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1 SENATE BILL NO. 1397

2 Offered January 14, 2025

3 A BILL to amend and reenact § 18.2-308.2 of the Code of Virginia, relating to possession or transportation
4 of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by persons adjudicated
5 delinquent; penalty.

6 Patron—Peake

7 Referred to Committee for Courts of Justice

8 Be it enacted by the General Assembly of Virginia:

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

10 § 18.2-308.2. Possession or transportation of firearms, firearms ammunition, stun weapons,
11 explosives or concealed weapons by convicted felons; penalties; petition for restoration order; when
12 issued.13 A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated
14 delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § 18.2-31
15 or 18.2-32, kidnapping in violation of § 18.2-47, robbery by the threat or presentation of firearms in violation
16 of § 18.2-58, or rape in violation of § 18.2-61; or (iii) any person under the age of 29 who was adjudicated
17 delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be
18 a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or
19 adjudication occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the
20 United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or
21 ammunition for a firearm, any stun weapon as defined by § 18.2-308.1, or any explosive material, or to
22 knowingly and intentionally carry about his person, hidden from common observation, any weapon described
23 in subsection A of § 18.2-308. However, such person may possess in his residence or the curtilage thereof a
24 stun weapon as defined by § 18.2-308.1. Any person who violates this section shall be guilty of a Class 6
25 felony. However, any person ~~who violates~~ *convicted under* this section by knowingly and intentionally
26 possessing or transporting any firearm and who was previously convicted *or adjudicated delinquent* of a
27 violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of
28 five years. Any person ~~who violates~~ *convicted under* this section by knowingly and intentionally possessing
29 or transporting any firearm and who was previously convicted *or adjudicated delinquent* of any other felony
30 within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The
31 mandatory minimum terms of imprisonment prescribed for violations of this section shall be served
32 consecutively with any other sentence.33 B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition
34 for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed
35 Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-
36 enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose
37 political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia
38 provided the Governor, in the document granting the pardon or removing the person's political disabilities,
39 may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or
40 receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the
41 law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport,
42 possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has
43 completed a term of service of no less than two years in the Armed Forces of the United States and, if such
44 person has been discharged from the Armed Forces of the United States, received an honorable discharge and
45 who is not otherwise prohibited under clause (i) or (ii) of subsection A.46 C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm,
47 or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or,
48 if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person
49 was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A,
50 for a restoration order that unconditionally authorizes possessing, transporting, or carrying a firearm,
51 ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be
52 qualified to petition for such an order unless his civil rights have been restored by the Governor or other
53 appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the
54 Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and
55 represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party.
56 The court may, in its discretion and for good cause shown, grant such petition and issue a restoration order.

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59 Such order shall contain the petitioner's name and date of birth. The clerk shall certify and forward forthwith
60 to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE, a copy of the order to
61 be accompanied by a complete set of the petitioner's fingerprints. The Department of State Police shall
62 forthwith enter the petitioner's name and description in the CCRE so that the order's existence will be made
63 known to law-enforcement personnel accessing the computerized criminal history records for investigative
64 purposes. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons
65 shall not apply to any person who has been issued a restoration order pursuant to this subsection.

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

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

75 D. For the purpose of this section:

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

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

82 **2. That the provisions of this act may result in a net increase in periods of imprisonment or
83 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
84 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;
85 therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal
86 Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the
87 Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for
88 periods of commitment to the custody of the Department of Juvenile Justice.**