

LD4930350

HOUSE BILL NO. 2283

Offered January 23, 1995

A *BILL to amend and reenact § 18.2-308 of the Code of Virginia, relating to concealed weapons; penalty.*

Patrons—McDonnell and Wardrup; Senator: Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308. Carrying concealed weapons; when lawful to carry.

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, or (ii) any dirk, bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, blackjack, *ice pick*, or (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, or (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 shall be 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. Any weapon used in the commission of a violation of this section shall be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the Division of Forensic Science shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in § 18.2-310. 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.

B. This section shall not apply to:

1. Any person while in his own place of abode or the curtilage thereof;
2. Any police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Chapter 2 (§ 29.1-200 et seq.) of Title 29.1;
3. Any regularly enrolled member of a target shooting organization 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. Campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23; and
7. 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.

C. 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 in rural districts;
2. Officers or guards of any state correctional institution;
3. [Repealed.]
4. Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed weapon without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; (d) commissioners in chancery;
5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29;
6. Law-enforcement agents of the Armed Forces of the United States and federal agents who are otherwise authorized to carry weapons by federal law while engaged in the performance of their duties;

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60 7. Law-enforcement agents of the United States Naval Criminal Investigative Service; and

61 8. Harbormaster of the City of Hopewell.

62 D. Any person may apply in writing to the clerk of the circuit court of the county or city in which
63 he resides for a two-year permit to carry a specific type of concealed weapon. The application shall be
64 under oath and shall be made on a form prescribed by the Supreme Court, requiring only that
65 information necessary to determine eligibility for the permit. The court, after consulting the
66 law-enforcement authorities of the county or city and receiving a report from the Central Criminal
67 Records Exchange, shall issue such permit if the applicant is of good character, has demonstrated a need
68 to carry such concealed weapon, which need may include but is not limited to lawful defense and
69 security, is physically and mentally competent to carry such weapon and is not prohibited by law from
70 receiving, possessing, or transporting such weapon. The court may further require proof that the
71 applicant has demonstrated competence with a handgun by one of the following:

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

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

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

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

82 5. Presenting evidence of equivalent experience with a firearm through participation in organized
83 shooting competition or military service;

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

86 7. Completing any firearms training or safety course or class conducted by a state-certified or
87 National Rifle Association-certified firearms instructor; or

88 8. Completing any other firearms training which the court deems adequate.

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

94 Persons who previously have held a concealed weapons permit shall be issued, upon application, a
95 new two-year permit unless there is good cause shown for refusing to reissue a permit. If the circuit
96 court denies the permit, the specific reasons for the denial shall be stated in the order of the court
97 denying the permit. Upon denial of the application and request of the applicant made within ten days,
98 the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented
99 by counsel, but counsel shall not be appointed. The final order of the court shall include the court's
100 findings of fact and conclusions of law.

101 No fee shall be charged for the issuance of such permit to a person who has retired from service as a
102 magistrate in the Commonwealth or as a law-enforcement officer with the Department of State Police, or
103 with a sheriff or police department, bureau or force of any political subdivision of the Commonwealth
104 of Virginia, after completing twenty years' service or after reaching age fifty-five nor to any person who
105 has retired after completing twenty years' service or after reaching age fifty-five from service as a
106 law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol,
107 Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration or Naval Criminal
108 Investigative Service. Any fee charged by the court associated with the processing of an application,
109 including costs associated with the consultation with law-enforcement agencies, shall not exceed
110 twenty-five dollars. The order issuing such permit shall be provided to the State Police and the
111 law-enforcement agencies of the county or city.

112 Any person denied a permit to carry a concealed weapon under the provisions of this subsection
113 may, within thirty days of the final decision, present a petition for review to the Court of Appeals or
114 any judge thereof. The petition shall be accompanied by a copy of the original papers filed in the circuit
115 court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of
116 § 17-116.07 B, the decision of the Court of Appeals or judge shall be final.

117 E. As used in this article:

118 "Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and
119 forcefully telescopes the weapon to several times its original length.

120 "Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated
121 mechanism.

122 2. That the provisions of this act may result in a net increase in periods of imprisonment in state
123 correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation
124 is \$0.

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