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SENATE BILL NO. 71
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by Senator Petersen
 on February 7, 2020)

(Patron Prior to Substitute—Senator Lucas)

A *BILL to amend and reenact § 18.2-308.1 of the Code of Virginia, relating to possession of firearms, other weapons on school property.*

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.1 of the Code of Virginia is amended and reenacted as follows:

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

A. If any person knowingly 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 *child day center* or public, private, or religious *preschool*, 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 is guilty of a Class 1 misdemeanor.

B. If any person knowingly 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) *the property of any child day center* or public, private, or religious *preschool*, 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 is guilty of a Class 6 felony.

C. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within *the building of a child day center* or public, private, or religious *preschool*, 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 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.

D. *The child day center provisions of this section shall only apply when a child who attends such child day center is present upon the property of such child day center.*

E. The exemptions set out in §§ 18.2-308 and 18.2-308.016 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, or retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (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; (vii) a person who has a valid 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; (viii) a school security officer authorized to carry a firearm pursuant to § 22.1-280.2:1; or (ix) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, hired (a) by a private or religious school for the protection of students and employees as authorized by such school or (b) by a *child day center that has provided written notification to the parents of the children who attend such child day center and has obtained such parents' consent to the hiring of such armed security officer for the protection of such children and employees.* 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.

F. As used in this section:

"*Child day center*" means a child day center, as defined in § 63.2-100, that is not operated at the residence of the provider or of any of the children.

"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

60 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
61 necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and
62 cannot be determined for periods of commitment to the custody of the Department of Juvenile
63 Justice.