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**HOUSE BILL NO. 1359**

Offered January 14, 2015

Prefiled December 2, 2014

*A BILL to amend and reenact §§ 18.2-308.01, 18.2-308.02, 18.2-308.04, 18.2-308.05, and 18.2-308.011 of the Code of Virginia and to repeal § 18.2-308.010 of the Code of Virginia, relating to concealed handgun permits; lifetime permits.*

Patrons—Campbell, Cole and Landes

Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-308.01, 18.2-308.02, 18.2-308.04, 18.2-308.05, and 18.2-308.011 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-308.01. Carrying a concealed handgun with a permit.**

A. The prohibition against carrying a concealed handgun in clause (i) of subsection A of § 18.2-308 shall not apply to a person who has a valid concealed handgun permit issued pursuant to this article. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo identification issued by a government agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport) upon demand by a law-enforcement officer. A person to whom a nonresident 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. ~~A person whose permit is extended due to deployment shall carry with him and display, upon request of a law-enforcement officer, a copy of the documents required by subsection B of § 18.2-308.010.~~

B. Failure to display the permit and a photo identification upon demand by a law-enforcement officer shall be punishable by a \$25 civil penalty, which shall be paid into the state treasury. Any attorney for the Commonwealth of the county or city in which the alleged violation occurred may bring an action to recover the civil penalty. A court may waive such penalty upon presentation to the court of a valid permit and a government-issued photo identification. Any law-enforcement officer may issue a summons for the civil violation of failure to display the concealed handgun permit and photo identification upon demand.

C. The granting of a concealed handgun permit pursuant to this article shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

**§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.**

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States armed forces, the county or city in which he is domiciled, for a ~~five-year~~ permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. 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;

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59 5. Presenting evidence of equivalent experience with a firearm through participation in organized  
60 shooting competition or current military service or proof of an honorable discharge from any branch of  
61 the armed services;

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

64 7. Completing any firearms training or safety course or class, including an electronic, video, or  
65 online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

66 8. Completing any governmental police agency firearms training course and qualifying to carry a  
67 firearm in the course of normal police duties; or

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

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

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

76 D. The clerk of court shall withhold from public disclosure the applicant's name and any other  
77 information contained in a permit application or any order issuing a concealed handgun permit, except  
78 that such information shall not be withheld from any law-enforcement officer acting in the performance  
79 of his official duties or from the applicant with respect to his own information. The prohibition on  
80 public disclosure of information under this subsection shall not apply to any reference to the issuance of  
81 a concealed handgun permit in any order book before July 1, 2008; however, any other concealed  
82 handgun records maintained by the clerk shall be withheld from public disclosure.

83 E. An application is deemed complete when all information required to be furnished by the applicant,  
84 including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and  
85 received by the clerk of court before or concomitant with the conduct of a state or national criminal  
86 history records check.

87 **§ 18.2-308.04. Processing of the application and issuance of a concealed handgun permit.**

88 A. The clerk of court shall enter on the application the date on which the application and all other  
89 information required to be submitted by the applicant is received.

90 B. Upon receipt of the completed application, the court shall consult with either the sheriff or police  
91 department of the county or city and receive a report from the Central Criminal Records Exchange.

92 C. The court shall issue the permit via United States mail and notify the State Police of the issuance  
93 of the permit within 45 days of receipt of the completed application unless it is determined that the  
94 applicant is disqualified. Any order denying issuance of the permit shall be in accordance with  
95 § 18.2-308.08. If the applicant is later found by the court to be disqualified after a ~~five-year~~ permit has  
96 been issued, the permit shall be revoked.

97 D. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to  
98 applicants who have submitted complete applications, for whom the criminal history records check does  
99 not indicate a disqualification and, after consulting with either the sheriff or police department of the  
100 county or city, about which application there are no outstanding questions or issues. The court clerk  
101 shall be immune from suit arising from any acts or omissions relating to the issuance of concealed  
102 handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent  
103 or engaged in willful misconduct. This section shall not be construed to limit, withdraw, or overturn any  
104 defense or immunity already existing in statutory or common law, or to affect any cause of action  
105 accruing prior to July 1, 2010.

106 E. The permit to carry a concealed handgun shall specify only the following information: name,  
107 address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee;  
108 the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such  
109 permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits  
110 pursuant to subsection D; *and* the date of issuance; ~~and the expiration date~~. The permit to carry a  
111 concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and  
112 shall be of a uniform style prescribed by the Department of State Police.

113 **§ 18.2-308.05. Issuance of a de facto permit.**

114 If the court has not issued the permit or determined that the applicant is disqualified within 45 days  
115 of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day  
116 period has expired, and mail or send via electronic mail a copy of the certified application to the  
117 applicant within five business days of the expiration of the 45-day period. The certified application shall  
118 serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid  
119 concealed handgun permit when presented with a valid government-issued photo identification pursuant  
120 to subsection A of § 18.2-308.01, 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.

**§ 18.2-308.011. Replacement permits.**

A. 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 receives the information for the replacement permit.

B. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed or that the permit holder has undergone a legal name change, issue a replacement permit. ~~The~~ *If the replacement permit is a nonresident permit, it shall have the same expiration date as the permit that was lost, destroyed, or issued to the permit holder under a previous name.* The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement and may charge a fee not to exceed \$5.

**2. That § 18.2-308.010 of the Code of Virginia is repealed.**