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HOUSE BILL NO. 2241

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 18.2-308.2 of the Code of Virginia, relating to possession or transportation of firearms, firearms ammunition, stun weapons, or explosives or carrying concealed weapons by persons convicted of a misdemeanor hate crime prohibited; penalty.

Patrons—Tran, Helmer, Shin, Bennett-Parker, Carr, Convors-Fowler, LeVere Bolling, McClure and Price; Senator: Salim

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.2 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.2. Possession or transportation of a firearm, ammunition for a firearm, a stun weapon, or explosive material or carrying concealed weapons by persons convicted of a felony or certain misdemeanors prohibited; petition for restoration order; when issued; penalties.

A. It shall be is unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § 18.2-31 or 18.2-32, kidnapping in violation of § 18.2-47, robbery by the threat or presentation of firearms in violation of § 18.2-58, or rape in violation of § 18.2-61; (iii) any person who has been convicted of violating subsection A of § 18.2-57 and who intentionally selected the person against whom the offense was committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or ethnic or national origin; or (iii) (iv) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which that would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § 18.2-308.1, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § 18.2-308. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § 18.2-308.1. Any person who violates this section shall be is guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material, or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state; (ii) any law-enforcement officer in the performance of his duties; (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia, provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess, or receive firearms; (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state; or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or, (ii), or (iii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a restoration order that unconditionally authorizes possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such an order unless his civil rights have been restored by the Governor or other

58 appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the  
59 Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and  
60 represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party.  
61 The court may, in its discretion and for good cause shown, grant such petition and issue a restoration order.  
62 Such order shall contain the petitioner's name and date of birth. The clerk shall certify and forward forthwith  
63 to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE, a copy of the order to  
64 be accompanied by a complete set of the petitioner's fingerprints. The Department of State Police shall  
65 forthwith enter the petitioner's name and description in the CCRE so that the order's existence will be made  
66 known to law-enforcement personnel accessing the computerized criminal history records for investigative  
67 purposes. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons  
68 shall not apply to any person who has been issued a restoration order pursuant to this subsection.

69 C1. Any person who was prohibited from possessing, transporting, or carrying explosive material under  
70 subsection A may possess, transport, or carry such explosive material if his right to possess, transport or carry  
71 explosive material has been restored pursuant to federal law.

72 C2. The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act  
73 of violence as defined in § 19.2-297.1 or a violent felony as defined in subsection C of § 17.1-805 from  
74 possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five  
75 pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms.  
76 For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the  
77 definition of "antique firearm" in subsection F of § 18.2-308.2:2.

78 D. For the purpose of this section:

79 "Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant  
80 designed for use in a firearm other than an antique firearm as defined in § 18.2-308.2:2.

81 "Explosive material" means any chemical compound mixture, or device, the primary or common purpose  
82 of which is to function by explosion; ~~the term. "Explosive material" includes, but is not limited to,~~ dynamite  
83 and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps,  
84 and detonating cord but ~~shall~~ *does* not include fireworks or permissible fireworks as defined in § 27-95.

85 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
86 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
87 **appropriation is \$18,796 for periods of imprisonment in state adult correctional facilities and cannot be**  
88 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**