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HOUSE BILL NO. 2413

Offered January 10, 2007

Prefiled January 9, 2007

A *BILL to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed handgun permits; retired law-enforcement officers.*

Patron—Athey

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308 of the Code of Virginia is amended and reenacted as follows:

§ 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 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

59 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
60 written proof if the retired law-enforcement officer otherwise meets the requirements of this section.

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

64 *For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired*
65 *law-enforcement officer listed in this subdivision who receives proof of consultation and favorable*
66 *review to carry a concealed handgun or is issued a concealed handgun permit pursuant to subsection D*
67 *shall be deemed by the Commonwealth to have met the standards for training and qualification to carry*
68 *a concealed handgun. Such proof of consultation or concealed handgun permit shall be carried by the*
69 *retired law-enforcement officer with a photo-identification card issued pursuant to § 9.1-1000, in order*
70 *to qualify to carry a concealed firearm pursuant to the Law Enforcement Officers Safety Act.*

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

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 [Repealed.]

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

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

82 6. Harbormaster of the City of Hopewell.

83 D. (Effective until July 1, 2007 - see Editor's notes) Any person 21 years of age or older may apply
84 in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a
85 member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year
86 permit to carry a concealed handgun. There shall be no requirement regarding the length of time an
87 applicant has been a resident or domiciliary of the county or city. The application shall be made under
88 oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed
89 by the Department of State Police, in consultation with the Supreme Court, requiring only that
90 information necessary to determine eligibility for the permit. The clerk shall enter on the application the
91 date on which the application and all other information required to be submitted by the applicant is
92 received. The court shall consult with either the sheriff or police department of the county or city and
93 receive a report from the Central Criminal Records Exchange. As a condition for issuance of a
94 concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in
95 the county or city where the applicant resides and provide personal descriptive information to be
96 forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of
97 Investigation for the purpose of obtaining criminal history record information regarding the applicant,
98 and obtaining fingerprint identification information from federal records pursuant to criminal
99 investigations by state and local law-enforcement agencies. Where feasible and practical, the local
100 law-enforcement agency may transfer information electronically to the State Police instead of inked
101 fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the
102 fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the
103 electronic record. The local agency shall then promptly notify the person that he has 21 days from the
104 date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by
105 the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned
106 fingerprints shall be destroyed upon completion of the criminal history records check without requiring
107 that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be
108 copied, held or used for any other purposes. The court shall issue the permit and notify the State Police
109 of the issuance of the permit within 45 days of receipt of the completed application unless it is
110 determined that the applicant is disqualified. Any order denying issuance of the permit shall state the
111 basis for the denial of the permit and the applicant's right to and the requirements for perfecting an
112 appeal of such order pursuant to subsection L. An application is deemed complete when all information
113 required to be furnished by the applicant is delivered to and received by the clerk of court before or
114 concomitant with the conduct of a state or national criminal history records check. If the court has not
115 issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt
116 noted on the application, the clerk shall certify on the application that the 45-day period has expired,
117 and send a copy of the certified application to the applicant. The certified application shall serve as a de
118 facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed
119 handgun permit when presented with a valid government-issued photo identification pursuant to
120 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

182 the date of his application for a concealed handgun permit.

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

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

189 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
190 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

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

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

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

206 12. An individual who is a fugitive from justice.

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

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

220 15. An individual who has been convicted of stalking.

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

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

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

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

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

243 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.