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**HOUSE BILL NO. 149**

Offered January 13, 2016

Prefiled December 22, 2015

*A BILL to amend and reenact §§ 18.2-308.02, 18.2-308.03, 18.2-308.04, and 18.2-308.09 of the Code of Virginia, relating to concealed handgun permits; Terrorist Screening Database.*

Patrons—Simon, Bagby, Boysko, Hope, Kory, Krizek, Levine, Lindsey, McQuinn, Murphy, Plum, Price and Sullivan; Senators: Deeds, Ebbin, Favola, Howell, Locke, Saslaw and Surovell

Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-308.02, 18.2-308.03, 18.2-308.04, and 18.2-308.09 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 a five-year 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

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58 public disclosure of information under this subsection shall not apply to any reference to the issuance of  
59 a concealed handgun permit in any order book before July 1, 2008; however, any other concealed  
60 handgun records maintained by the clerk shall be withheld from public disclosure.

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

65 **§ 18.2-308.03. Fees for concealed handgun permits.**

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

79 B. (Effective until July 1, 2018) No fee shall be charged for the issuance of such permit to a person  
80 who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the  
81 Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police,  
82 the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or force of any  
83 political subdivision of the Commonwealth, after completing 15 years of service or after reaching age  
84 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol,  
85 Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States  
86 Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State  
87 Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after  
88 completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any  
89 police or sheriff's department within the United States, the District of Columbia, or any of the territories  
90 of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any  
91 combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi)  
92 as a designated boarding team member or boarding officer of the United States Coast Guard, after  
93 completing 15 years of service or after reaching age 55; or (vii) as a correctional officer as defined in  
94 § 53.1-1 after completing 15 years of service.

95 B. (Effective July 1, 2018) No fee shall be charged for the issuance of such permit to a person who  
96 has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the  
97 Virginia Alcoholic Beverage Control Authority or as a law-enforcement officer with the Department of  
98 State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or  
99 force of any political subdivision of the Commonwealth, after completing 15 years of service or after  
100 reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau  
101 of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United  
102 States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State  
103 Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after  
104 completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any  
105 police or sheriff's department within the United States, the District of Columbia, or any of the territories  
106 of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any  
107 combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi)  
108 as a designated boarding team member or boarding officer of the United States Coast Guard, after  
109 completing 15 years of service or after reaching age 55; or (vii) as a correctional officer as defined in  
110 § 53.1-1 after completing 15 years of service.

111 **§ 18.2-308.04. Processing of the application and issuance of a concealed handgun permit.**

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

114 B. Upon receipt of the completed application, the court shall consult with either the sheriff or police  
115 department of the county or city and receive a report from the Central Criminal Records Exchange. *The*  
116 *State Police shall consult with the U.S. Federal Bureau of Investigation's Terrorist Screening Center to*  
117 *receive a report from the federal Terrorist Screening Database.*

118 C. The court shall issue the permit via United States mail and notify the State Police of the issuance  
119 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. 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.

**§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

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

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

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

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

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

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

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

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

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

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

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

11. An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

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

181 having personal knowledge of the specific acts.

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

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

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

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

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

196 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period  
197 immediately preceding the application for the permit, was found guilty of any criminal offense set forth  
198 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or of a criminal offense of illegal possession  
199 or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any  
200 state, the District of Columbia, or the United States or its territories.

201 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the  
202 three-year period immediately preceding the application, upon a charge of any criminal offense set forth  
203 in Article 1 (§ 18.2-247 et seq.) or former § 18.2-248.1:1 or upon a charge of illegal possession or  
204 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any  
205 state, the District of Columbia, or the United States or its territories, the trial court found that the facts  
206 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the  
207 substantially similar law of any other state, the District of Columbia, or the United States or its  
208 territories.

209 21. *An individual who is listed on the federal Terrorist Screening Database.*

210 **2. That the provisions of this act shall become effective only if approval is received from the U.S.**  
211 **Department of Justice for the Department of State Police to implement the policies and procedures**  
212 **set out in this act.**