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## SENATE BILL NO. 648

Offered January 20, 2012

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 firearms in public while under the influence and consuming alcohol while carrying a firearm; penalties.

\_\_\_\_\_  
 Patron—McEachin

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 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 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 firearm while under the influence of alcohol or illegal drugs and consuming alcohol while carrying a firearm; penalty.

A. A person who is under the influence of alcohol or illegal drugs while carrying a loaded firearm on or about his person in a public place 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. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

B. A person who carries a loaded firearm on or about his person onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 and consumes an alcoholic beverage while on the premises is guilty of a Class 2 misdemeanor. The provisions of this subsection shall not apply to law-enforcement officers or military personnel in the performance of their lawful duties as law-enforcement officers.

§ 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 business abode or the curtilage thereof;

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

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

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;

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;

6. Any person carrying such weapons between his place of abode and a place of purchase or

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59 repair, provided the weapons are unloaded and securely wrapped while being transported;

60 ~~6.~~ 7. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland  
61 Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from  
62 those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be  
63 construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

64 ~~7.~~ 8. Any State Police officer retired from the Department of State Police, any officer retired from  
65 the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer, or animal  
66 control officer retired from a police department or sheriff's office within the Commonwealth, any special  
67 agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any  
68 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia  
69 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources  
70 Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii)  
71 following at least 15 years of service with any such law-enforcement agency, board or any combination  
72 thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such  
73 law-enforcement agency or board due to a service-related injury, provided such officer carries with him  
74 written proof of consultation with and favorable review of the need to carry a concealed handgun issued  
75 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency  
76 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or  
77 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall  
78 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia  
79 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such  
80 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An  
81 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a  
82 concealed handgun shall surrender such proof of consultation upon return to work or upon termination  
83 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the  
84 Department of State Police for entry into the Virginia Criminal Information Network. However, if such  
85 officer retires on disability because of the service-related injury, and would be eligible under clause (i)  
86 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the  
87 previously issued written proof of consultation. A retired law-enforcement officer who receives proof of  
88 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed  
89 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun  
90 pursuant to subdivision ~~2~~ 3 of this subsection.

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

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

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

114 ~~8.~~ 10. Any State Police officer who is a member of the organized reserve forces of any of the armed  
115 services of the United States, national guard, or naval militia, while such officer is called to active  
116 military duty, provided such officer carries with him written proof of consultation with and favorable  
117 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof  
118 of consultation and favorable review shall be valid as long as the officer is on active military duty and  
119 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of  
120 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The

121 Superintendent of State Police shall not without cause withhold such written proof if the officer is in  
122 good standing and is qualified to carry a weapon while on active law-enforcement duty.

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

126 ~~9.~~ 11. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever  
127 such attorney may travel in the Commonwealth; and

128 ~~10.~~ 12. Any person who may lawfully possess a firearm and is carrying a handgun while in a  
129 personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in  
130 the vehicle or vessel.

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

- 133 1. Carriers of the United States mail;
- 134 2. Officers or guards of any state correctional institution;
- 135 3. [Repealed.]

136 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for  
137 the Commonwealth may carry a concealed handgun pursuant to subdivision B ~~9~~ 11. However, the  
138 following conservators of the peace shall not be permitted to carry a concealed handgun without  
139 obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers,  
140 operators, or other persons in charge of any motor vehicle carrier of passengers for hire; or (d)  
141 commissioners in chancery;

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

144 6. Harbormaster of the City of Hopewell.

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

182 affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall  
183 provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the  
184 applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing.  
185 The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of  
186 evidence shall apply. The final order of the court shall include the court's findings of fact and  
187 conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the  
188 permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant  
189 to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed  
190 complete when all information required to be furnished by the applicant is delivered to and received by  
191 the clerk of court before or concomitant with the conduct of a state or national criminal history records  
192 check. If the court has not issued the permit or determined that the applicant is disqualified within 45  
193 days of the date of receipt noted on the application, the clerk shall certify on the application that the  
194 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the  
195 applicant within five business days of the expiration of the 45-day period. The certified application shall  
196 serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid  
197 concealed handgun permit when presented with a valid government-issued photo identification pursuant  
198 to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the  
199 applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the  
200 de facto permit to the court and the disqualification shall be deemed a denial of the permit and a  
201 revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a  
202 five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from  
203 public disclosure the social security number contained in a permit application in response to a request to  
204 inspect or copy any such permit application, except that such social security number shall not be  
205 withheld from any law-enforcement officer acting in the performance of his official duties.

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

207 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or  
208 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

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

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

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

218 5. An individual who is subject to a restraining order, or to a protective order and prohibited by  
219 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

229 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local  
230 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other  
231 state, the District of Columbia, the United States, or its territories within the three-year period  
232 immediately preceding the application, or who is a habitual drunkard as determined pursuant to  
233 § 4.1-333.

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

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

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

238 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by  
239 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief  
240 of police, or attorney for the Commonwealth may submit to the court a sworn written statement  
241 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based  
242 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is  
243 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief

244 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such  
 245 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the  
 246 specific acts, or upon a written statement made under oath before a notary public of a competent person  
 247 having personal knowledge of the specific acts.

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

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

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

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

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

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

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

275 21. *An individual who has been convicted of a violation of § 18.2-287.5 within the five-year period*  
 276 *immediately preceding the application.*

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

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

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

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

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

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

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

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

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

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

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

303 A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the  
 304 instructor, school, club, organization, or group that conducted or taught such course or class attesting to

305 the completion of the course or class by the applicant; or a copy of any document which shows  
306 completion of the course or class or evidences participation in firearms competition shall constitute  
307 evidence of qualification under this subsection.

308 H. The permit to carry a concealed handgun shall specify only the following information: name,  
309 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;  
310 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such  
311 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits  
312 pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed  
313 handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a  
314 uniform style prescribed by the Department of State Police. The person issued the permit shall have  
315 such permit on his person at all times during which he is carrying a concealed handgun and shall  
316 display the permit and a photo-identification issued by a government agency of the Commonwealth or  
317 by the United States Department of Defense or United States State Department (passport) upon demand  
318 by a law-enforcement officer.

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

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

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

354 ~~J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or  
355 illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 4 misdemeanor.  
356 Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the  
357 person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1,  
358 maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public  
359 intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon  
360 such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify  
361 the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply  
362 for a concealed handgun permit for a period of five years.~~

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

366 ~~J3. No person who carries a concealed handgun onto the premises of any restaurant or club as~~

367 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises  
368 consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the  
369 Code of Virginia may consume an alcoholic beverage while on the premises.

370 J2. A person who carries a concealed handgun onto the premises of such a restaurant or club as  
371 defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises  
372 consumption has been granted by the Alcoholic Beverage Control Board under Title 4.1 and consumes  
373 alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply  
374 to a federal, state, or local law-enforcement officer.

375 J4. J3. The court shall revoke the permit of any individual for whom it would be unlawful to  
376 purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify  
377 the State Police and the person whose permit was revoked of the revocation.

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

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

425 K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission  
426 of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement  
427 permit. The replacement permit shall have the same expiration date as the permit that was lost or

428 destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the  
429 notarized statement, and may charge a fee not to exceed \$5.

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

439 M. For purposes of this section:

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

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

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

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

456 N. As used in this article:

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

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

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

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

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



590 permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked  
 591 and the person shall return the permit after being so notified by the Department of State Police. The  
 592 permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to  
 593 the provisions of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

536 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the  
 537 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform  
 538 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9  
 539 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the  
 540 holder of the permit is 21 years of age or older.

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

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