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SENATE BILL NO. 260

Offered January 13, 2016

Prefiled January 6, 2016

A BILL to amend and reenact §§ 18.2-308.09 and 18.2-308.013 of the Code of Virginia, relating to concealed handgun permits; disqualifications; residential mental health or substance abuse treatment.

Patron—Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.09 and 18.2-308.013 of the Code of Virginia are amended and reenacted as follows:

§ 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 having personal knowledge of the specific acts.

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

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

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

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

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

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

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

84 **§ 18.2-308.013. Suspension or revocation of permit.**

85 A. Any person convicted of an offense that would disqualify that person from obtaining a permit
86 under § 18.2-308.09 or who violates subsection C of § 18.2-308.02 shall forfeit his permit for a
87 concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records
88 Exchange of a record of the arrest, conviction, or occurrence of any other event that would disqualify a
89 person from obtaining a concealed handgun permit under § 18.2-308.09, the Central Criminal Records
90 Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction, or
91 other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person
92 disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose
93 permit was revoked of the revocation.

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

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

100 *D. Upon receipt by the State Police, a local law-enforcement agency, or an attorney for the*
101 *Commonwealth of information that a permit holder is disqualified from obtaining a permit under*
102 *subdivision 18 of § 18.2-308.09 because he has received mental health treatment or substance abuse*
103 *treatment in a residential setting within five years of the date of his application for the permit, the State*
104 *Police, sheriff, chief of police, or attorney for the Commonwealth shall notify the court having issued*
105 *the permit of such disqualification. Upon receipt of such information, if the court finds that the permit*
106 *holder is disqualified pursuant to subdivision 18 of § 18.2-308.09, the court shall revoke the permit and*
107 *shall promptly notify the State Police and the person whose permit was revoked of the revocation.*