

CHAPTER 421

An Act to amend and reenact § 18.2-308, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to carrying concealed weapons; exception for certain retired officers.

[H 1281]

Approved March 11, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308. (Effective until July 1, 2018) Carrying concealed weapons; exceptions; 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 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.

C. Except as provided in subsection A of § 18.2-308.012, 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, any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least ~~45~~ 10 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 which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and

favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2;

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

For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

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

8. Any State Police officer who is a member of the organized reserve forces of any of the armed services of the United States or National Guard, while such officer is called to active military duty, 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 Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit;

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

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

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

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

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;

3. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision C 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii) registrars; (iii) drivers, operators or other

persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery;

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

5. Harbormaster of the City of Hopewell.

§ 18.2-308. (Effective July 1, 2018) Carrying concealed weapons; exceptions; 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 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.

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C. Except as provided in subsection A of § 18.2-308.012, 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 Virginia Alcoholic Beverage Control Authority, 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, any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least ~~15~~ 10 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 which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of

consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2;

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

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

8. Any State Police officer who is a member of the organized reserve forces of any of the armed services of the United States or National Guard, while such officer is called to active military duty, 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 Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

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

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

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

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

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;

3. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision C 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii) registrars; (iii) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery;

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

5. Harbormaster of the City of Hopewell.