.1-300.3.

§ 29.1-337. Displaying license upon request.

A. Every person who is issued a hunting, trapping or fishing license and is carrying such a license when hunting, trapping or fishing shall present it immediately upon demand of any officer whose duty it is to enforce the game and inland fish laws. Refusing to exhibit the license upon demand of any ~~game warden~~ *conservation police officer* or other officer shall be a Class 3 misdemeanor.

B. In accordance with § 18.2-133, the hunting, trapping or fishing license shall also be shown upon the demand of any owner or lessee, or of any employee or representative of such owner or lessee, upon whose lands or waters the person may be hunting, fishing or trapping.

C. The Director may supply buttons or license holders and require the license or button to be displayed in a manner he may determine.

§ 29.1-349. Hunting, erecting blind within 500 yards of licensed blind.

A. No person shall hunt or shoot migratory waterfowl in the public waters of this Commonwealth from a boat, float, raft or other buoyant craft or device within 500 yards of any legally licensed erected stationary blind of another without the consent of the licensee, except when in active pursuit of a visible crippled waterfowl which was legally shot by the person.

B. No person shall erect a stationary blind in the public waters within 500 yards of any other licensed blind without the consent of the licensee. Any person who violates this subsection shall be guilty of a trespass, and the affected blind licensee may maintain an action for damages. Furthermore, the trial court shall immediately revoke the blind owner's license for the stationary blind where the offense was committed. The blind owner may be eligible for a license in the following open season upon the same conditions that would apply to a new applicant. When a license for a stationary blind has been revoked, the blind shall be destroyed by the former licensee or by the ~~game warden~~ *conservation police officer*.

§ 29.1-355. Disposition of funds.

All moneys received from the sale of the special stamps shall be paid into the local treasury to the credit of a special damage stamp fund and identified by the year in which the moneys were collected. The special fund shall be used for the following purposes:

1. Payment for damages to crops, fruit trees, commercially grown Christmas trees, nursery stock, livestock, colonies of bees, bee equipment and appliances, as defined in § 3.1-610.1, or farm equipment that is caused by deer, elk, or bear at any time, or by big game hunters during hunting season; and

2. Payment of the actual and necessary costs of the administration of the provisions of this article, including the printing and distribution of the required stamps and the payment of reasonable fees to persons designated by a local governing body to inspect, evaluate, and confirm reported claims and adjust such claims; and

3. In the discretion of the local governing body, payment of the costs of law enforcement directly related to and incidental to carrying out the provisions of this article and the general game laws of the Commonwealth; any person compensated to engage in such law-enforcement activities shall be approved for such employment by the director and appointed to be a special ~~game warden~~ *conservation police officer* in accordance with the Board's standards and policies governing such appointment; and

4. In the discretion of the local governing body, administrative expenses related to the special stamps, support of a county volunteer fire prevention and suppression program when the program includes fire fighting on big game hunting lands open to the public, and support of local volunteer rescue squads whose services are available to hunters in distress. However, the money appropriated from the special damage stamp fund for these purposes shall not exceed, in the aggregate, in any calendar year, an amount equal to 25 percent of the amount paid into the special damage stamp fund during the fiscal year or previous calendar year. Once selecting the fiscal year or previous calendar year, the local governing body must continue to use that selected period of time in determining the amount of money to be appropriated from the special damage stamp fund.

§ 29.1-516. Game animals.

The following provisions shall apply to the killing and hunting of the particular game animals listed:

Black bear. - Black bear may be killed by any person when (i) it is inflicting or attempting to inflict injury to a person, or (ii) when a person is in pursuit of the bear commenced immediately after the commission of such offense. Any person killing a bear under this provision shall immediately report the killing to a state ~~game warden~~ *conservation police officer*.

Deer. - It shall be unlawful for a person to kill or attempt to kill a deer in the water of any stream,

lake or pond. It shall be unlawful to hunt deer with dogs in the counties west of the Blue Ridge Mountains.

Fox. - There shall be a continuous open season for hunting with dogs only. The hunting or pursuit of foxes shall mean the actual following of the dogs while in pursuit of a fox or foxes or managing the dog or dogs while the fox or foxes are being hunted or pursued. Foxes may be killed at any time by the owner or tenant of any land when such animals are doing damage to domestic stock or fowl.

Rabbits and squirrels. - It shall be unlawful to kill rabbits and squirrels during the closed season; however, the following persons may kill rabbits or squirrels for their own use during the closed season:

1. A landowner and members of his immediate family;
2. Resident members of hunt clubs who own the land in fee, either jointly or through a holding company;
3. Tenants residing on the premises, with the written permission of the landowner.

When such animals are committing substantial damage to fruit trees, gardens, crops, or other property, the owner of the premises may kill the animals or have them killed under a permit obtained from the ~~game warden~~ *conservation police officer*.

§ 29.1-517. Fur-bearing animals.

A landowner may shoot fur-bearing animals except muskrats or raccoons, upon his own land during closed season. When muskrats or raccoons are damaging crops or dams, the owner of the premises may kill them or have them killed under a permit obtained from the ~~game warden~~ *conservation police officer*.

§ 29.1-521.3. Shooting wild birds and wild animals from stationary vehicles by disabled persons.

Any person, upon application to a ~~game warden~~ *conservation police officer* and the presentation of a medical doctor's written statement based on a physical examination that such person is permanently unable to walk due to impaired mobility, may, in the discretion of the ~~game warden~~ *conservation police officer*, be issued a permit to shoot wild birds and wild animals from a stationary automobile or other vehicle during established open hunting seasons and in accordance with other laws and regulations. Permits issued pursuant to this section shall (i) be issued on a form provided by the Department, (ii) not authorize shooting from a stationary vehicle less than 50 feet from nor in or across any public road or highway subject to the provisions of § 29.1-526, (iii) be issued for the lifetime of the permittee and be issued only to those persons who are properly licensed to hunt, and (iv) be nontransferable. Any permit found in the possession of any person not entitled to such permit shall be subject to confiscation by a ~~game warden~~ *conservation police officer*.

§ 29.1-530. Open and closed season for trapping, bag limits, etc.

A. There shall be a continuous open season for trapping nuisance species and a continuous closed trapping season on all other species of wild birds and wild animals, except as provided by Board regulations. However, a landowner or his agent may trap and dispose of, except by sale, squirrels creating a nuisance on his property at any time in any area where the use of firearms for such purpose is prohibited by law or local ordinance.

B. In addition, the following general rules shall be applicable to any person trapping in the Commonwealth:

1. The trapper shall be responsible for all damage done by an illegally set trap, and any person finding a trap set contrary to law may report it to the landowner upon whose land the trap is located or to any ~~game warden~~ *conservation police officer* who may destroy or otherwise make the trap inoperable.

2. A landowner may trap furbearing animals, except beaver, muskrat and raccoons, upon his own land during closed season.

3. Licensed trappers may shoot wild animals caught in traps on any day of the week during the seasons prescribed in subsection A in order to dispatch such animal. No additional licenses are required other than a valid Virginia trapping license.

4. It shall be lawful to trap wild animals within the daily bag and season limits, if any, during the open season provided by Board regulations.

§ 29.1-539. Keeping deer or bear struck by motor vehicle; procedure to be followed by driver.

Any person driving a motor vehicle who collides with a deer or bear may, upon compliance with the provisions of this section, keep the deer or bear for his own use as if the animal had been killed by that person during hunting season for the animal.

Any person so killing any deer or bear shall immediately report the accident to the ~~game warden~~ *conservation police officer* or other law-enforcement officer of the county or city where the accident occurred. The ~~game warden~~ *conservation police officer* or other law-enforcement officer shall view the deer or bear and if he believes that the deer or bear was killed by the collision with the motor vehicle or injured to such an extent as to require its death, he shall award the animal to the person claiming the deer or bear, and shall give the person a certificate to that effect on forms furnished by the Department.

§ 29.1-548. Killing deer illegally.

Any person killing a deer in violation of Board regulations, or who exceeds the bag limit for deer, or who kills a deer during the closed season shall be guilty of a Class 2 misdemeanor. However, any person who kills a deer illegally during the open season shall be guilty of a Class 3 misdemeanor if such person immediately delivers the complete carcass in good condition to the ~~game warden~~

conservation police officer of the county or city in which it was killed. At that time it shall be confiscated and disposed of by the ~~game warden~~ *conservation police officer* or as otherwise provided. Any such person delivering such carcass to the ~~game warden~~ *conservation police officer* shall be exempt from replacement cost as provided in § 29.1-551.

§ 29.1-552. Killing wild turkey during closed season.

Any person who kills a wild turkey during the closed season, or who kills a beardless turkey during an open hunting season prescribed by the Board for bearded turkeys only, shall be guilty of a Class 2 misdemeanor for each such turkey killed. However, if a person kills a beardless turkey when only the hunting of bearded turkeys is permitted, and immediately delivers the complete carcass in good condition to a ~~game warden~~ *conservation police officer* or game checking station authorized by the Board, it shall be confiscated and disposed of as otherwise provided, and the person delivering the carcass shall be exempt from replacement cost provided in § 29.1-551.

§ 29.1-553. Selling or offering for sale; penalty.

A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild animal, or any part thereof, or any freshwater fish, except as provided by law, shall be guilty of a Class 1 misdemeanor. However, when the aggregate of such sales or purchases or any combination thereof, by any person totals \$200 or more during any 90-day period, that person shall be guilty of a Class 6 felony.

B. Whether or not criminal charges have been placed, when any property is taken possession of by a ~~game warden~~ *conservation police officer* for the purpose of being used as evidence of a violation of this section or for confiscation, the ~~game warden~~ *conservation police officer* making such seizure shall immediately report the seizure to the Attorney for the Commonwealth.

C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred, the date on which the alleged offense occurred, the name of the accused, the name of the arresting officer or investigating officer, the date of the photograph, and the name of the photographer. The photographs shall be identified by the signature of the photographer.

D. Any licensed Virginia auctioneer or licensed auction firm that sells, as a legitimate item of an auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the provisions of this section and subdivision A 11 of § 29.1-521.

§ 29.1-556. Unlawful devices to be destroyed.

Any firearm, trap, net, or other device of any kind or nature for taking wild birds, wild animals, or fish, except as specifically permitted by law, shall be considered unlawful. Any person who violates the provisions of this section shall be guilty of a Class 3 misdemeanor, and the device shall be forfeited to the Commonwealth. Nets, traps or other such devices, excluding firearms, shall be destroyed by the ~~game warden~~ *conservation police officer* if the owner or user of the device cannot be located within thirty days. Unlawful fixed devices may be destroyed by the ~~game warden~~ *conservation police officer* at the place where the devices are found.

§ 29.1-739. Duty of operator involved in collision, accident or other casualty; immunity from liability; report of collision, etc.; summons in lieu of arrest.

A. It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to minimize any danger caused by the collision, accident, or other casualty, and also give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty. Any person who complies with this subsection or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment or other assistance where the assisting person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

B. In case of collision, accident, or other casualty involving a vessel, the operator of the vessel, if the collision, accident, or other casualty is of such a nature as to be reportable pursuant to regulations adopted by the Board, shall notify within a reasonable time a law-enforcement officer of the Commonwealth, ~~game warden~~ *conservation police officer*, or Marine Resources Commission inspector.

The operator shall file with the Department a full report of the collision, accident, or other casualty, as the regulations of the Board may require. The report shall be without prejudice, shall be for the information of the Department only, and shall not be open to public inspection. The fact that such a report has been made shall be admissible in evidence solely to show compliance with this section and

applicable regulations, but no such report nor any statement contained in the report shall be admissible as evidence for any other purpose in any trial.

C. Any officer investigating any collision, accident or other casualty shall have authority, in lieu of arresting any person charged with violating any of the provisions of this chapter, to issue a written summons to the person (stating name, address, boat number, offense charged, etc.) to appear in court as in § 46.2-936.

§ 29.1-739.1. Disregarding signal by law-enforcement officer to stop; attempts to elude; penalty.

A. Any person who, having received a visible or audible signal of a flashing light or siren from any ~~game warden~~ *conservation police officer* or other law-enforcement officer to bring his motorboat or other vessel, or seaplane to a stop, fails to do so promptly shall be guilty of a Class 3 misdemeanor.

B. Any person who, having received a visible or audible signal of a flashing light or siren from any ~~game warden~~ *conservation police officer* or other law-enforcement officer to bring his motorboat or other vessel, or seaplane to a stop, (i) operates or navigates such motorboat or other vessel, or seaplane in willful or wanton disregard of such signal so as to endanger the life of the law-enforcement officer or other persons or to interfere with the operation of a law-enforcement vessel, or (ii) increases his speed and attempts to escape or elude a law-enforcement officer shall be guilty of a Class 1 misdemeanor.

§ 29.1-739.2. Conservation police officers to patrol lakes.

The Department shall have at least one ~~game warden~~ *conservation police officer* whose primary responsibility shall be to patrol during the daylight hours from Memorial Day through Labor Day in the waters of those Virginia lakes that (i) are of a size comparable to or greater than Smith Mountain Lake and (ii) have a comparable number of reported boating accidents during the last five years as Smith Mountain Lake.

§ 29.1-745. Enforcement of chapter; vessels displaying Coast Guard inspection decal.

Every ~~game warden~~ *conservation police officer*, Marine Resources Commission inspector, and every other law-enforcement officer of the Commonwealth and its subdivisions shall have the authority to enforce the provisions of this chapter and shall have authority to stop, board and inspect any vessel subject to this chapter after having identified himself in his official capacity. Except for enforcement of § 29.1-738 and the requirement of having the registration certificate on board, the provisions of this section shall not apply to any vessel of twenty-six feet or more in length on which is displayed a current valid United States Coast Guard or United States Coast Guard Auxiliary inspection decal.

§ 51.1-212. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii) ~~game warden~~ *conservation police officer* in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 65.2-402.1. Presumption as to death or disability from infectious disease.

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of any (i) salaried or volunteer firefighter, paramedic or emergency medical technician, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) ~~game warden~~ *conservation police officer* who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, or (x) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.

B. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

C. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

D. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

E. The presumptions described in subsection A of this section shall only apply if persons entitled to invoke them have, if requested by the appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or HIV at the time of such examinations. The presumptions described in subsection A of this section shall not be effective until six months following such examinations, unless such persons entitled to invoke such presumption can demonstrate a documented exposure during the six-month period.

F. Persons making claims under this title who rely on such presumption shall, upon the request of appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such appointing authorities or governing bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.