

967467252

HOUSE BILL NO. 1530

Offered January 22, 1996

A BILL to amend and reenact § 22.1-277.01 of the Code of Virginia, relating to expulsion of students; zero-tolerance.

Patrons—Grayson; Senator: Norment

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-277.01 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-277.01. Expulsion of students under certain circumstances; Board of Education designated agency; local school board application for assistance; reporting; exceptions.

A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-"Gun-Free Schools Act of 1994"), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in § 22.1-277, to have brought a firearm onto school property or to a school-sponsored activity as prohibited by § 18.2-308.1, or to have brought a firearm as defined in subsection D of this section on school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action or term of expulsion is appropriate.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section;

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known which will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" shall not include any device which is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device.

"Firearm" means any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, or (i) any weapon, including a starter gun, which will, or is designed or may readily be converted to, expel a projectile by the action of an explosive; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device.

"One year" means 365 calendar days as required in federal regulations.

E. The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such. In addition, this section shall not apply to possession of an unloaded firearm which is in a closed container in or upon a motor vehicle or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle.

INTRODUCED

HB1530

60 F. This section shall not be construed to diminish the authority of the Board of Education or the
61 Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the
62 federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate
63 and provide policy direction on official communications between the Commonwealth and the United
64 States government.

65 *G. When determining, pursuant to subsection A of this statute that, based on the facts of the*
66 *particular case, special circumstances exist and another disciplinary action or term of expulsion is*
67 *appropriate, school boards shall consider (i) whether the student has been involved in any weapons*
68 *violations, regardless of whether on school grounds; (ii) whether the student is achieving above grade*
69 *level or is an honor roll student; and (iii) the location and degree of danger of any weapon, when*
70 *discovered. Violations shall only be determined after a careful reading of the law and discussion with*
71 *legal counsel, if available. No student shall be expelled or long-term suspended for possession of a*
72 *water gun bearing no resemblance to a real gun when the water gun was in a container when*
73 *discovered and was not brandished at any time during the incident.*