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HOUSE BILL NO. 2009

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 6, 2015)

(Patron Prior to Substitute—Delegate LaRock)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-295.1, relating to law-enforcement certification of certain firearms.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-295.1 as follows:

§ 18.2-295.1. Chief law-enforcement officer certification; certain firearms.

A. For purposes of this section:

"Chief law-enforcement officer" shall have the same meaning as provided in § 19.2-390. "Chief law-enforcement" officer does not include the Superintendent of State Police.

"Firearm" shall have the same meaning as provided in the National Firearms Act, 26 U.S.C. § 5845(a), but does not include a destructive device as defined in 26 U.S.C. § 5845(f).

B. When a chief law-enforcement officer's certification is required by federal law or regulation for the transfer of a firearm, the chief law-enforcement officer shall, within 60 days of receipt of the request for certification, provide such certification if the applicant is not prohibited by law from receiving the firearm. If the applicant is prohibited by law from receiving the firearm, the chief law-enforcement officer or his designee shall provide written notification to the applicant that states the reason for the prohibition.

C. If the chief law-enforcement officer fails to provide certification pursuant to subsection B within 60 days of receipt of the request for certification, the applicant has a right to an ore tenus hearing in the circuit court for the jurisdiction served by the chief law-enforcement officer and, upon request of the applicant made within 21 days after expiration of the 60-day period, the court shall place the matter on the docket. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. Unless the evidence shows that the applicant is prohibited by law from receiving the firearm, the court shall order the chief law-enforcement officer to issue the certification within five business days from the date of the order and may award the applicant court costs and reasonable attorney fees.

D. In making the certification decision, the chief law-enforcement officer shall require of the applicant only such information as is necessary to identify the applicant for purposes of this section or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a firearm.