

15104197D

SENATE BILL NO. 689

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 26, 2015)

(Patron Prior to Substitute—Senator Black)

A *BILL to amend and reenact §§ 18.2-308.02 through 18.2-308.05, 18.2-308.010, 18.2-308.011, and 18.2-308.013 of the Code of Virginia, relating to concealed handgun permits; lifetime permits.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.02 through 18.2-308.05, 18.2-308.010, 18.2-308.011, and 18.2-308.013 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States armed forces, the county or city in which he is domiciled, for *either* a five-year permit to carry a concealed handgun *or a lifetime permit to carry a concealed handgun*. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

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

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

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

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

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

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

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

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

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

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

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

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

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

§ 18.2-308.03. Fees for concealed handgun permits.

A. ~~The~~ *For the issuance of a five-year concealed handgun permit, the clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.*

For the issuance of a lifetime concealed handgun permit, the clerk shall charge a fee of \$40 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$50 to cover the cost of conducting an investigation pursuant to this article. The \$50 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$10 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$100, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of *either* such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; or (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service.

§ 18.2-308.04. Processing of the application and issuance of a concealed handgun permit.

A. The clerk of court shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received.

B. Upon receipt of the completed application, the court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. *In preparing the report from the Central Criminal Records Exchange, the State Police shall initiate a search of the National Instant Criminal Background Check System for purposes of obtaining criminal history record information regarding the applicant.*

C. The court shall issue the permit via United States mail and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall be in accordance with § 18.2-308.08. If the applicant is later found by the court to be disqualified after a ~~five-year~~ permit has been issued, the permit shall be revoked.

D. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does

not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which application there are no outstanding questions or issues. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010.

E. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date, *provided that, if the permit in question is a lifetime permit, the expiration date shall state "Lifetime."* The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police.

§ 18.2-308.05. Issuance of a de facto permit.

If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection A of § 18.2-308.01, until the court issues a ~~five-year~~ *the requested* permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit.

§ 18.2-308.010. Renewal of concealed handgun permit.

A. 1. Persons who previously have held a *five-year* concealed handgun permit shall be issued, upon application as provided in § 18.2-308.02, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in § 18.2-308.09. Persons who previously have been issued a concealed handgun permit pursuant to this article shall not be required to appear in person to apply for a new five-year permit pursuant to this section, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to § 18.2-308.03 is incorrect.

2. If a new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit.

3. Any order denying issuance of the new permit shall be in accordance with subsection A of § 18.2-308.08.

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

§ 18.2-308.011. Replacement permits.

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

B. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed or that the permit holder has undergone a legal name change, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost, destroyed, or issued to the permit holder

183 under a previous name, *provided that, if the permit in question is a lifetime permit, the expiration date*
184 *shall state "Lifetime."* The clerk shall issue the replacement permit within 10 business days of receiving
185 the notarized statement and may charge a fee not to exceed \$5.

186 **§ 18.2-308.013. Suspension or revocation of permit; periodic background checks.**

187 A. Any person convicted of an offense that would disqualify that person from obtaining a permit
188 under § 18.2-308.09 or who violates subsection C of § 18.2-308.02 shall forfeit his permit for a
189 concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records
190 Exchange of a record of the arrest, conviction, or occurrence of any other event that would disqualify a
191 person from obtaining a concealed handgun permit under § 18.2-308.09, the Central Criminal Records
192 Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction, or
193 other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person
194 disqualified pursuant to this subsection; and shall promptly notify the State Police and the person whose
195 permit was revoked of the revocation.

196 B. An individual who has a felony charge pending or a charge pending for an offense listed in
197 subdivision 14 or 15 of § 18.2-308.09, holding a permit for a concealed handgun, may have the permit
198 suspended by the court before which such charge is pending or by the court that issued the permit.

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

202 D. *In addition to the provisions of subsection A, the State Police shall conduct a national criminal*
203 *history records check, including searching the National Instant Criminal Background Check System, on*
204 *all valid concealed handgun permits issued in accordance with this article on a periodic basis, but not*
205 *less than once every five years, throughout the lifetime of the permit. Upon receipt by the State Police*
206 *of a record of the arrest, conviction, or occurrence of any other event that would be the basis of a*
207 *revocation under subsection A, the State Police shall notify the court having issued the permit of such*
208 *disqualifying arrest, conviction, or other event. Upon receipt of such notice, the court shall revoke the*
209 *permit of a person disqualified pursuant to this subsection and shall promptly notify the State Police*
210 *and the person whose permit was revoked of the revocation.*

211 E. *Upon receipt of notice from a court that a permit has been revoked, the State Police shall enter*
212 *such information in the Virginia Criminal Information Network so that the permit's revoked status will*
213 *be made known to law-enforcement personnel accessing the Network for investigative purposes.*