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Proposed Regulation Agency Background Document

Agency name	Department of General Services
Virginia Administrative Code (VAC) citation(s)	1VAC-30-105
Regulation title(s)	Regulations Banning Concealed Firearms in Offices Owned or Occupied by Executive Branch Agencies
Action title	Issuance of Regulations Prohibiting Concealed Firearms
Date this document prepared	June 13, 2016

Brief summary

This Regulation implements Executive Order 50 (McAuliffe 2015), which bans firearms in offices occupied by executive branch agencies with certain exceptions as set forth herein. This regulation prohibits concealed firearms in buildings under the ownership, lease, or control of an executive branch agency, and includes a requirement for posting signs to this effect. The Executive Order directed DGS to propose emergency regulations within 30 days of the EO. The emergency regulations will expire on June 2, 2017, therefore DGS is moving forward with this regulatory process to enact permanent regulations.

Acronyms and Definitions

DGS = Department of General Services
EO = Executive Order

“Authorized security personnel” means a natural person who is employed to (i) perform the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he or she is assigned to protect; (ii) safeguard and protect persons and property; or (iii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he or she is assigned to protect.

“Concealed firearm” means a firearm hidden from common observation, including a firearm hidden when it is observable but is of such deceptive appearance as to disguise the firearm’s true nature.

“Executive branch agency” means any administrative unit of state government in the executive branch, including any department, institution, commission, board, council, authority or other body, however designated.

“Firearm” means any handgun, pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material.

“Law-enforcement officer” shall have the same definition as in Va. Code § 18.2-307.1. This shall also include retired law-enforcement officers certified pursuant to Va. Code § 18.2-308.016.

“State office” means any building or portion of a building owned, leased or controlled by or for an executive branch agency. This includes that portion of any building open to others and then used exclusively for functions or activities sponsored by an executive branch agency tenant(s) while such functions are taking place. It shall not include parking facilities, lodges or cabins owned by the Commonwealth and used solely by the public for recreational activities; any buildings which serve as living quarters for Commonwealth employees; or any buildings at a rest area on an interstate highway.

Legal basis

Virginia Code §§ 2.2-1100(B) and 2.2-1102(A)(1) establish the Department of General Services and allow the Department to prescribe regulations. DGS has been directed by the Governor to issue these regulations.

Purpose

As stated in the EO, it is the Governor’s desire to protect citizens and state employees from gun violence. The purpose of this regulation is to ban concealed firearms from offices owned, leased or controlled by executive branch agencies. While State employees are already prohibited from carrying firearms through State personnel directives, this regulation will extend that prohibition to members of the public and other non-employee individuals who may enter the premises.

Substance

Possession or carrying of any concealed firearm by any person is prohibited in and on state offices. Entry upon a state office in violation of this prohibition is expressly forbidden. This prohibition does not apply to law enforcement officers, authorized security personnel, or military personnel, when such individuals are authorized to carry a firearm in accordance with their duties, and when they are carrying the firearm within that authority. It also does not apply to state employees where the employee’s position requires carrying a concealed firearm.

Issues

Every day, over 60,000 Virginians report to work in state government buildings across the Commonwealth to provide services to their fellow Virginians. Citizens rely on open access to these facilities to address their personal and professional needs. Government facilities are essential to allowing citizens access to their government representatives. Allowing concealed carry in these facilities exposes our state employees and fellow citizens to unnecessary risk.

Requirements more restrictive than federal

There are no applicable federal requirements

Localities particularly affected

None

Public participation

In addition to any other comments, the Department of General Services is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, DGS is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail or email to Rhonda Bishton, DGS, 1100 Bank Street, Suite 420, Richmond, VA 23219 or rhonda.bishton@dgs.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>). Both oral and written comments may be submitted at that time.

Economic impact

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	None
Projected cost of the new regulations or changes to existing regulations on localities.	None
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Retired law enforcement officers authorized to carry concealed weapons
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.	None
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	None
Beneficial impact the regulation is designed to produce.	No economic impact

Alternatives

No alternatives are being considered.

Regulatory flexibility analysis

No impact on small businesses.

Periodic review and small business impact review report of findings

Not applicable (not a periodic review)

Public comment

Commenter	Comment	Agency response
4,454 commenters	Various	Many of the comments were off-topic; the agency has reviewed the remaining comments and made changes as appropriate

Family impact

Not applicable

Detail of changes

CHANGES FROM THE PRE-EMERGENCY REGULATION:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1VAC30-105-40	Prohibits any concealed firearm in workplace facilities owned, leased or controlled by or for an executive branch agency, other than where the carrier is law enforcement, security, or military personnel		Intent is to ensure that the public is subject to the same restrictions as the office employees; i.e. that concealed firearms will not be brought into a State office facility
1VAC30-105-50	Specifies that leases shall be consistent with prohibition		Future leases will make clear that this prohibition will apply, both when the Commonwealth is the Lessor and when the Commonwealth is the Lessee.
1VAC30-105-60	Requires signs to be posted		Intention for posting signs is to make public aware
1VAC30-105-70	Specifies that occupying agency will be responsible for enforcement		Occupying agencies already have a protocol for responding to potential trespassing; this clarifies that the occupying agency, and not DGS, is responsible for following that protocol. No impact is anticipated
1VAC30-105-80	Exempts institutions of higher education where they have implemented regulations; exempts National Guard facilities in certain instances; allows Governor to authorize specific exemptions		Intent is to recognize authority of higher education and the Adjutant General; also, intent is to allow Governor to review requests for exemptions and determine whether they are necessary. Several offices have unique situations, either due to their mission or to their personnel, and it may not be practical for those facilities to follow these regulations.

CHANGES FROM THE EMERGENCY REGULATION:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, and likely impact of proposed requirements
1 VAC 30-105-20		Applicability to buildings and “workplace facilities”	Clarifies that regulation does not apply to premises outdoors
1 VAC 30-105-30		Definition of “authorized security personnel”	Clarify definition
1 VAC 30-105-30		Definition of “law enforcement officer”	Clarify to include certain retired officers
1 VAC 30-105-30		Definition of “State office” includes workplace facilities and premises	Clarify to limit to buildings, with certain exceptions for recreational lodges and cabins, employee housing, and rest areas
1 VAC 30-105-60		Agencies are required to obtain signage from DGS	Agencies are responsible for obtaining the signage design from DGS