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SENATE BILL NO. 703

Offered January 9, 2013

Prefiled November 26, 2012

A BILL to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed handgun permit fees; retired correctional officers; exemption.

Patron—Puckett

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry; penalty.

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 is 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. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

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

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

3. Any person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

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

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

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, and any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from

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59 which the officer retired or the agency that employs the officer or, in the case of special agents, issued
60 by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of
61 consultation and favorable review shall be forwarded by the chief or the Board to the Department of
62 State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer
63 shall not without cause withhold such written proof if the retired law-enforcement officer otherwise
64 meets the requirements of this section. An officer set forth in clause (iv) of this subdivision who
65 receives written proof of consultation to carry a concealed handgun shall surrender such proof of
66 consultation upon return to work or upon termination of employment with the law-enforcement agency.
67 Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia
68 Criminal Information Network. However, if such officer retires on disability because of the
69 service-related injury, and would be eligible under clause (i) of this subdivision for written proof of
70 consultation to carry a concealed handgun, he may retain the previously issued written proof of
71 consultation. A retired law-enforcement officer who receives proof of consultation and favorable review
72 pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a
73 law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2.

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

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

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

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

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

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

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

114 11. Any enrolled participant of a firearms training course who is at, or going to or from, a training
115 location, provided that the weapons are unloaded and securely wrapped while being transported.

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

- 118 1. Carriers of the United States mail;
- 119 2. Officers or guards of any state correctional institution;
- 120 3. [Repealed.]

121 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
 122 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
 123 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
 124 permit as provided in subsection D hereof: ~~(a)~~ (i) notaries public; ~~(b)~~ (ii) registrars; ~~(c)~~ (iii) drivers,
 125 operators or other persons in charge of any motor vehicle carrier of passengers for hire; or ~~(d)~~ (iv)
 126 commissioners in chancery;

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

129 6. Harbormaster of the City of Hopewell.

130 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the
 131 county or city in which he resides, or if he is a member of the United States ~~Armed Forces~~ *armed*
 132 *forces*, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun.
 133 There shall be no requirement regarding the length of time an applicant has been a resident or
 134 domiciliary of the county or city. The application shall be made under oath before a notary or other
 135 person qualified to take oaths and shall be made only on a form prescribed by the Department of State
 136 Police, in consultation with the Supreme Court, requiring only that information necessary to determine
 137 eligibility for the permit. No information or documentation other than that which is allowed on the
 138 application in accordance with this subsection may be requested or required by the clerk or the court.
 139 The clerk shall enter on the application the date on which the application and all other information
 140 required to be submitted by the applicant is received. The court shall consult with either the sheriff or
 141 police department of the county or city and receive a report from the Central Criminal Records
 142 Exchange. The court shall issue the permit via United States mail and notify the State Police of the
 143 issuance of the permit within 45 days of receipt of the completed application unless it is determined that
 144 the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits,
 145 without judicial review, to applicants who have submitted complete applications, for whom the criminal
 146 history records check does not indicate a disqualification and, after consulting with either the sheriff or
 147 police department of the county or city, about which there are no outstanding questions or issues
 148 concerning the application. The court clerk shall be immune from suit arising from any acts or
 149 omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this
 150 section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall
 151 not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or
 152 common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the
 153 application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus
 154 hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the
 155 docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be
 156 appointed, and the rules of evidence shall apply. The final order of the court shall include the court's
 157 findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis
 158 for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of
 159 such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An
 160 application is deemed complete when all information required to be furnished by the applicant is
 161 delivered to and received by the clerk of court before or concomitant with the conduct of a state or
 162 national criminal history records check. If the court has not issued the permit or determined that the
 163 applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall
 164 certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy
 165 of the certified application to the applicant within five business days of the expiration of the 45-day
 166 period. The certified application shall serve as a de facto permit, which shall expire 90 days after
 167 issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid
 168 government-issued photo identification pursuant to subsection H, until the court issues a five-year permit
 169 or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto
 170 permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification
 171 shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later
 172 found by the court to be disqualified after a five-year permit has been issued, the permit shall be
 173 revoked. The clerk of court may withhold from public disclosure the social security number contained in
 174 a permit application in response to a request to inspect or copy any such permit application, except that
 175 such social security number shall not be withheld from any law-enforcement officer acting in the
 176 performance of his official duties.

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

178 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or
 179 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

180 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was
 181 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before

182 the date of his application for a concealed handgun permit.

183 3. (Effective until October 1, 2012) An individual who was ineligible to possess a firearm pursuant
184 to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five
185 years before the date of his application for a concealed handgun permit.

186 3. (Effective October 1, 2012) An individual who was ineligible to possess a firearm pursuant to
187 § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 64.2-2012 less than five
188 years before the date of his application for a concealed handgun permit.

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

192 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
193 § 18.2-308.1:4 from purchasing or transporting a firearm.

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

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

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

203 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
204 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
205 state, the District of Columbia, the United States, or its territories within the three-year period
206 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
207 § 4.1-333.

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

209 11. An individual who has been discharged from the ~~Armed Forces~~ *armed forces* of the United
210 States under dishonorable conditions.

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

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

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

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

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

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

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

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

241 20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the
242 three-year period immediately preceding the application, upon a charge of any criminal offense set forth
243 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or upon a charge of illegal possession or distribution of

244 marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District
245 of Columbia, or the United States or its territories, the trial court found that the facts of the case were
246 sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially
247 similar law of any other state, the District of Columbia, or the United States or its territories.

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

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

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

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

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

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

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

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

269 7. Completing any firearms training or safety course or class, including an electronic, video, or
270 ~~on-line~~ *online* course, conducted by a state-certified or National Rifle Association-certified firearms
271 instructor;

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

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

275 A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the
276 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
277 the completion of the course or class by the applicant; or a copy of any document which shows
278 completion of the course or class or evidences participation in firearms competition shall constitute
279 evidence of qualification under this subsection.

280 H. The permit to carry a concealed handgun shall specify only the following information: name,
281 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;
282 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such
283 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits
284 pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed
285 handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a
286 uniform style prescribed by the Department of State Police. The person issued the permit shall have
287 such permit on his person at all times during which he is carrying a concealed handgun and shall
288 display the permit and a photo identification issued by a government agency of the Commonwealth or
289 by the United States Department of Defense or United States State Department (passport) upon demand
290 by a law-enforcement officer. Failure to display the permit and a photo identification upon demand by a
291 law-enforcement officer shall be punishable by a \$25 civil penalty, which shall be paid into the state
292 treasury. Any attorney for the Commonwealth of the county or city in which the alleged violation
293 occurred may bring an action to recover the civil penalty. A court may waive such penalty upon
294 presentation to the court of a valid permit and a government-issued photo identification. Any
295 law-enforcement officer may issue a summons for the civil violation of failure to display the concealed
296 handgun permit and photo identification upon demand.

297 H1. If a permit holder is a member of the Virginia National Guard, ~~Armed Forces~~ *armed forces* of
298 the United States, or the Armed Forces ~~reserves~~ *Reserves* of the United States, and his five-year permit
299 expires during an active-duty military deployment outside of the permittee's county or city of residence,
300 such permit shall remain valid for 90 days after the end date of the deployment. In order to establish
301 proof of continued validity of the permit, such a permittee shall carry with him and display, upon
302 request of a law-enforcement officer, a copy of the permittee's deployment orders or other
303 documentation from the permittee's commanding officer that order the permittee to travel outside of his
304 county or city of residence and that indicate the start and end date of such deployment.

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

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

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

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

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

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

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

367 (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after
 368 completing 15 years of service or after reaching age 55; or (vii) as a correctional officer as defined in
 369 § 53.1-1 after completing 15 years of service. The clerk shall charge a fee of \$10 for the processing of
 370 an application or issuing of a permit, including his costs associated with the consultation with
 371 law-enforcement agencies. The local law-enforcement agency conducting the background investigation
 372 may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this
 373 section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for
 374 providing criminal history record information, and the local law-enforcement agency shall forward the
 375 amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken
 376 from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated
 377 with processing the application. The total amount assessed for processing an application for a permit
 378 shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application.
 379 Payment may be made by any method accepted by that court for payment of other fees or penalties. No
 380 payment shall be required until the application is received by the court as a complete application. The
 381 order issuing such permit, or the copy of the permit application certified by the clerk as a de facto
 382 permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies
 383 of the county or city. The State Police shall enter the permittee's name and description in the Virginia
 384 Criminal Information Network so that the permit's existence and current status will be made known to
 385 law-enforcement personnel accessing the Network for investigative purposes. The State Police shall
 386 withhold from public disclosure permittee information submitted to the State Police for purposes of entry
 387 into the Virginia Criminal Information Network, except that such information shall not be withheld from
 388 any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official
 389 law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract
 390 with any local, state, or federal law-enforcement agency for the purpose of performing official duties of
 391 the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the
 392 release of (a) records by the State Police concerning permits issued to nonresidents of the
 393 Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records
 394 containing information in an aggregate form that does not identify any individual permittees.

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

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

407 L. Any person denied a permit to carry a concealed handgun under the provisions of this section
 408 may present a petition for review to the Court of Appeals. The petition for review shall be filed within
 409 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if
 410 an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court
 411 following the hearing. The petition shall be accompanied by a copy of the original papers filed in the
 412 circuit court, including a copy of the order of the circuit court denying the permit. Subject to the
 413 provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final.
 414 Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal,
 415 taxable costs incurred by the person shall be paid by the Commonwealth.

416 M. For purposes of this section:

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

420 "Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101,
 421 law-enforcement agents of the ~~Armed Forces~~ *armed forces* of the United States, the Naval Criminal
 422 Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law.
 423 "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a
 424 law-enforcement agency of the United States or any state or political subdivision thereof, whose duties
 425 are substantially similar to those set forth in § 9.1-101.

426 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the
 427 privilege of residing permanently in the United States as an immigrant in accordance with the

428 immigration laws, such status not having changed.

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

432 N. As used in this article:

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

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

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

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

453 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
454 Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant
455 for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified
456 by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card
457 provided by the Department of State Police for the purpose of obtaining the applicant's state or national
458 criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall
459 submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive
460 information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the
461 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
462 regarding the applicant and obtaining fingerprint identification information from federal records pursuant
463 to criminal investigations by state and local law-enforcement agencies. The application shall be made
464 under oath before a notary or other person qualified to take oaths on a form provided by the Department
465 of State Police, requiring only that information necessary to determine eligibility for the permit. If the
466 permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked
467 and the person shall return the permit after being so notified by the Department of State Police. The
468 permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to
469 the provisions of this subsection.

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

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

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

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

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

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

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

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

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

490 firearm in the course of normal police duties; or

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

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

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

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

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

513 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the
514 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform
515 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9
516 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the
517 holder of the permit is 21 years of age or older.

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

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