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HOUSE BILL NO. 797

Offered January 11, 2012

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A BILL to amend and reenact § 18.2-308 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 7 of Title 18.2 a section numbered 18.2-287.5, relating to carrying a handgun while under the influence of alcohol or drugs; penalty.

Patron—Morrissey

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 7 of Title 18.2 a section numbered 18.2-287.5 as follows:

§ 18.2-287.5. Carrying a handgun while under the influence of alcohol or illegal drugs; penalty.

Any person who carries about his person a handgun in a public place, regardless of whether such handgun is carried openly or concealed, while under the influence of alcohol or any other self-administered intoxicant or drug of whatever nature is 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.

§ 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 H, this section shall not apply to:

1. Any person while in his own place of abode or the curtilage thereof;

2. Any person while in his own place of business;

2-3. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3-4. 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;

4-5. 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;

5-6. 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;

6-7. 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;

7-8. 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

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59 officer retired from a police department or sheriff's office within the Commonwealth, any special agent  
60 retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any  
61 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia  
62 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources  
63 Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii)  
64 following at least 15 years of service with any such law-enforcement agency, board or any combination  
65 thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such  
66 law-enforcement agency or board due to a service-related injury, provided such officer carries with him  
67 written proof of consultation with and favorable review of the need to carry a concealed handgun issued  
68 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency  
69 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or  
70 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall  
71 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia  
72 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such  
73 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An  
74 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a  
75 concealed handgun shall surrender such proof of consultation upon return to work or upon termination  
76 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the  
77 Department of State Police for entry into the Virginia Criminal Information Network. However, if such  
78 officer retires on disability because of the service-related injury, and would be eligible under clause (i)  
79 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the  
80 previously issued written proof of consultation. A retired law-enforcement officer who receives proof of  
81 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed  
82 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun  
83 pursuant to subdivision 2 3 of this subsection-;

84 ~~7a.9.~~ Any person who is eligible for retirement with at least 20 years of service with a  
85 law-enforcement agency or board mentioned in subdivision 7 8 who has resigned in good standing from  
86 such law-enforcement agency or board to accept a position covered by a retirement system that is  
87 authorized under Title 51.1, provided such person carries with him written proof of consultation with  
88 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement  
89 officer of the agency from which he resigned or, in the case of special agents, issued by the State  
90 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation  
91 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State  
92 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall  
93 not without cause withhold such written proof if the law-enforcement officer otherwise meets the  
94 requirements of this section.

95 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege  
96 to carry a concealed handgun pursuant to subdivision 7 8 or this subdivision, while carrying the proof of  
97 consultation and favorable review required, shall be deemed to have been issued a concealed handgun  
98 permit.

99 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired  
100 or resigned law-enforcement officer who receives proof of consultation and review pursuant to  
101 subdivision 7 8 or this subdivision shall have the opportunity to annually participate, at the retired or  
102 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is  
103 required of active law-enforcement officers in the Commonwealth. If such retired or resigned  
104 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer  
105 shall issue the retired or resigned officer certification, valid one year from the date of issuance,  
106 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

107 ~~8.10.~~ Any State Police officer who is a member of the organized reserve forces of any of the armed  
108 services of the United States, national guard, or naval militia, while such officer is called to active  
109 military duty, provided such officer carries with him written proof of consultation with and favorable  
110 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof  
111 of consultation and favorable review shall be valid as long as the officer is on active military duty and  
112 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of  
113 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The  
114 Superintendent of State Police shall not without cause withhold such written proof if the officer is in  
115 good standing and is qualified to carry a weapon while on active law-enforcement duty.

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

119 ~~9.11.~~ Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever  
120 such attorney may travel in the Commonwealth; and

121 ~~10-12.~~ Any person who may lawfully possess a firearm and is carrying a handgun while in a  
122 personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in  
123 the vehicle or vessel.

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

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

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

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

137 6. Harbormaster of the City of Hopewell.

138 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the  
139 county or city in which he resides, or if he is a member of the United States Armed Forces, the county  
140 or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no  
141 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or  
142 city. The application shall be made under oath before a notary or other person qualified to take oaths  
143 and shall be made only on a form prescribed by the Department of State Police, in consultation with the  
144 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The  
145 clerk shall enter on the application the date on which the application and all other information required  
146 to be submitted by the applicant is received. The court shall consult with either the sheriff or police  
147 department of the county or city and receive a report from the Central Criminal Records Exchange. As a  
148 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if  
149 required by local ordinance in the county or city where the applicant resides and provide personal  
150 descriptive information to be forwarded with the fingerprints through the Central Criminal Records  
151 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record  
152 information regarding the applicant, and obtaining fingerprint identification information from federal  
153 records pursuant to criminal investigations by state and local law-enforcement agencies. However, no  
154 local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing  
155 concealed handgun permit issued pursuant to this section and is applying for a new five-year permit  
156 pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer  
157 information electronically to the State Police instead of inked fingerprint cards. Upon completion of the  
158 criminal history records check, the State Police shall return the fingerprint cards to the submitting local  
159 agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then  
160 promptly notify the person that he has 21 days from the date of the notice to request return of the  
161 fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification  
162 by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon  
163 completion of the criminal history records check without requiring that the applicant be notified.  
164 Fingerprints taken for the purposes described in this section shall not be copied, held or used for any  
165 other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit  
166 within 45 days of receipt of the completed application unless it is determined that the applicant is  
167 disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial  
168 review, to applicants who have submitted complete applications, for whom the criminal history records  
169 check does not indicate a disqualification and, after consulting with either the sheriff or police  
170 department of the county or city, about which there are no outstanding questions or issues concerning  
171 the application. The court clerk shall be immune from suit arising from any acts or omissions relating to  
172 the issuance of concealed handgun permits without judicial review pursuant to this section unless the  
173 clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to  
174 limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to  
175 affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall  
176 provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the  
177 applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing.  
178 The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of  
179 evidence shall apply. The final order of the court shall include the court's findings of fact and  
180 conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the  
181 permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant

182 to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed  
183 complete when all information required to be furnished by the applicant is delivered to and received by  
184 the clerk of court before or concomitant with the conduct of a state or national criminal history records  
185 check. If the court has not issued the permit or determined that the applicant is disqualified within 45  
186 days of the date of receipt noted on the application, the clerk shall certify on the application that the  
187 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the  
188 applicant within five business days of the expiration of the 45-day period. The certified application shall  
189 serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid  
190 concealed handgun permit when presented with a valid government-issued photo identification pursuant  
191 to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the  
192 applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the  
193 de facto permit to the court and the disqualification shall be deemed a denial of the permit and a  
194 revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a  
195 five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from  
196 public disclosure the social security number contained in a permit application in response to a request to  
197 inspect or copy any such permit application, except that such social security number shall not be  
198 withheld from any law-enforcement officer acting in the performance of his official duties.

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

200 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or  
201 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

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

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

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

211 5. An individual who is subject to a restraining order, or to a protective order and prohibited by  
212 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

222 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local  
223 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other  
224 state, the District of Columbia, the United States, or its territories within the three-year period  
225 immediately preceding the application, or who is a habitual drunkard as determined pursuant to  
226 § 4.1-333.

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

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

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

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

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

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

245 16. An individual whose previous convictions or adjudications of delinquency were based on an

246 offense which would have been at the time of conviction a felony if committed by an adult under the

247 laws of any state, the District of Columbia, the United States or its territories. For purposes of this

248 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the

249 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or

250 adjudication shall be deemed to be "previous convictions."

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

252 subdivision 14 or 15.

253 18. An individual who has received mental health treatment or substance abuse treatment in a

254 residential setting within five years prior to the date of his application for a concealed handgun permit.

255 19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period

256 immediately preceding the application for the permit, was found guilty of any criminal offense set forth

257 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or of a criminal offense of illegal possession or

258 distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any

259 state, the District of Columbia, or the United States or its territories.

260 20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the

261 three-year period immediately preceding the application, upon a charge of any criminal offense set forth

262 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or

263 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any

264 state, the District of Columbia, or the United States or its territories, the trial court found that the facts

265 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the

266 substantially similar law of any other state, the District of Columbia, or the United States or its

267 territories.

268 21. *An individual who has been convicted of a violation of § 18.2-287.5 within the five-year period*

269 *immediately preceding the application.*

270 F. The making of a materially false statement in an application under this section shall constitute

271 perjury, punishable as provided in § 18.2-434.

272 G. The court shall require proof that the applicant has demonstrated competence with a handgun and

273 the applicant may demonstrate such competence by one of the following, but no applicant shall be

274 required to submit to any additional demonstration of competence, nor shall any proof of demonstrated

275 competence expire:

276 1. Completing any hunter education or hunter safety course approved by the Department of Game

277 and Inland Fisheries or a similar agency of another state;

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

279 3. Completing any firearms safety or training course or class available to the general public offered

280 by a law-enforcement agency, junior college, college, or private or public institution or organization or

281 firearms training school utilizing instructors certified by the National Rifle Association or the

282 Department of Criminal Justice Services;

283 4. Completing any law-enforcement firearms safety or training course or class offered for security

284 guards, investigators, special deputies, or any division or subdivision of law enforcement or security

285 enforcement;

286 5. Presenting evidence of equivalent experience with a firearm through participation in organized

287 shooting competition or current military service or proof of an honorable discharge from any branch of

288 the armed services;

289 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a

290 locality thereof, unless such license has been revoked for cause;

291 7. Completing any firearms training or safety course or class, including an electronic, video, or

292 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

293 8. Completing any governmental police agency firearms training course and qualifying to carry a

294 firearm in the course of normal police duties; or

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

296 A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the

297 instructor, school, club, organization, or group that conducted or taught such course or class attesting to

298 the completion of the course or class by the applicant; or a copy of any document which shows

299 completion of the course or class or evidences participation in firearms competition shall constitute

300 evidence of qualification under this subsection.

301 H. The permit to carry a concealed handgun shall specify only the following information: name,

302 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;

303 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such

304 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits

305 pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed  
306 handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a  
307 uniform style prescribed by the Department of State Police. The person issued the permit shall have  
308 such permit on his person at all times during which he is carrying a concealed handgun and shall  
309 display the permit and a photo-identification issued by a government agency of the Commonwealth or  
310 by the United States Department of Defense or United States State Department (passport) upon demand  
311 by a law-enforcement officer.

312 H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United  
313 States, or the Armed Forces reserves of the United States, and his five-year permit expires during an  
314 active-duty military deployment outside of the permittee's county or city of residence, such permit shall  
315 remain valid for 90 days after the end date of the deployment. In order to establish proof of continued  
316 validity of the permit, such a permittee shall carry with him and display, upon request of a  
317 law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the  
318 permittee's commanding officer that order the permittee to travel outside of his county or city of  
319 residence and that indicate the start and end date of such deployment.

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

338 J. Any person convicted of an offense that would disqualify that person from obtaining a permit  
339 under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and  
340 surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the  
341 arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a  
342 concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the  
343 court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of  
344 such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this  
345 subsection, and shall promptly notify the State Police and the person whose permit was revoked of the  
346 revocation.

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

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

359 J3. No person who carries a concealed handgun onto the premises of any restaurant or club as  
360 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises  
361 consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the  
362 Code of Virginia may consume an alcoholic beverage while on the premises. J2. A person who carries a  
363 concealed handgun onto the premises of such a restaurant or club as defined in § 4.1-100 for which a  
364 license to sell and serve alcoholic beverages for on-premises consumption has been granted by the  
365 Alcoholic Beverage Control Board under Title 4.1 and consumes alcoholic beverages is guilty of a Class  
366 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local

367 law-enforcement officer.

368 ~~4.13.~~ The court shall revoke the permit of any individual for whom it would be unlawful to  
 369 purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify  
 370 the State Police and the person whose permit was revoked of the revocation.

371 K. No fee shall be charged for the issuance of such permit to a person who has retired from service  
 372 (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control  
 373 Board or as a law-enforcement officer with the Department of State Police, the Department of Game and  
 374 Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the  
 375 Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement  
 376 officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and  
 377 Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and  
 378 Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals  
 379 Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching  
 380 age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United  
 381 States, the District of Columbia or any of the territories of the United States, after completing 15 years  
 382 of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii)  
 383 through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or  
 384 boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching  
 385 age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit,  
 386 including his costs associated with the consultation with law-enforcement agencies. The local  
 387 law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to  
 388 cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any  
 389 amount assessed by the Federal Bureau of Investigation for providing criminal history record  
 390 information, and the local law-enforcement agency shall forward the amount assessed by the Federal  
 391 Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State  
 392 Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application.  
 393 The total amount assessed for processing an application for a permit shall not exceed \$50, with such  
 394 fees to be paid in one sum to the person who accepts the application. Payment may be made by any  
 395 method accepted by that court for payment of other fees or penalties. No payment shall be required until  
 396 the application is accepted by the court as a complete application. The order issuing such permit, or the  
 397 copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall  
 398 be provided to the State Police and the law-enforcement agencies of the county or city. The State Police  
 399 shall enter the permittee's name and description in the Virginia Criminal Information Network so that  
 400 the permit's existence and current status will be made known to law-enforcement personnel accessing the  
 401 Network for investigative purposes. The State Police shall withhold from public disclosure permittee  
 402 information submitted to the State Police for purposes of entry into the Virginia Criminal Information  
 403 Network, except that such information shall not be withheld from any law-enforcement agency, officer,  
 404 or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such  
 405 information be withheld from an entity that has a valid contract with any local, state, or federal  
 406 law-enforcement agency for the purpose of performing official duties of the law-enforcement agency.  
 407 However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State  
 408 Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b)  
 409 statistical summaries, abstracts, or other records containing information in an aggregate form that does  
 410 not identify any individual permittees.

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

418 K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission  
 419 of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement  
 420 permit. The replacement permit shall have the same expiration date as the permit that was lost or  
 421 destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the  
 422 notarized statement, and may charge a fee not to exceed \$5.

423 L. Any person denied a permit to carry a concealed handgun under the provisions of this section  
 424 may present a petition for review to the Court of Appeals. The petition for review shall be filed within  
 425 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if  
 426 an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court  
 427 following the hearing. The petition shall be accompanied by a copy of the original papers filed in the

428 circuit court, including a copy of the order of the circuit court denying the permit. Subject to the  
429 provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final.  
430 Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal,  
431 taxable costs incurred by the person shall be paid by the Commonwealth.

432 M. For purposes of this section:

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

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

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

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

449 N. As used in this article:

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

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

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

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

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

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

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

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

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

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

498 5. Presenting evidence of equivalent experience with a firearm through participation in organized  
499 shooting competition approved by the Department of State Police or current military service or proof of  
500 an honorable discharge from any branch of the armed services;

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

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

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

507 9. Completing any other firearms training that the Virginia Department of State Police deems  
508 adequate.

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

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

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

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

529 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the  
530 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform  
531 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9  
532 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the  
533 holder of the permit is 21 years of age or older.

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

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