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SENATE BILL NO. 755

Offered January 12, 2011

Prefiled December 7, 2010

A *BILL to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed handgun permits; disqualification for residential mental health or substance abuse treatment.*

Patron—Reynolds

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. A retired law-enforcement officer who receives proof of
69 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed
70 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun
71 pursuant to subdivision 2 of this subsection.

72 7a. Any person who is eligible for retirement with at least 20 years of service with a
73 law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from
74 such law-enforcement agency or board to accept a position covered by a retirement system that is
75 authorized under Title 51.1, provided such person carries with him written proof of consultation with
76 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
77 officer of the agency from which he resigned or, in the case of special agents, issued by the State
78 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation
79 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
80 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
81 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
82 requirements of this section.

83 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
84 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
85 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
86 permit.

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

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

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

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

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

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

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

117 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
118 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
119 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
120 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. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. 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 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 either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. 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. 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. Only a circuit court judge may deny issuance of a permit. 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

182 to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of
183 court may withhold from public disclosure the social security number contained in a permit application
184 in response to a request to inspect or copy any such permit application, except that such social security
185 number shall not be withheld from any law-enforcement officer acting in the performance of his official
186 duties.

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

188 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or
189 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

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

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

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

199 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
200 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

210 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
211 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
212 state, the District of Columbia, the United States, or its territories within the three-year period
213 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
214 § 4.1-333.

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

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

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

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

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

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

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

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

241 18. An individual who has received mental health treatment or substance abuse treatment in a
242 residential setting within five years prior to the date of his application for a concealed handgun permit.
243 *However, the court may grant a permit within five years of the treatment upon petition of the applicant,*

if the court finds that the individual is not likely to use a weapon unlawfully or negligently to endanger himself or others.

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 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 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

305 law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the
306 permittee's commanding officer that order the permittee to travel outside of his county or city of
307 residence and that indicate the start and end date of such deployment.

308 I. Persons who previously have held a concealed handgun permit shall be issued, upon application as
309 provided in subsection D, and upon receipt by the circuit court of criminal history record information as
310 provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any
311 of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed
312 handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new
313 five-year permit pursuant to this subsection, and the application for the new permit may be submitted
314 via the United States mail. The circuit court that receives the application shall promptly notify an
315 applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K
316 is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new
317 five-year permit shall become effective upon the expiration date of the existing permit, provided that the
318 application is received by the court at least 90 days but no more than 180 days prior to the expiration of
319 the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be
320 stated in the order of the court denying the permit. Upon denial of the application, the clerk shall
321 provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the
322 applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing.
323 The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of
324 evidence shall apply. The final order of the court shall include the court's findings of fact and
325 conclusions of law.

326 J. Any person convicted of an offense that would disqualify that person from obtaining a permit
327 under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and
328 surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the
329 arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a
330 concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the
331 court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of
332 such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this
333 subsection, and shall promptly notify the State Police and the person whose permit was revoked of the
334 revocation.

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

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

347 J3. No person who carries a concealed handgun onto the premises of any restaurant or club as
348 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises
349 consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the
350 Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a
351 concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is
352 guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or
353 local law-enforcement officer.

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

357 K. No fee shall be charged for the issuance of such permit to a person who has retired from service
358 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control
359 Board or as a law-enforcement officer with the Department of State Police, the Department of Game and
360 Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the
361 Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement
362 officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and
363 Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and
364 Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals
365 Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching
366 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 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.

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

M. For purposes of this section:

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

"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.

"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.

"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 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.

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

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

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

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

510 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the
511 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform
512 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9
513 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the
514 holder of the permit is 21 years of age or older.

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

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