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HOUSE BILL NO. 139

Offered January 11, 2012

Prefiled January 4, 2012

A BILL to amend and reenact §§ 18.2-53.1, 18.2-248, 18.2-248.1, 18.2-308, and 18.2-308.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-308.01, relating to carrying concealed handguns; penalties.

Patron—Cole

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-53.1, 18.2-248, 18.2-248.1, 18.2-308, and 18.2-308.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-308.01 as follows:

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

It shall be unlawful for any person to use or attempt to use any pistol, shotgun, rifle, or other firearm, or to display such weapon in a threatening manner, or to carry about his person such weapon that is hidden from common observation, 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 shall constitute a separate and distinct felony and any person found guilty thereof shall be sentenced to a mandatory minimum term of imprisonment of three years for a first conviction, and to a mandatory minimum term of five years for a second or subsequent conviction under the provisions of this section. 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.

§ 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

B. In determining whether any person intends to manufacture, sell, give or distribute an imitation controlled substance, the court may consider, in addition to all other relevant evidence, whether any distribution or attempted distribution of such pill, capsule, tablet or substance in any other form whatsoever included an exchange of or a demand for money or other property as consideration, and, if so, whether the amount of such consideration was substantially greater than the reasonable value of such pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical composition of such pill, capsule, tablet or substance in any other form whatsoever and, where applicable, the price at which over-the-counter substances of like chemical composition sell.

C. Except as provided in subsection C1, any person who violates this section with respect to a controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a violation, and it is alleged in the warrant, indictment, or information that the person has been before convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth, and such prior conviction occurred before the date of the offense alleged in the warrant, indictment, or information, any such person may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any period not less than five years and be fined not more than \$500,000.

When a person is convicted of a third or subsequent offense under this subsection and it is alleged in the warrant, indictment or information that he has been before convicted of two or more such offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a period of not less than five years, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than \$500,000.

Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,

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59 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1
60 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term
61 of imprisonment to be served consecutively with any other sentence:

- 62 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 63 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 64 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
65 derivatives of ecgonine or their salts have been removed;
 - 66 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 67 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 68 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
69 referred to in subdivisions 2a through 2c;
- 70 3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain
71 cocaine base; or
- 72 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
73 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
74 or salts of its isomers.

75 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall
76 not be applicable if the court finds that:

- 77 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 78 b. The person did not use violence or credible threats of violence or possess a firearm or other
79 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 80 c. The offense did not result in death or serious bodily injury to any person;
- 81 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was
82 not engaged in a continuing criminal enterprise as defined in subsection I; and
- 83 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
84 Commonwealth all information and evidence the person has concerning the offense or offenses that were
85 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
86 relevant or useful other information to provide or that the Commonwealth already is aware of the
87 information shall not preclude a determination by the court that the defendant has complied with this
88 requirement.

89 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its
90 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
91 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
92 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
93 second conviction of such a violation, any such person may, in the discretion of the court or jury
94 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years,
95 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense
96 under this subsection and it is alleged in the warrant, indictment, or information that he has been
97 previously convicted of two or more such offenses or of substantially similar offenses in any other
98 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
99 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he
100 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which
101 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence
102 and he shall be fined not more than \$500,000. Upon conviction, in addition to any other punishment, a
103 person found guilty of this offense shall be ordered by the court to make restitution, as the court deems
104 appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise
105 rendered unusable as a result of such methamphetamine production. This restitution may include the
106 person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the
107 affected property.

108 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
109 controlled substance classified in Schedule I or II only as an accommodation to another individual who
110 is not an inmate in a community correctional facility, local correctional facility or state correctional
111 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit
112 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
113 the controlled substance to use or become addicted to or dependent upon such controlled substance, he
114 shall be is guilty of a Class 5 felony.

115 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
116 prescription of a person authorized under this article to issue the same, which prescription has not been
117 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
118 received by the pharmacist within one week of the time of filling the same, or if such violation consists
119 of a request by such authorized person for the filling by a pharmacist of a prescription which has not
120 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such

request and delivered to the pharmacist within one week thereof, either such offense shall constitute a Class 4 misdemeanor.

E1. Any person who violates this section with respect to a controlled substance classified in Schedule III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, ~~shall~~ *be is* guilty of a Class 5 felony.

E2. Any person who violates this section with respect to a controlled substance classified in Schedule IV ~~shall be~~ *is* guilty of a Class 6 felony.

E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, is guilty of a Class 1 misdemeanor.

F. Any person who violates this section with respect to a controlled substance classified in Schedule V or Schedule VI or an imitation controlled substance which imitates a controlled substance classified in Schedule V or Schedule VI, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

G. Any person who violates this section with respect to an imitation controlled substance which imitates a controlled substance classified in Schedule I, II, III, or IV ~~shall be~~ *is* guilty of a Class 6 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this subsection that the defendant believed the imitation controlled substance to actually be a controlled substance.

H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture, sell, give or distribute the following:

1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

- b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

- c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

- d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subdivisions a through c;

3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains cocaine base;

4. 100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or

5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense or induce another participant in the offense to do so; (iii) the offense did not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has truthfully provided to the Commonwealth all information and evidence the person has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the person has no relevant or useful other information to provide or that the Commonwealth already is aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

H1. Any person who was the principal or one of several principal administrators, organizers or leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or distribute the following during any 12-month period of its existence:

1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

182 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
183 amount of:

184 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
185 derivatives of ecgonine or their salts have been removed;

186 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

187 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

188 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
189 referred to in subdivisions a through c;

190 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
191 subdivision 2 which contains cocaine base;

192 4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a
193 detectable amount of marijuana; or

194 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
195 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
196 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

197 A conviction under this section shall be punishable by a fine of not more than \$1 million and
198 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

199 H2. Any person who was the principal or one of several principal administrators, organizers or
200 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
201 receipts during any 12-month period of its existence from the manufacture, importation, or distribution
202 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of
203 isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell, give,
204 distribute or possess with the intent to manufacture, sell, give or distribute the following during any
205 12-month period of its existence:

206 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

207 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

208 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
209 derivatives of ecgonine or their salts have been removed;

210 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

211 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

212 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
213 referred to in subdivisions a through c;

214 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine
215 base;

216 4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

217 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
218 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
219 isomers, or salts of its isomers ~~shall be~~ is guilty of a felony punishable by a fine of not more than \$1
220 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
221 punishment shall be made to run consecutively with any other sentence. However, the court may impose
222 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
223 with law-enforcement authorities.

224 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
225 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
226 is a part of a continuing series of violations of this section which are undertaken by such person in
227 concert with five or more other persons with respect to whom such person occupies a position of
228 organizer, a supervisory position, or any other position of management, and from which such person
229 obtains substantial income or resources or (iii) such violation is committed, with respect to
230 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the
231 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

232 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any
233 two or more different substances listed below with the intent to manufacture methamphetamine,
234 methcathinone or amphetamine is guilty of a Class 6 felony: liquified ammonia gas, ether,
235 hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine crystals or tincture of
236 iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl formamide, lithium
237 metal, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium dichromate,
238 potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor drugs,
239 trichloroethane, or 2-propanone.

240 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
241 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
242 salts of optical isomers.

243 L. Any person who carries about his person, hidden from common observation, any pistol, revolver,

or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material while also committing a violation of this section is guilty of a Class 1 misdemeanor.

§ 18.2-248.1. Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana.

Except as authorized in the Drug Control Act, Chapter 34 of Title 54.1 (§ 54.1-3400 *et seq.*), it shall be unlawful for any person to sell, give, distribute or possess with intent to sell, give or distribute marijuana.

(a) Any person who violates this section with respect to:

(1) Not more than one-half ounce of marijuana is guilty of a Class 1 misdemeanor;

(2) More than one-half ounce but not more than five pounds of marijuana is guilty of a Class 5 felony;

(3) More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years.

If such person proves that he gave, distributed or possessed with intent to give or distribute marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the marijuana to use or become addicted to or dependent upon such marijuana, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

(b) Any person who gives, distributes or possesses marijuana as an accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility as defined in § 53.1-1, or in the custody of an employee thereof ~~shall be~~ *is* guilty of a Class 4 felony.

(c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture such substance, not for his own use is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed \$10,000.

(d) When a person is convicted of a third or subsequent felony offense under this section and it is alleged in the warrant, indictment or information that he has been before convicted of two or more felony offenses under this section or of substantially similar offenses in any other jurisdiction which offenses would be felonies if committed in the Commonwealth and such prior convictions occurred before the date of the offense alleged in the warrant, indictment or information, he shall be sentenced to imprisonment for life or for any period not less than five years, five years of which shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence and he shall be fined not more than \$500,000.

(e) Any person who carries about his person, hidden from common observation, any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material while committing a violation of subsection (a) or (b) is guilty of a Class 1 misdemeanor.

§ 18.2-308. Personal protection; 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 by action of an explosion of any combustible material;~~ (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; ~~(iii)~~ (ii) 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; ~~(iv)~~ (iii) 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)~~ (iv) any weapon of like kind as those enumerated in this subsection, he ~~shall be~~ *is* 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. 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 any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;

2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

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;

305 4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or
306 from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped
307 while being transported;

308 5. 4. Any person carrying such weapons between his place of abode and a place of purchase or
309 repair, provided the weapons are unloaded and securely wrapped while being transported;

310 6. 5. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland
311 Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from
312 those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be
313 construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;
314 and

315 7. Any State Police officer retired from the Department of State Police, any officer retired from the
316 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
317 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
318 retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any
319 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia
320 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources
321 Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii)
322 following at least 15 years of service with any such law-enforcement agency, board or any combination
323 thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such
324 law-enforcement agency or board due to a service-related injury, provided such officer carries with him
325 written proof of consultation with and favorable review of the need to carry a concealed handgun issued
326 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
327 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
328 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall
329 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia
330 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
331 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An
332 officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a
333 concealed handgun shall surrender such proof of consultation upon return to work or upon termination
334 of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the
335 Department of State Police for entry into the Virginia Criminal Information Network. However, if such
336 officer retires on disability because of the service-related injury, and would be eligible under clause (i)
337 of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the
338 previously issued written proof of consultation. A retired law-enforcement officer who receives proof of
339 consultation and favorable review pursuant to this subdivision is authorized to carry a concealed
340 handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun
341 pursuant to subdivision 2 of this subsection.

342 7a. Any person who is eligible for retirement with at least 20 years of service with a
343 law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from
344 such law-enforcement agency or board to accept a position covered by a retirement system that is
345 authorized under Title 51.1, provided such person carries with him written proof of consultation with
346 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
347 officer of the agency from which he resigned or, in the case of special agents, issued by the State
348 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation
349 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
350 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
351 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
352 requirements of this section.

353 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
354 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
355 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
356 permit.

357 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
358 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
359 subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or
360 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
361 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
362 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
363 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
364 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

365 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
366 services of the United States, national guard, or naval militia, while such officer is called to active

367 military duty, provided such officer carries with him written proof of consultation with and favorable
 368 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
 369 of consultation and favorable review shall be valid as long as the officer is on active military duty and
 370 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
 371 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
 372 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
 373 good standing and is qualified to carry a weapon while on active law-enforcement duty.

374 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
 375 to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and
 376 favorable review required, shall be deemed to have been issued a concealed handgun permit;

377 9. 6. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever
 378 such attorney may travel in the Commonwealth; and

379 10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal,
 380 private motor vehicle or vessel and such handgun is secured in a container or compartment in the
 381 vehicle or vessel.

382 C. This section shall also not apply to any of the following individuals while in the discharge of
 383 their official duties, or while in transit to or from such duties:

- 384 1. Carriers of the United States mail;
- 385 2. Officers or guards of any state correctional institution;
- 386 3. [Repealed.]

387 4. Conservators of the peace; except that an attorney for the Commonwealth or assistant attorney for
 388 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
 389 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
 390 permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or
 391 other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in
 392 chancery;

393 5. Noncustodial employees of the Department of Corrections designated to carry weapons by the
 394 Director of the Department of Corrections pursuant to § 53.1-29; and

395 6. Harbormaster of the City of Hopewell.

396 D. ~~Any~~ Notwithstanding the provisions of subsection A, and as may be required by any other law,
 397 any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county
 398 or city in which he resides, or if he is a member of the United States Armed Forces, the county or city
 399 in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no
 400 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or
 401 city. The application shall be made under oath before a notary or other person qualified to take oaths
 402 and shall be made only on a form prescribed by the Department of State Police, in consultation with the
 403 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The
 404 clerk shall enter on the application the date on which the application and all other information required
 405 to be submitted by the applicant is received. The court shall consult with either the sheriff or police
 406 department of the county or city and receive a report from the Central Criminal Records Exchange. As a
 407 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if
 408 required by local ordinance in the county or city where the applicant resides and provide personal
 409 descriptive information to be forwarded with the fingerprints through the Central Criminal Records
 410 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record
 411 information regarding the applicant, and obtaining fingerprint identification information from federal
 412 records pursuant to criminal investigations by state and local law-enforcement agencies. However, no
 413 local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing
 414 concealed handgun permit issued pursuant to this section and is applying for a new five-year permit
 415 pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer
 416 information electronically to the State Police instead of inked fingerprint cards. Upon completion of the
 417 criminal history records check, the State Police shall return the fingerprint cards to the submitting local
 418 agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then
 419 promptly notify the person that he has 21 days from the date of the notice to request return of the
 420 fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification
 421 by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon
 422 completion of the criminal history records check without requiring that the applicant be notified.
 423 Fingerprints taken for the purposes described in this section shall not be copied, held or used for any
 424 other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit
 425 within 45 days of receipt of the completed application unless it is determined that the applicant is
 426 disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial
 427 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 there are no outstanding questions or issues concerning the application. 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 subsection 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. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. 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. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. 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 § 37.2-1012 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.

15. An individual who has been convicted of stalking.

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

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

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

19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or of a criminal offense of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. 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 on-line 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

551 firearm in the course of normal police duties; or

552 9. Completing any other firearms training which the court deems adequate.

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

558 H. The permit to carry a concealed handgun shall specify only the following information: name,
559 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;
560 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such
561 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits
562 pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed
563 handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a
564 uniform style prescribed by the Department of State Police. The person issued the permit shall have
565 such permit on his person at all times during which he is carrying a concealed handgun and shall
566 display the permit and a photo-identification issued by a government agency of the Commonwealth or
567 by the United States Department of Defense or United States State Department (passport) upon demand
568 by a law enforcement officer.

569 H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United
570 States, or the Armed Forces reserves of the United States, and his five-year permit expires during an
571 active-duty military deployment outside of the permittee's county or city of residence, such permit shall
572 remain valid for 90 days after the end date of the deployment. In order to establish proof of continued
573 validity of the permit, such a permittee shall carry with him and display, upon request of a
574 law enforcement officer, a copy of the permittee's deployment orders or other documentation from the
575 permittee's commanding officer that order the permittee to travel outside of his county or city of
576 residence and that indicate the start and end date of such deployment.

577 I. Persons who previously have held a concealed handgun permit shall be issued, upon application as
578 provided in subsection D, and upon receipt by the circuit court of criminal history record information as
579 provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any
580 of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed
581 handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new
582 five-year permit pursuant to this subsection, and the application for the new permit may be submitted
583 via the United States mail. The circuit court that receives the application shall promptly notify an
584 applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K
585 is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new
586 five-year permit shall become effective upon the expiration date of the existing permit, provided that the
587 application is received by the court at least 90 days but no more than 180 days prior to the expiration of
588 the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be
589 stated in the order of the court denying the permit. Upon denial of the application, the clerk shall
590 provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the
591 applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing.
592 The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of
593 evidence shall apply. The final order of the court shall include the court's findings of fact and
594 conclusions of law.

595 J. Any person convicted of an offense that would disqualify that person from obtaining a permit
596 under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and
597 surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the
598 arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a
599 concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the
600 court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of
601 such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this
602 subsection, and shall promptly notify the State Police and the person whose permit was revoked of the
603 revocation.

604 J1. Any person ~~permitted to carry~~ *carrying* a concealed handgun, who is under the influence of
605 alcohol or illegal drugs while carrying such handgun in a public place, ~~shall be~~ *is* guilty of a Class 1
606 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to
607 rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation
608 of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266,
609 public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24.
610 Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly
611 notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to
612 apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection ~~P4~~, P or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who accepts the information for the replacement permit.

K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission

674 of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement
675 permit. The replacement permit shall have the same expiration date as the permit that was lost or
676 destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the
677 notarized statement, and may charge a fee not to exceed \$5.

678 L. Any person denied a permit to carry a concealed handgun under the provisions of this section
679 may present a petition for review to the Court of Appeals. The petition for review shall be filed within
680 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if
681 an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court
682 following the hearing. The petition shall be accompanied by a copy of the original papers filed in the
683 circuit court, including a copy of the order of the circuit court denying the permit. Subject to the
684 provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final.
685 Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal,
686 taxable costs incurred by the person shall be paid by the Commonwealth.

687 M. For purposes of this section:

688 "Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed,
689 made and intended to fire a projectile by means of an explosion of a combustible material from one or
690 more barrels when held in one hand.

691 "Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101,
692 campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement
693 agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal
694 agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall
695 also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the
696 United States or any state or political subdivision thereof, whose duties are substantially similar to those
697 set forth in § 9.1-101.

698 "Lawfully admitted for permanent residence" means the status of having been lawfully accorded the
699 privilege of residing permanently in the United States as an immigrant in accordance with the
700 immigration laws, such status not having changed.

701 "Personal knowledge" means knowledge of a fact that a person has himself gained through his own
702 senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the
703 performance of his official duties.

704 N. As used in this article:

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

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

709 O. The granting of a concealed handgun permit shall not thereby authorize the possession of any
710 handgun or other weapon on property or in places where such possession is otherwise prohibited by law
711 or is prohibited by the owner of private property.

712 P. A valid concealed handgun or concealed weapon permit or license issued by another state shall
713 authorize the holder of such permit or license who is at least 21 years of age to carry a concealed
714 handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous
715 verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a
716 day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be
717 carried, the requirements and qualifications of that state's law are adequate to prevent possession of a
718 permit or license by persons who would be denied a permit in the Commonwealth under this section.
719 The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General
720 determine whether states meet the requirements and qualifications of this section, (b) maintain a registry
721 of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available
722 to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in
723 consultation with the Attorney General, may also enter into agreements for reciprocal recognition of
724 *concealed handgun permits* with any other state qualifying for recognition under this subsection.

725 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
726 Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant
727 for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified
728 by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card
729 provided by the Department of State Police for the purpose of obtaining the applicant's state or national
730 criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall
731 submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive
732 information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the
733 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
734 regarding the applicant and obtaining fingerprint identification information from federal records pursuant
735 to criminal investigations by state and local law-enforcement agencies. The application shall be made

under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to the provisions of this subsection.

The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia 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 or a similar agency of another state;

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 approved by the Department of State Police 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 on-line 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 that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class, 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 which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer.

The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

~~Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth; and (ii) the holder of the permit is 21 years of age or older.~~

~~R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions as authorized under subsection P, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.~~

~~S. R. For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this section, shall include a reference to the Virginia~~

797 Supreme Court website address or the Virginia Reports on the application.

798 § 18.2-308.01. *Carrying concealed weapons; qualified law-enforcement officers.*

799 *No requirement to obtain a permit to carry a concealed weapon shall be applied to:*

800 1. Any State Police officer retired from the Department of State Police, any officer retired from the
801 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer, or animal control
802 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
803 retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any
804 conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia
805 Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources
806 Commission, other than an officer or agent terminated for cause, (i) who has a service-related
807 disability; (ii) who has at least 15 years of service with any such law-enforcement agency, board, or any
808 combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such
809 law-enforcement agency or board due to a service-related injury, provided such officer carries with him
810 written proof of consultation with and favorable review of the need to carry a concealed handgun issued
811 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
812 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
813 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall
814 be forwarded by the chief, the Commission, or the Board to the Department of State Police for entry
815 into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without
816 cause withhold such written proof if the retired law-enforcement officer otherwise meets the
817 requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation
818 to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon
819 termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded
820 to the Department of State Police for entry into the Virginia Criminal Information Network. However, if
821 such officer retires on disability because of the service-related injury and would be eligible under clause
822 (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued
823 written proof of consultation. A retired law-enforcement officer who receives proof of consultation and
824 favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same
825 manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision B
826 2 of § 18.2-308.

827 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement
828 agency or board mentioned in subdivision 1 who has resigned in good standing from such
829 law-enforcement agency or board to accept a position covered by a retirement system that is authorized
830 under Title 51.1, provided such person carries with him written proof of consultation with and favorable
831 review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the
832 agency from which he resigned or, in the case of special agents, issued by the State Corporation
833 Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable
834 review shall be forwarded by the chief, the Commission, or the Board to the Department of State Police
835 for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not
836 without cause withhold such written proof if the law-enforcement officer otherwise meets the
837 requirements of this section.

838 For purposes of applying any reciprocity agreements authorized under subsection P of § 18.2-308,
839 any person granted the privilege to carry a concealed handgun pursuant to subdivision 1 or this
840 subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to
841 have been issued a concealed handgun permit.

842 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
843 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
844 subdivision 1 or this subdivision shall have the opportunity to annually participate, at the retired or
845 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
846 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
847 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
848 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
849 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

850 3. Any State Police officer who is a member of the organized reserve forces of any of the armed
851 services of the United States, national guard, or naval militia, while such officer is called to active
852 military duty, provided such officer carries with him written proof of consultation with and favorable
853 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
854 of consultation and favorable review shall be valid as long as the officer is on active military duty and
855 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
856 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
857 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
858 good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying any reciprocity agreements authorized under subsection P of § 18.2-308, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited.

A. If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he ~~shall be~~ is guilty of a Class 1 misdemeanor.

B. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he ~~shall be~~ is guilty of a Class 6 felony.

C. If any person possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person ~~shall be~~ is guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

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 (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; or (vii) a person who has a valid *Virginia-issued* concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the Acts of Assembly of 2011 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.