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HOUSE BILL NO. 45

Offered January 10, 1996

A *BILL to amend and reenact § 18.2-53.1 of the Code of Virginia, relating to use of firearm in commission of felony; penalty.*

Patron—Orrock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-53.1 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-53.1. Use or display of firearm in committing felony.

A. It shall be unlawful for any person to use or attempt to use any pistol, shotgun, rifle, or other firearm, *other than those weapons described in subsection B*, or display such weapon in a threatening manner while committing or attempting to commit murder, rape, forcible sodomy, inanimate or animate object sexual penetration as defined in § 18.2-67.2, robbery, carjacking, burglary, malicious wounding as defined in § 18.2-51, malicious bodily injury to a law-enforcement officer as defined in § 18.2-51.1, aggravated malicious wounding as defined in § 18.2-51.2, malicious wounding by mob as defined in § 18.2-41 or abduction. Violation of this ~~section~~ subsection shall constitute a separate and distinct felony, and any person found guilty thereof shall be sentenced to a term of imprisonment of three years for a first conviction, and for a term of five years for a second or subsequent conviction under the provisions of this section.

B. *It shall be unlawful for any person to use or attempt to use any assault firearm or display such firearm in a threatening manner while committing or attempting to commit murder, rape, forcible sodomy, inanimate or animate object sexual penetration as defined in § 18.2-67.2, robbery, carjacking, burglary, malicious wounding as defined in § 18.2-51, malicious bodily injury to a law-enforcement officer as defined in § 18.2-51.1, aggravated malicious wounding as defined in § 18.2-51.2, malicious wounding by mob as defined in § 18.2-41 or abduction. Violation of this subsection shall constitute a separate and distinct felony, and any person found guilty thereof shall be sentenced to a term of imprisonment of six years for a first conviction, and for a term of eight years for a second or subsequent conviction under the provisions of this section.*

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels a projectile by action of an explosion and is equipped at the time of the offense with a magazine which will hold more than twenty rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

C. Notwithstanding any other provision of law, the sentence prescribed for a violation of the provisions of this section shall not be suspended in whole or in part, nor shall anyone convicted hereunder be placed on probation. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$375,000.

INTRODUCED

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