

Issue: Gun Safety

Gun Safety Regulations in Virginia

Why this topic should be discussed by Democratic candidates:

When Terry McAuliffe ran for Governor of Virginia, he made gun safety regulations one of the issues of his platform, as well as a woman's right-to-choose and climate change, even though these were not topics Democratic candidates traditionally brought up. He bragged about getting an F rating from the NRA. He won the governorship nevertheless. According to the Washington Post, the moderate urban voters, especially in the Washington suburbs, supported him. And we know that population growth in the state has been primarily in the urban areas. Urban voters cared about gun control, whereas the voters living in rural areas love guns. In 2014, a poll of voters in the Washington suburbs and Hampton Road district showed that those voters favored more gun restrictions by a margin of 2-to-1.

Gun control has long been a political hot-button issue in Virginia. The Commonwealth has been the site of horrific high-profile shootings — the 2007 massacre at Virginia Tech, the on-air murder of reporter Alison Parker and cameraman Adam Ward in 2015, and the 2016 murder of Prince William County police officer Ashley Guindon, responding to a domestic-violence call on her first day of duty.

Every 10 hours, a person is killed with a gun in Virginia in cases that involve suicide, domestic violence, accidental shootings, or interpersonal disputes. The gun death rates in Richmond and Roanoke are more than 50 percent higher than the statewide average and the rate in Alexandria is 71 percent higher. Communities of color bear a particularly heavy burden of this violence: While African Americans make up nearly 20 percent of the population, they account for approximately 66 percent of gun homicide victims in Virginia.⁽¹⁴⁾

But gun violence is much more than a political issue; it is a public-health crisis. In addition to these devastating deaths due to gun violence, a substantial number of Virginians survive gunshot wounds every year and face years of physical, mental, and emotional recovery from their injuries. According to the Virginia Department of Health, from 2005 to 2014, 5,532 people were non-fatally shot and treated in Virginia hospitals, at a total cost of more than \$336 million.⁽¹⁴⁾

In 2016, Attorney General Mark Herring (D) decided to stop Virginia's practice of recognizing concealed carry handgun permits with 25 states that had weaker regulations. (Later, this decision was overturned by the compromise deal McAuliffe made with the Republicans. See section on "Firearms Legislation" below.) Areas with the most Democratic voters — Northern Virginia and Hampton Roads — supported the decision on concealed carry handgun permits as did voters likely to vote for Democrats, including women. On the question of making private gun sales and sales at gun shows subject to background checks, 88 percent of voters are supportive. "These data suggest that Democrats who campaign on gun control in Virginia will be dependent upon key elements of their electorate showing up to vote: women, minorities, independents, and voters under 45," said Quentin Kidd, a CNU political scientist and pollster. "These voters explain why Democrats are more eager to talk about gun control." ⁽¹⁾

During Governor McAuliffe's tenure, 16% of the 120 bills he vetoed were related to firearms. Among the bills he vetoed were ones that would have lowered the minimum age of eligibility for a concealed-carry permit, weakened the law regarding safe storage of guns by foster parents and eliminated the ability for state agencies to prevent employees from storing guns in their cars. One of the bills he vetoed this year seems particularly relevant now: a bill that would have prevented government agencies operating emergency shelters, like those protecting victims of Hurricanes Harvey, Irma and Maria, from banning guns in these shelters.⁽¹⁴⁾

Background:

Virginia has had a statue on its books for over 19 years that a person could only buy one gun per month. In 2012, when Republicans controlled the state legislatures and the governorship, they repealed that law. Lingamfelter in District 31 was the sponsor of the bill. (McDonnell, the Governor at that time, was convicted of federal corruption charges in Jan 2014 and was the first Virginia governor ever to be indicted.)

Illegal gun traffickers boast that Virginia is a great place for business. A trafficker was caught on a wiretap saying: "There's no limit to how many guns I can go buy from the store. I can go get 20 guns from the store tomorrow... I can do that Monday through Friday... They might start looking at me, but in Virginia, our laws are so little, I can give guns away."

New York is particularly affected. There has been an investigation of a gun-trafficking ring that operates up the Interstate 95 corridor from Virginia to New York. On March 8, 2017, the Brooklyn District Attorney's Office announced a 627-count indictment charging 24 people, some with violent criminal records and alleged ties to the Bloods street gang. Authorities recovered 217 guns, including assault weapons and a Thompson submachine gun. Most of those arrested were from Virginia.⁽²⁾

Firearms Legislation:

In January **2016**, McAuliffe struck a surprise compromise on guns with Republicans over the objections of gun control advocates.

The deal was that the Governor agreed to support a bill favored by Republicans expanding the right to carry concealed weapons. Virginia now recognizes concealed carry permits from ANY state that issues them, some of which have laws that are more lax than those in Virginia. The concealed-carry permit bill would reverse a December move by Virginia Attorney General Mark R. Herring (D) to revoke the reciprocity rights of hundreds of thousands of permit holders in 25 states whose standards are weaker than Virginia's.

The bill not only restores concealed-carry reciprocity with those states, it also requires state police to enter into new reciprocity agreements with other states.

In return, the Republicans would support a bill they had repeatedly rejected in the past, that prohibit people from carrying a firearm if they are subject to a permanent protective order for a domestic violence offense. Republicans also agreed to require state police to be present at gun shows to perform voluntary background checks.

Gun-control advocates criticized this deal. Mayor Bloomberg's *Every Town for Gun Safety* launched a media campaign against the Governor, even though earlier in the year, at the request of McAuliffe, that group had spent heavily trying to influence a handful of key state Senate campaigns.⁽⁶⁾

In April, 2016, McAuliffe vetoed HB 766, introduced by C. Todd Gilbert, that would have given domestic violence victims under protective order the temporary right to carry guns for 45 days without a permit or training.⁽¹⁰⁾ He also vetoed HB 1234, introduced by Lingamfelter, that would have allowed retired police officers working as private security guards at public schools the right to carry weapons on campus.⁽⁹⁾⁽¹¹⁾ McAuliffe's vetoes were sustained.

In the **2017 legislative session**, the Senate and House passed 2 identical bills. **HB1852/SB1299** would allow anyone who had obtained a protective order to carry a concealed weapon for 45 days without a permit or training. **HB1853/SB1300** would use a state fund to reimburse an entity that offers a firearms safety or training class to victims of domestic violence and sexual abuse. The bill also requires that, upon the issuance of a protective order, the petitioner for the order be provided with a list of such approved courses or classes.

These bills were vetoed by Governor McAuliffe on March 27, 2017. The House of Delegates failed to override his veto on April 5th despite an active campaign by the NRA urging their members to contact their legislators.

Senate Bill 1023 was sponsored by state Senator Richard Stuart and introduced in 2017. It would prohibit the sharing of information regarding Virginia concealed handgun permits (CHP) with law enforcement in states that do not recognize Virginia CHPs. SB 1023 would also require the Department of State Police to maintain and publish an online list of states that recognize a Virginia concealed handgun permit. The bill was vetoed by McAuliffe on April 27, 2017 and the veto was sustained.⁽⁷⁾

HB1432 was sponsored by R. Lee Ware: Carrying a switchblade knife; exception. The bill authorizes any person to carry a switchblade knife concealed when such a knife is carried for the purpose of an engaging in a lawful profession or lawful recreational activity the performance of which is aided by the use of a switchblade knife. The bill removed the switchblade knives from the list of weapons, the selling bartering giving, or furnishing of which is a class 4 misdemeanor. This bill is identical to SB 1347. The bill was vetoed by McAuliffe; the veto was sustained by the house on April 5, 2017.

SB1315 sponsored by Charles W. Carrico, Sr. would allow foster parents to carry a firearm on their person, otherwise it is to be locked in a closet or cabinet, with the key out of reach of the children. The bill was vetoed by McAuliffe and the veto was sustained.

SB1362 sponsored by Richard H. Black allows active duty members of the Virginia National Guard, Armed Forces of the United States, and Armed Forces Reserves of the United States to carry concealed firearms without a permit and wherever they go in Virginia, including schools, courthouses, etc. The bill was vetoed by McAuliffe and the veto was sustained.

HB1392 sponsored by Scott Lingamfelter authorizes a school security officer, qualified under certain conditions, to carry a firearm on school property. Such an officer is a retired police officer and the local school board has given him authority to carry a firearm. The bill was approved by McAuliffe.

Prior to 2012, Virginia law allowed the purchase of one gun per month. That statute was struck down in 2012 in a bill sponsored by Lingamfelter of District 31. Therefore, currently there are no limits to the number of guns that a person can buy in Virginia. Bills that seek to revert the ability to purchase guns to one/month have not passed either the Senate or the House. However, according to a Quinnapac poll released on April 12, 2017, nearly two-thirds of Virginians support Virginia's former law that restricts gun purchases to one per month.⁽¹²⁾

[The Virginia Center for Public Safety has stated its priorities regarding gun control:](#) ⁽⁸⁾

1. Keep guns from ineligible buyers:

Current Virginia law requires Federally Licensed Firearm dealers (FFLs) to complete background checks on prospective gun buyers; however, unlicensed sellers may sell any number and type of guns, yet are not required to perform a background check on the buyers of their guns. Background checks on buyers should be required for all commercial gun sales and permanent transfers of ownership outside the immediate family of the seller, including: sales at gun shows, pawn shops and sales through newspapers or online ads.

2. Prohibit Possession of guns by Convicted Domestic Abusers:

Persons who have been convicted of domestic violence or stalking should not be permitted to own or possess firearms, even when guilt is deferred (Va. Code 18.2-57.3). Virginia law should conform to Federal law in order to allow Virginia authorities to keep guns from those convicted of any form of domestic violence.

3. Create a Gun Violence Restraining Order

Create a restraining order with a judicial pathway similar to domestic violence protective orders, that allows family members to request police petition the courts to temporarily remove firearms from the possession of a person who is experiencing a crisis which could lead to suicide or violence.

4. Keep guns out of schools:

In 2004 the Virginia General Assembly allowed local school divisions to interpret the Virginia code regarding guns on school property. Virginia code should be conformed to federal law to prohibit guns on school property. In the interest of public safety, colleges and universities should also be allowed to prohibit guns on their campuses.

5. Strengthen the Concealed Handgun Permit process:

Virginia should adopt a uniform standard of background check using the Virginia State Police Firearms Transaction Program. In addition, all applicants should be required to complete both an in person classroom session, to learn the laws governing the carrying and use of a concealed handgun, as well as a professionally supervised "live fire" training and skills test conducted at a gun range.

6. Preserve the drinking ban on concealed handgun permit holders and extend it to open carriers:

Alcohol and firearms make a dangerous mix. In the interest of public safety, concealed handgun permit holders should not be permitted to consume alcohol in ABC licensed premises where they are now legally allowed to carry handguns. Virginia law should include this same prohibition on alcohol consumption for citizens who “open carry” firearms, both publicly and in ABC licensed premises.

7. Strengthen Child Access Prevention (CAP) laws:

Rewrite Virginia CAP law to ensure that adult gun owners are prosecuted whenever a minor (<18 years old) uses a firearm that was not stored in a safe manner designed to limit access by minors. Some exemptions could be made for situations where a minor defeated the storage methods by unlocking a gun safe or by removing a properly secured trigger lock.

Talking points for gun safety regulations:

1. We must fight to keep our streets, our schools, our children and our communities safe from gun violence.
2. Two-thirds of Virginians support a law to limit the purchase of guns to one/month according to a Quinnipac poll released in April 2017.
3. A Pew Research Center poll released on June 22, 2017 showed that about 9 out of 10 Americans favor preventing the mentally ill from buying guns. Another 84% favor requiring background checks for private gun sales and at gun shows; broken down by 90% of Democrats, 77% of Republicans.⁽¹³⁾
4. We must revoke the concealed weapon reciprocity rights of hundreds of thousands of gun permit holders in 25 states whose standards are weaker than Virginia's.
5. We must not let Republican candidates endorsed by the NRA repeal the law prohibiting guns to be carried in K-12 schools and grounds.
6. Republican control of the House and Senate in Virginia have prevented the passage of sensible gun legislation favored by a majority of Americans and Virginian citizens.

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Appendix

Requirements for Purchasing a Firearm in Virginia: ⁽³⁾

Any person, a Virginia resident or a non-resident, over the age of 18, can buy an unlimited number of guns. However, purchasers of handguns, must be Virginia residents and over 21 years old.

Virginia Residents - Identification and Residency Requirements

Prospective purchasers of firearms must present a valid photo-ID form issued by a governmental agency of the Commonwealth of Virginia that denotes the individual's name, sex, and date of birth. Where the primary form is a photo-ID issued by the Virginia Department of Motor Vehicles (DMV), 30 days must have passed since the original date of issue or duplicate driver's license unless a copy of his/her DMV driver's record is presented showing that the original date of issue was more than 30 days prior to the attempted purchase.

Nonresidents - Identification and Residency Requirements

Rifles and shotguns may be purchased from licensed firearms dealers by persons who are residents of other states upon the presentation of one photo-identification form issued by a governmental agency of the purchaser's state of residence and a secondary form of identification determined to be acceptable by the Department of Criminal Justice Services (6VAC20-130-10).

Secondary forms of ID must show the same address as the primary ID, such as: a car registration, a valid fishing license, a utility bill or a current bank check.

If the purchase is made through a licensed dealer, the dealer is required to perform a background check through the Virginia Department of State Police. If the purchase is through a private sale, such as might occur at a gun show, no background checks are required. (According to smartgunlaws.org, 40% of firearms sales in the U.S. are through private sellers, at gun shows or through the internet.)

Virginia authorities are required to issue a license to carry firearms to any individual who meets the minimum statutory requirements, regardless of whether there is anything in that person's history that would suggest that they may pose a danger to the community. The State prohibits the sale of firearms to convicted felons, minors, individuals with a history of drug use or mental illness, and certain domestic violence perpetrators. Additional prohibitions are: if a person has had two or more drug misdemeanor convictions in a 36-month period, various mental health histories, a domestic violence protective order that is still in effect, and an adjudication for certain juvenile offenses.

Virginia law does not prohibit the sale or possession of large capacity ammunition magazines such as for machine guns or short barrel rifles. Virginia law does not ban assault weapons. ⁽⁴⁾

The open carrying of a handgun in Virginia is lawful. A person, 21 years of age or older may apply in writing to his county Clerk of the Circuit Court for a permit to carry a concealed handgun. And if the court does not grant or deny the permit within a 45-day period of the receipt of the application, the copy of a concealed handgun permit application becomes a de facto permit. ⁽⁵⁾