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SENATE BILL NO. 48

Offered January 13, 2016

Prefiled December 15, 2015

A BILL to amend and reenact § 18.2-308, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to carrying a concealed handgun; permit not required.

Patrons—Black, Carrico, Garrett and Stuart; Delegates: Cole, Freitas and LaRock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308. (Effective until July 1, 2018) Carrying concealed weapons; exceptions; penalty.

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) 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) 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) any weapon of like kind as those enumerated in this subsection, he 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. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

C. Except as provided in subsection A of § 18.2-308.012, 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 person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

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

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

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

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him

59 written proof of consultation with and favorable review of the need to carry a concealed handgun issued
60 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
61 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
62 the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall
63 be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia
64 Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such
65 written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An
66 officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun
67 shall surrender such proof of consultation upon return to work or upon termination of employment with
68 the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State
69 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
70 disability because of the service-related injury, and would be eligible under clause (i) for written proof
71 of consultation to carry a concealed handgun, he may retain the previously issued written proof of
72 consultation. A retired law-enforcement officer who receives proof of consultation and favorable review
73 pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a
74 law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2;

75 7a. Any person who is eligible for retirement with at least 20 years of service with a
76 law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from
77 such law-enforcement agency or board to accept a position covered by a retirement system that is
78 authorized under Title 51.1, provided such person carries with him written proof of consultation with
79 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
80 officer of the agency from which he resigned or, in the case of special agents, issued by the State
81 Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation
82 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
83 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
84 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
85 requirements of this section.

86 For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the
87 privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the
88 proof of consultation and favorable review required, shall be deemed to have been issued a concealed
89 handgun permit.

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

98 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
99 services of the United States or National Guard, while such officer is called to active military duty,
100 provided such officer carries with him written proof of consultation with and favorable review of the
101 need to carry a concealed handgun issued by the Superintendent of State Police. The proof of
102 consultation and favorable review shall be valid as long as the officer is on active military duty and
103 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
104 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
105 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
106 good standing and is qualified to carry a weapon while on active law-enforcement duty.

107 For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the
108 privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of
109 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
110 permit;

111 9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such
112 attorney may travel in the Commonwealth;

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

116 11. Any enrolled participant of a firearms training course who is at, or going to or from, a training
117 location, provided that the weapons are unloaded and securely wrapped while being transported; and

118 12. *For the sole purpose of carrying a concealed handgun, any person who carries a concealed*
119 *handgun anywhere he may lawfully carry a handgun openly within the Commonwealth and who is*
120 *otherwise qualified under this article to obtain a concealed handgun permit. Such person shall not be*

required to meet the requirements of subsection B of § 18.2-308.02 or subsection B of § 18.2-308.06, as applicable, to carry a concealed handgun under this subdivision.

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

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;
3. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision C 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii) registrars; (iii) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery;
4. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and
5. Harbormaster of the City of Hopewell.

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7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued

182 by the chief law-enforcement officer of the last such agency from which the officer retired or the agency
183 that employs the officer or, in the case of special agents, issued by the State Corporation Commission or
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253 persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery;

254 4. Noncustodial employees of the Department of Corrections designated to carry weapons by the
255 Director of the Department of Corrections pursuant to § 53.1-29; and

256 5. Harbormaster of the City of Hopewell.