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SENATE BILL NO. 533

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed handgun permit applications; right to ore tenus hearing.*

Patron—McDougle

Referred to Committee for Courts of Justice

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;

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol 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 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; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, 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 the agency that employs the officer 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

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59 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia
60 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
61 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An
62 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a
63 concealed handgun shall surrender such proof of consultation upon return to work or upon termination
64 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the
65 Department of State Police for entry into the Virginia Criminal Information Network. However, if such
66 officer retires on disability because of the service-related injury, and would be eligible under clause (i)
67 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the
68 previously issued written proof of consultation.

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

72 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
73 law-enforcement officer who receives proof of consultation and review pursuant to this subdivision shall
74 have the opportunity to annually participate, at the retired law-enforcement officer's expense, in the same
75 training and testing to carry firearms as is required of active law-enforcement officers in the
76 Commonwealth. If such retired law-enforcement officer meets the training and qualification standards,
77 the chief law-enforcement officer shall issue the retired officer certification, valid one year from the date
78 of issuance, indicating that the retired officer has met the standards of the agency to carry a firearm;

79 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
80 services of the United States, national guard, or naval militia, while such officer is called to active
81 military duty, provided such officer carries with him written proof of consultation with and favorable
82 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
83 of consultation and favorable review shall be valid as long as the officer is on active military duty and
84 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
85 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
86 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
87 good standing and is qualified to carry a weapon while on active law-enforcement duty.

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

91 9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such
92 attorney may travel in the Commonwealth.

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

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

98 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
99 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
100 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
101 permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or
102 other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in
103 chancery;

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

106 6. Harbormaster of the City of Hopewell.

107 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the
108 county or city in which he resides, or if he is a member of the United States Armed Forces, the county
109 or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no
110 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or
111 city. The application shall be made under oath before a notary or other person qualified to take oaths
112 and shall be made only on a form prescribed by the Department of State Police, in consultation with the
113 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The
114 clerk shall enter on the application the date on which the application and all other information required
115 to be submitted by the applicant is received. The court shall consult with either the sheriff or police
116 department of the county or city and receive a report from the Central Criminal Records Exchange. As a
117 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if
118 required by local ordinance in the county or city where the applicant resides and provide personal
119 descriptive information to be forwarded with the fingerprints through the Central Criminal Records
120 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. However, no local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing concealed handgun permit issued pursuant to this section and is applying for a new five-year permit pursuant to subsection I. 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.

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

182 dishonorable conditions.

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

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

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

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

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

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

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

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

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

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

222 G. The court shall require proof that the applicant has demonstrated competence with a handgun and
223 the applicant may demonstrate such competence by one of the following, but no applicant shall be
224 required to submit to any additional demonstration of competence, nor shall any proof of demonstrated
225 competence expire:

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

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

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

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

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

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

241 7. Completing any firearms training or safety course or class, including an electronic, video, or
242 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

243 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. 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.

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. 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 new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing 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.

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. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

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;

305 however, nothing herein shall prohibit any sworn law-enforcement officer or any retired law-enforcement
306 officer who meets the definition of a "qualified retired law-enforcement officer" pursuant to 18 U.S.C.
307 § 926C and is carrying the identification required by such statute from carrying a concealed handgun on
308 the premises of such restaurant or club or any owner or event sponsor or his employees from carrying a
309 concealed handgun while on duty at such restaurant or club if such person has a concealed handgun
310 permit.

311 J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase,
312 possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State
313 Police and the person whose permit was revoked of the revocation.

314 K. No fee shall be charged for the issuance of such permit to a person who has retired from service
315 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control
316 Board or as a law-enforcement officer with the Department of State Police, the Department of Game and
317 Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the
318 Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement
319 officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and
320 Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and
321 Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals
322 Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching
323 age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United
324 States, the District of Columbia or any of the territories of the United States, after completing 15 years
325 of service; or (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii)
326 through (iv), after completing 15 years of service. The clerk shall charge a fee of \$10 for the processing
327 of an application or issuing of a permit, including his costs associated with the consultation with
328 law-enforcement agencies. The local law-enforcement agency conducting the background investigation
329 may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this
330 section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for
331 providing criminal history record information, and the local law-enforcement agency shall forward the
332 amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken
333 from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated
334 with processing the application. The total amount assessed for processing an application for a permit
335 shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application.
336 Payment may be made by any method accepted by that court for payment of other fees or penalties. No
337 payment shall be required until the application is accepted by the court as a complete application. The
338 order issuing such permit, or the copy of the permit application certified by the clerk as a de facto
339 permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies
340 of the county or city. The State Police shall enter the permittee's name and description in the Virginia
341 Criminal Information Network so that the permit's existence and current status will be made known to
342 law-enforcement personnel accessing the Network for investigative purposes. The State Police shall
343 withhold from public disclosure permittee information submitted to the State Police for purposes of entry
344 into the Virginia Criminal Information Network, except that such information shall not be withheld from
345 any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official
346 law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract
347 with any local, state, or federal law-enforcement agency for the purpose of performing official duties of
348 the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the
349 release of (a) records by the State Police concerning permits issued to nonresidents of the
350 Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records
351 containing information in an aggregate form that does not identify any individual permittees.

352 K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation
353 of the valid permit and proof of a new address of residence by the permit holder, issue a replacement
354 permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's
355 new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and
356 the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount
357 assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such
358 fees to be paid in one sum to the person who accepts the information for the replacement permit.

359 L. Any person denied a permit to carry a concealed handgun under the provisions of this section
360 may present a petition for review to the Court of Appeals. The petition for review shall be filed within
361 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if
362 an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court
363 following the hearing. *An applicant applying for a concealed handgun permit for the first time pursuant*
364 *to subsection D shall have the same right to an ore tenus hearing as set forth in subsection I as a*
365 *person who has previously held a concealed handgun permit.* The petition shall be accompanied by a
366 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, mutatis 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

428 Game and Inland Fisheries or a similar agency of another state;
429 2. Completing any National Rifle Association firearms safety or training course;
430 3. Completing any firearms safety or training course or class available to the general public offered
431 by a law-enforcement agency, junior college, college, or private or public institution or organization or
432 firearms training school utilizing instructors certified by the National Rifle Association or the
433 Department of Criminal Justice Services or a similar agency of another state;
434 4. Completing any law-enforcement firearms safety or training course or class offered for security
435 guards, investigators, special deputies, or any division or subdivision of law enforcement or security
436 enforcement;
437 5. Presenting evidence of equivalent experience with a firearm through participation in organized
438 shooting competition approved by the Department of State Police or current military service or proof of
439 an honorable discharge from any branch of the armed services;
440 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a
441 locality thereof, unless such license has been revoked for cause;
442 7. Completing any firearms training or safety course or class, including an electronic, video, or
443 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;
444 8. Completing any governmental police agency firearms training course and qualifying to carry a
445 firearm in the course of normal police duties; or
446 9. Completing any other firearms training that the Virginia Department of State Police deems
447 adequate.
448 A photocopy of a certificate of completion of any such course or class, an affidavit from the
449 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
450 the completion of the course or class by the applicant, or a copy of any document which shows
451 completion of the course or class or evidences participation in firearms competition shall satisfy the
452 requirement for demonstration of competence with a handgun.
453 The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the
454 background check and issuance of the permit. Any fees collected shall be deposited in a special account
455 to be used to offset the costs of administering the nonresident concealed handgun permit program. The
456 Department of State Police shall enter the permittee's name and description in the Virginia Criminal
457 Information Network so that the permit's existence and current status are known to law-enforcement
458 personnel accessing the Network for investigative purposes.
459 The permit to carry a concealed handgun shall contain only the following information: name,
460 address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the
461 permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee;
462 the date of issuance; and the expiration date. The person to whom the permit is issued shall have such
463 permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and
464 shall display the permit on demand by a law-enforcement officer.
465 The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative
466 Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a
467 nonresident concealed handgun permit.
468 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the
469 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform
470 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9
471 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the
472 holder of the permit is 21 years of age or older.
473 R. For the purposes of participation in concealed handgun reciprocity agreements with other
474 jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty
475 law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun
476 permit under this section shall be deemed a concealed handgun permit.
477 S. For the purposes of understanding the law relating to the use of deadly and lethal force, the
478 Department of State Police, in consultation with the Supreme Court on the development of the
479 application for a concealed handgun permit under this section, shall include a reference to the Virginia
480 Supreme Court website address or the Virginia Reports on the application.