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HOUSE BILL NO. 133

Offered January 12, 2022

Prefiled January 7, 2022

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

Patron—Cherry

Committee Referral Pending

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) 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 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 and private or religious preschool~~ provisions of this section (i) shall apply only during the operating hours of such ~~child day center or private or religious preschool~~ and (ii) shall not apply to any person (a) whose residence is on the property of a ~~child day center or a private or religious preschool~~ and (b) who possesses a firearm or other weapon prohibited under this section while in his residence.

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 or a stun weapon 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 or a stun weapon 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 by a ~~child day center or a private or religious school~~ for the protection of students and employees as authorized by such school. For the purposes of this subsection, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

F. E. Nothing in subsection E D or any other provision of law shall be construed as providing an exemption to the provisions of this section for a special conservator of the peace appointed pursuant to

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59 § 19.2-13, other than the specifically enumerated exemptions that apply to the general population as
60 provided in subsection E D.

61 G. F. As used in this section:

62 "Child day center" means a child day center, as defined in § ~~22.1-289.02~~, that is licensed in
63 accordance with the provisions of Chapter 14.1 (§ ~~22.1-289.02 et seq.~~) of Title 22.1 and is not operated
64 at the residence of the provider or of any of the children.

65 "Stun weapon" means any device that emits a momentary or pulsed output, which is electrical,
66 audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.