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HOUSE BILL NO. 2386

Offered January 14, 2011

A BILL to amend and reenact §§ 15.2-915.3, 18.2-287.4, 18.2-308, 18.2-308.1, and 18.2-308.1:4 of the Code of Virginia, relating to concealed weapons permits.

Patrons—Miller, J.H., Cole and Poindexter

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-915.3, 18.2-287.4, 18.2-308, 18.2-308.1, and 18.2-308.1:4 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-915.3. Requiring fingerprinting for concealed weapons permit.

Notwithstanding § 15.2-915, a county or city may by ordinance require any applicant for a concealed handgun weapons permit to submit to fingerprinting for the purpose of obtaining the applicant's state or national criminal history record; however, such ordinance shall not require fingerprinting for the renewal of an existing permit pursuant to subsection I of § 18.2-308.

§ 18.2-287.4. Carrying loaded firearms in public areas prohibited; penalty.

It shall be unlawful for any person to carry a loaded (a) semi-automatic center-fire rifle or pistol that expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine that will hold more than 20 rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock or (b) shotgun with a magazine that will hold more than seven rounds of the longest ammunition for which it is chambered on or about his person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William.

The provisions of this section shall not apply to law-enforcement officers, licensed security guards, military personnel in the performance of their lawful duties, or any person having a valid concealed handgun weapons permit or to any person actually engaged in lawful hunting or lawful recreational shooting activities at an established shooting range or shooting contest. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

The exemptions set forth in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.

§ 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

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59 from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped
60 while being transported;

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

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

68 7. Any State Police officer retired from the Department of State Police, any officer retired from the
69 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
70 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
71 retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any
72 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia
73 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources
74 Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii)
75 following at least 15 years of service with any such law-enforcement agency, board or any combination
76 thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such
77 law-enforcement agency or board due to a service-related injury, provided such officer carries with him
78 written proof of consultation with and favorable review of the need to carry a concealed handgun issued
79 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
80 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
81 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall
82 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia
83 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
84 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An
85 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a
86 concealed handgun shall surrender such proof of consultation upon return to work or upon termination
87 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the
88 Department of State Police for entry into the Virginia Criminal Information Network. However, if such
89 officer retires on disability because of the service-related injury, and would be eligible under clause (i)
90 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the
91 previously issued written proof of consultation. A retired law-enforcement officer who receives proof of
92 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed
93 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun
94 pursuant to subdivision 2 of this subsection.

95 7a. Any person who is eligible for retirement with at least 20 years of service with a
96 law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from
97 such law-enforcement agency or board to accept a position covered by a retirement system that is
98 authorized under Title 51.1, provided such person carries with him written proof of consultation with
99 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
100 officer of the agency from which he resigned or, in the case of special agents, issued by the State
101 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation
102 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
103 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
104 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
105 requirements of this section.

106 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
107 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
108 consultation and favorable review required, shall be deemed to have been issued a concealed ~~handgun~~
109 *weapons permit*.

110 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
111 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
112 subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or
113 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
114 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
115 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
116 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
117 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

118 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
119 services of the United States, national guard, or naval militia, while such officer is called to active
120 military duty, 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 Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

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~~ weapons permit;

9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth; and

10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel.

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 an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following conservators of the peace shall not be permitted to carry a concealed ~~handgun~~ weapon 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. 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~~ weapon. *A permit issued pursuant to this section shall entitle the permittee to carry concealed any weapon that he may lawfully possess.* 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~~ weapons 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. 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. A court may authorize the clerk to issue concealed ~~handgun~~ weapons permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with

182 either the sheriff or police department of the county or city, about which there are no outstanding
183 questions or issues concerning the application. The court clerk shall be immune from suit arising from
184 any acts or omissions relating to the issuance of concealed ~~handgun~~ weapons permits without judicial
185 review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.
186 This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already
187 existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010.
188 Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to
189 an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the
190 matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel
191 shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include
192 the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state
193 the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an
194 appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit.
195 An application is deemed complete when all information required to be furnished by the applicant is
196 delivered to and received by the clerk of court before or concomitant with the conduct of a state or
197 national criminal history records check. If the court has not issued the permit or determined that the
198 applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall
199 certify on the application that the 45-day period has expired, and send a copy of the certified application
200 to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days
201 after issuance, and shall be recognized as a valid concealed ~~handgun~~ weapons permit when presented
202 with a valid government-issued photo identification pursuant to subsection H, until the court issues a
203 five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after
204 the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the
205 disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the
206 applicant is later found by the court to be disqualified after a five-year permit has been issued, the
207 permit shall be revoked. The clerk of court may withhold from public disclosure the social security
208 number contained in a permit application in response to a request to inspect or copy any such permit
209 application, except that such social security number shall not be withheld from any law-enforcement
210 officer acting in the performance of his official duties.

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

212 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or
213 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

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

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

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

223 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
224 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

234 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
235 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
236 state, the District of Columbia, the United States, or its territories within the three-year period
237 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
238 § 4.1-333.

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

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

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

243 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 weapons 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, nor shall any proof of demonstrated competence expire:

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, including an electronic, video, or on-line course, 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. The permit to carry a concealed ~~handgun~~ *weapon* 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, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed ~~handgun~~ *weapon* 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~~ *weapon* 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 *Virginia* concealed handgun permit *or a Virginia concealed weapons permit* shall be issued, upon application as provided in subsection D, and upon receipt by the circuit court of criminal history record information as provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed handgun permit *or a concealed weapons permit* pursuant to subsection D shall not be required to appear in person to apply for a new five-year permit pursuant to this subsection, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K is incorrect. 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~~ *weapon* 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~~ *weapons* 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~~ *weapon*, who is under the influence of alcohol or illegal drugs while carrying ~~such a concealed~~ 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~~ *weapon* 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~~ *weapons* 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~~ *weapon*, 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 who carries 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 may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of 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, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

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; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. 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. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

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

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

437 M. For purposes of this section:

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

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

448 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the
449 privilege of residing permanently in the United States as an immigrant in accordance with the
450 immigration laws, such status not having changed.

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

454 N. As used in this article:

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

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

459 O. The granting of a concealed ~~handgun~~ *weapons* permit shall not thereby authorize the possession
460 of any handgun or other weapon on property or in places where such possession is otherwise prohibited
461 by law or is prohibited by the owner of private property.

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

475 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
476 Virginia Department of State Police for a five-year permit to carry a concealed ~~handgun~~ *weapon*. Every
477 applicant for a nonresident concealed ~~handgun~~ *weapons* permit shall submit two photographs of a type
478 and kind specified by the Department of State Police for inclusion on the permit and shall submit
479 fingerprints on a card provided by the Department of State Police for the purpose of obtaining the
480 applicant's state or national criminal history record. As a condition for issuance of a concealed ~~handgun~~
481 *weapons* permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency
482 and provide personal descriptive information to be forwarded with the fingerprints through the Central
483 Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal
484 history record information regarding the applicant and obtaining fingerprint identification information
485 from federal records pursuant to criminal investigations by state and local law-enforcement agencies.
486 The application shall be made under oath before a notary or other person qualified to take oaths on a
487 form provided by the Department of State Police, requiring only that information necessary to determine
488 eligibility for the permit. If the permittee is later found by the Department of State Police to be
489 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 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, including an electronic, video, or on-line course, 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~~ *weapons* 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~~ *weapon* 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~~ *weapon* 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~~ *weapons* 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~~ *weapons* permit under this section shall be deemed a concealed ~~handgun~~ *weapons* 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~~ *weapons* permit under this section, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.

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

A. If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any

551 public, private or religious elementary, middle or high school, including buildings and grounds; (b) that
552 portion of any property open to the public and then exclusively used for school-sponsored functions or
553 extracurricular activities while such functions or activities are taking place; or (c) any school bus owned
554 or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

555 B. If any person possesses any firearm designed or intended to expel a projectile by action of an
556 explosion of a combustible material while such person is upon (i) any public, private or religious
557 elementary, middle or high school, including buildings and grounds; (ii) that portion of any property
558 open to the public and then exclusively used for school-sponsored functions or extracurricular activities
559 while such functions or activities are taking place; or (iii) any school bus owned or operated by any
560 such school, he shall be guilty of a Class 6 felony; however, if the person possesses any firearm within
561 a public, private or religious elementary, middle or high school building and intends to use, or attempts
562 to use, such firearm, or displays such weapon in a threatening manner, such person shall be sentenced to
563 a mandatory minimum term of imprisonment of five years to be served consecutively with any other
564 sentence.

565 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.
566 The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a
567 part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food
568 preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons
569 as a part of any program sponsored or facilitated by either the school or any organization authorized by
570 the school to conduct its programs either on or off the school premises; (iv) any law-enforcement
571 officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a
572 person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade,
573 in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor
574 vehicle; or (vii) a person who has a valid concealed ~~handgun~~ *weapons* permit and possesses a concealed
575 handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or
576 egress to the school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade
577 of three inches or longer and "closed container" includes a locked vehicle trunk.

578 As used in this section:

579 "Stun weapon" means any device that emits a momentary or pulsed output, which is electrical,
580 audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

581 § 18.2-308.1:4. Purchase or transportation of firearm by persons subject to protective orders; penalty.

582 It shall be unlawful for any person who is subject to (i) a protective order entered pursuant to
583 §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, or § 19.2-152.10; (ii) an order
584 issued pursuant to subsection B of § 20-103; (iii) an order entered pursuant to subsection D of
585 § 18.2-60.3; or (iv) an order issued by a tribunal of another state, the United States or any of its
586 territories, possessions or commonwealths, or the District of Columbia pursuant to a statute that is
587 substantially similar to those cited in clauses (i), (ii), or (iii) to purchase or transport any firearm while
588 the order is in effect. Any person with a concealed ~~handgun~~ *weapons* permit shall be prohibited from
589 carrying any concealed ~~firearm~~ *weapon*, and shall surrender his permit to the court entering the order,
590 for the duration of any protective order referred to herein. A violation of this section is a Class 1
591 misdemeanor.

592 2. That a valid concealed handgun permit issued prior to July 1, 2011, shall be considered a
593 concealed weapons permit for purposes of this act, and shall entitle the permittee to carry
594 concealed any weapon that he may lawfully possess until the expiration date set forth on the
595 permit.