

**OFFICE OF THE ATTORNEY GENERAL  
PUBLIC SAFETY AND ENFORCEMENT DIVISION  
MAJOR CRIMES AND EMERGING THREATS SECTION**

**TO:** Colonel W.S. Flaherty, Superintendent  
Department of Virginia State Police

**FROM:** Charles A. Quagliato, Assistant Attorney General

**DATE:** September 18, 2015

**SUBJECT:** Concealed Weapon Reciprocity

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This past fall, the Department of State Police (“Department”), requested the Office of the Attorney General’s (“OAG”) assistance in reviewing Virginia’s concealed weapon reciprocity agreements and recognition. Under Virginia Code § 18.2-308.014, the Superintendent of the State Police may enter into reciprocity agreements with other states if: (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state’s law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this article. The OAG reviewed the concealed weapon permit laws of the 30 states that the Department extends reciprocity or recognition to citizens holding both resident and non-resident permits/licenses.

I should note that this is the first time since I have joined the OAG, in November 2006, that the OAG has reviewed the laws of the various states that Virginia recognizes the foreign state’s concealed weapon permit. Since November 2006, the disqualifications for a concealed handgun permit have been amended several times.

On June 5, 2015, the OAG mailed letters to these 30 states requesting information to determine if those states had disqualifiers that were comparable to the Virginia factors set forth in Virginia Code § 18.2-308.09. The OAG requested a response to its letter by June 30, 2015. Of 30 states that received the June 5, 2015 letter, 23 states have provided a final response, 3 states have indicated a response is forthcoming, and 4 states have not provided any response. Below is an analysis of the various states responses and a recommendation if the laws of those states are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Alaska:** In the June 5, 2015 letter, the OAG did not find comparable Alaska disqualifiers for seven of Virginia’s disqualifiers, specifically: DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Stalking (Va. Code §18.2-308.09 (15)),

Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 23, 2015, the OAG received a phone call from the Alaska Attorney General's Office stating that Virginia's concealed carry laws were more restrictive than Alaska's laws and that a person who would be ineligible to obtain a concealed weapon permit in Virginia would be eligible to carry concealed in Alaska. Under Alaska Code § 18.65.748, a person holding a valid permit to carry a concealed handgun from another state or a political subdivision of another state is a permittee under Alaska law so a Virginia permit holder will be allowed to carry concealed in Alaska if Alaska is removed from the reciprocity list.

Based on this response and review of Alaskan law, it is my recommendation that Alaska's reciprocity/recognition be revoked because Alaska's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Arizona:** In the June 5, 2015 letter, the OAG did not find comparable Arizona disqualifiers for six of Virginia's disqualifiers, specifically: Two or more misdemeanors (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Prior Assaults (Va. Code §18.2-308.09 (14)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On July 7, 2015, the OAG received a letter from Donna Street, Supervisor of the Concealed Weapons Permit Unit for the Arizona Department of Public Safety. In her letter, Ms. Street confirmed that Arizona does not have comparable disqualifiers for 5 categories: Misdemeanors, DUI, Prior Assaults, Misdemeanor drug offenses, or deferred drug offenses. Under Arizona Code § 13-3112, Arizona will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Arizona if Arizona is removed from the reciprocity list.

Based on this response and review of Arizonan law, it is my recommendation that Arizona's reciprocity/recognition be revoked because Arizona's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Arkansas:** In the June 5, 2015 letter, the OAG did not find comparable Arkansas disqualifiers for six of Virginia's disqualifiers, specifically: Two or more misdemeanors (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On July 13, 2015, the OAG received a phone call and email from Cora Gentry, Arkansas State Police, who informed the OAG that the Arkansas State Police's legal counsel is preparing a response to the June 5, 2015 letter. On August 3, 2015, the OAG received a letter from Mary Claire McLaurin, Attorney Specialist, Arkansas State Police. In her letter, she states that

Arkansas does not disqualify for 3<sup>rd</sup> degree stalking, which is a misdemeanor, and other non-violent, non-drug or alcohol related misdemeanors. Additionally, Arkansas does not disqualify for deferred disposition drug offenses. Once a drug charge is dismissed the person is eligible to apply for a concealed weapon permit. Arkansas acknowledges all concealed handgun carry licenses lawfully issued by another state so that a Virginia permit holder will be allowed to carry concealed in Arkansas if Arkansas is removed from the reciprocity list.

Based on this response and review of Arkansas law, it is my recommendation that Arkansas's reciprocity/recognition be revoked because Arkansas's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Delaware:** In the June 5, 2015 letter, the OAG did not find comparable Delaware disqualifiers for nine of Virginia's disqualifiers, specifically: Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), DUI - (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health/Non-adjudicatory (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)), Instantaneous 24/7 verification of permits (Va. Code §18.2-308.014).

On July 28, 2015, the OAG received a letter from Kathleen Jennings, State Prosecutor, Delaware Department of Justice. In her letter, Ms. Jennings states that Delaware does not have a specific equivalent disqualifier for two or more misdemeanors, non-adjudicatory mental health treatments, or deferred drug dispositions. Delaware does not currently recognize Virginia permits but Virginia does recognize Delaware permits. There will be no change in status to a Virginia permit holder if Delaware is removed from the reciprocity list.

Based on this response and review of Delawarean law, it is my recommendation that Delaware's reciprocity/recognition be revoked because Delaware's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Florida:** In the June 5, 2015 letter, the OAG did not find comparable Florida disqualifiers for five of Virginia's disqualifiers, specifically: Two or more misdemeanors (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 29, 2015, the OAG received an email from Whitney Shiver, Florida Department of Agriculture and Consumer Services, who informed the OAG that the Florida Department of Agriculture and Consumer Services recently received the letter and needs more time to respond. On August, 14, 2015, the OAG sent a follow-up request to Ms. Shiver. On August 17, 2015, the OAG received an email from Ms. Shiver, in which she stated that Florida does not have a specific disqualifier for two or misdemeanors, or misdemeanor stalking. Under Florida Code § 790.015, Florida will only recognize the concealed weapon/firearm permits issued by another state provided that the other state will agree to recognize the licenses issued by Florida.

Therefore, if Florida is removed from the reciprocity list, a Virginia concealed weapon permit holder will not be allowed to carry concealed in Florida.

Based on this response and review of Floridian law, it is my recommendation that Florida's reciprocity/recognition be revoked because Florida's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Idaho:** In the June 5, 2015 letter, the OAG did not find comparable Idaho disqualifiers for eight of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 22, 2015, the OAG received a letter from Stephanie A. Altig, Lead Deputy Attorney General, Idaho State Police. In Ms. Altig's letter she stated that "I concur that Idaho does not include the eight disqualifiers listed in your letter." Under Idaho Code § 18-3302, Idaho will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Idaho if Idaho is removed from the reciprocity list.

Based on this response and review of Idahoan law, it is my recommendation that Idaho's reciprocity/recognition be revoked because Idaho's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Indiana:** In the June 5, 2015 letter, the OAG did not find comparable Indiana disqualifiers for ten of Virginia's disqualifiers, specifically: Demonstrated Competence (Va. Code §18.2-308.02(B)), False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 10, 2015, the OAG received a letter from Kevin C. McDowell, Deputy Attorney General, Indiana Office of the Attorney General, informing the OAG that Indiana has received the OAG's request and response will be forthcoming. On July 25, 2015, the OAG received a letter from Kevin C. McDowell, Deputy Attorney General, Indiana Office of the Attorney General, informing the OAG that Indiana did not have any analogous disqualifier for demonstrated competence, non-adjudicatory mental health treatments, two or more misdemeanors, and deferred disposition drug offenses. Under Indiana Code § 35-47-2-21, Indiana will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Indiana if Indiana is removed from the reciprocity list.

Based on this response and review of Indianan law, it is my recommendation that Indiana's reciprocity/recognition be revoked because Indiana's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Kansas:** In the June 5, 2015 letter, the OAG did not find comparable Kansas disqualifiers for eight of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 3, 2015, the OAG sent a follow-up request to information to Kansas as the OAG had not received any response from Kansas at that point. On August 19, 2015, the OAG received a letter from Charles W. Klebe, Assistant Attorney General, Kansas Office of the Attorney General. In his letter, Mr. Klebe states "[o]f the eight (8) items you identify, I would concur that, generally, those are not specific CCH prohibitions in Kansas as they are in Virginia. Although Mr. Klebe does suggest that some of the situations that are covered by the Virginia disqualifications would be covered under Kansas law, Mr. Klebe acknowledges that Kansas does not have disqualifiers for two or more misdemeanors, non-domestic assault and battery convictions, or stalking convictions. Under Kansas Code § 75-7c03(c)(1), Kansas will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Kansas if Kansas is removed from the reciprocity list.

Based on this response and review of Kansan law, it is my recommendation that Kansas's reciprocity/recognition be revoked because Kansas's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Kentucky:** In the June 5, 2015 letter, the OAG did not find comparable Kentucky disqualifiers for nine of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 29, 2015, the OAG received an email from Graham P. Gray, Kentucky State Police. In his email, Mr. Gray states that Kentucky has no equivalent provision for juvenile adjudications, stalking, endangerment to others, or deferred disposition drug offenses. Mr. Gray also states that Kentucky does not have similar provision regarding all misdemeanor offenses and utilizes the federal standard for mental health disqualifiers, which is not equivalent to Virginia's mental health disqualifier. Under Kentucky Code § 237.110, Kentucky will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Kentucky if Kentucky is removed from the reciprocity list.

Based on this response and review of Kentuckian law, it is my recommendation that Kentucky's reciprocity/recognition be revoked because Kentucky's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Louisiana:** In the June 5, 2015 letter, the OAG did not find comparable Louisiana disqualifiers for five of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Drug Offenses (Va. Code §18.2-308.09 (19)).

On June 15, 2015, the OAG received a letter from Kurt Wall, Assistant Attorney General, Louisiana Department of Justice. Mr. Wall informed the OAG that he would forward a copy of the OAG's request to the Louisiana State Police as it is the agency best suited to respond to the OAG's request. On June 15, 2015, the OAG sent a letter to Sergeant Jason Shavers, Louisiana State Police, requesting information on Louisiana's concealed weapon permit laws. To date, no response has been received.

Based on the June 15, 2015 response from the Louisiana Department of Justice, it is my recommendation that Louisiana be given an additional 30 days to respond. I will follow-up with another request for information from Louisiana and will provide a supplemental memo with any response received from Louisiana at the of the 30 day period.

**Michigan:** In the June 5, 2015 letter, the OAG did not find comparable Michigan disqualifiers for two of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Mental Health (Va. Code §18.2-308.09 (18)).

On July 6, 2015, the OAG received a letter from Richard L. Cunningham, Criminal Division Chief, Michigan Department of Attorney General. In his letter Mr. Cunningham states that Michigan misdemeanor conviction disqualifier differs from Virginia in that Michigan disqualifies for misdemeanors if the applicant was convicted wither 8 years or 3 years prior to the date of the application, depending upon the misdemeanor, rather than the 5 year period in Virginia. He also states that triggering event for a mental health disqualification in Michigan is the diagnosis of mental illness rather than the treatment for that illness. Under Michigan Code § 28.422, Michigan will recognize another state's valid resident permits only without requiring mutual recognition so that a Virginia resident permit holder will be allowed to carry concealed in Michigan if Michigan is removed from the reciprocity list. A Virginia non-resident permit holder will not be allowed to carry concealed in Michigan if Michigan is removed from the list.

Based on this response, a review of Michigan law, and deference to the Michigan Attorney General's interpretation of his own laws, it is my recommendation that Michigan's reciprocity/recognition be maintained because Michigan's laws are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth. As Virginia requires at least one misdemeanor be a class 1 misdemeanor, it would seem that the vast majority of Virginia disqualifiers for two or more misdemeanors would fall under the 8 year period of disqualification under Michigan law.

**Minnesota:** In the June 5, 2015 letter, the OAG did not find comparable Minnesota disqualifiers for ten of Virginia's disqualifiers, specifically: Instantaneous 24/7 verification of permits (Va. Code §18.2-308.014), False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On July 13, 2015, the OAG received a letter from William F. Klumpp, Jr., Assistant Attorney General, Minnesota Office of the Attorney General. In his letter, Mr. Klumpp sets forth the Minnesota code sections that correspond with the Virginia disqualifiers. After reviewing his letter, it appears that Minnesota does not disqualify for non-adjudicatory mental health or substance abuse treatment, misdemeanor stalking convictions that are more than 3 years old, non-domestic misdemeanor assaults more than 3 years old, misdemeanor DUI, and deferred disposition drug offenses. Minnesota does not currently recognize Virginia permits but Virginia does recognize Minnesota permits. There will be no change in status to a Virginia permit holder if Minnesota is removed from the reciprocity list.

Based on this response and review of Minnesotan law, it is my recommendation that Minnesota's reciprocity/recognition be revoked because Minnesota's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Mississippi:** In the June 5, 2015 letter, the OAG did not find comparable Mississippi disqualifiers for ten of Virginia's disqualifiers, specifically: Demonstrated Competence (Va. Code §18.2-308.02(B)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On July 13, 2015, the OAG received a letter from James W. Younger, Jr., Attorney for the Mississippi Department of Public Safety. In his letter, Mr. Younger sets forth the comparable Mississippi code sections that correspond with the Virginia disqualifiers but Mr. Younger states that "Mississippi does not have a disqualification for juvenile offenses." Under Mississippi Code § 45-9-101(19), Mississippi will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Mississippi if Mississippi is removed from the reciprocity list.

Based on this response and review of Mississippian law, it is my recommendation that Mississippi's reciprocity/recognition be revoked because Mississippi's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Montana:** In the June 5, 2015 letter, the OAG did not find comparable Montana disqualifiers for nine of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 3, 2015, the OAG sent a follow-up request to information to Montana as the OAG had not received any response from Montana at that point. To date, no response from Montana has been received. Under Montana Code § 45-8-329, Montana will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Montana if Montana is removed from the reciprocity list.

Based on the lack of response from Montana and review of Montanan law, it is my recommendation that Montana's reciprocity/recognition be revoked because Montana's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Nebraska:** In the June 5, 2015 letter, the OAG did not find comparable Nebraska disqualifiers for eight of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 15, 2015, the OAG received a letter from Kale B. Burdick, Assistant Attorney General, Nebraska Office of the Attorney General. In his letter, Mr. Burdick stated that "[t]he eight 'disqualifiers' identified by your office do not exist in Nebraska statutes." He further states that a resident of Nebraska would not be prohibited from obtaining a Nebraska concealed handgun permit based on those Virginia disqualifiers. Under Nebraska Code § 69-2448, Nebraska will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Nebraska if Nebraska is removed from the reciprocity list.

Based on this response and review of Nebraskan law, it is my recommendation that Nebraska's reciprocity/recognition be revoked because Nebraska's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**New Mexico:** In the June 5, 2015 letter, the OAG did not find comparable New Mexico disqualifiers for nine of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental

Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 3, 2015, the OAG sent a follow-up request to information to New Mexico as the OAG had not received any response from New Mexico at that point. To date, no response from New Mexico has been received. Under New Mexico Code § 29-19-12, New Mexico will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in New Mexico if New Mexico is removed from the reciprocity list.

Based on the lack of response from New Mexico and review of New Mexican law, it is my recommendation that New Mexico's reciprocity/recognition be revoked because New Mexico's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**North Dakota:** In the June 5, 2015 letter, the OAG did not find comparable North Dakota disqualifiers for six of Virginia's disqualifiers, specifically: Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)).

On June 11, 2015, the OAG received an email from Paul Emerson, Assistant Attorney General, North Dakota Office of the Attorney General. In his email Mr. Emerson stated that only crimes of violence, felonies, and domestic violence are disqualifiers under North Dakota law. Therefore, Virginia's disqualifiers for two or more misdemeanors for any misdemeanor, or any prior assault, or stalking are not an automatic disqualifier under North Dakota law. North Dakota also doesn't disqualify for juvenile adjudications, or non-adjudicatory mental health treatment. Under North Dakota Code § 62.1-04-03.1, North Dakota will only recognize concealed weapon/firearm permits issued by another state provided that the other state will agree to recognize the licenses issued by North Dakota. Therefore, if North Dakota is removed from the reciprocity list, a Virginia concealed weapon permit holder will not be allowed to carry concealed in North Dakota.

Based on this response and review of North Dakotan law, it is my recommendation that North Dakota's reciprocity/recognition be revoked because North Dakota's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**North Carolina:** In the June 5, 2015 letter, the OAG did not find comparable North Carolina disqualifiers for nine of Virginia's disqualifiers, specifically: Instantaneous 24/7 verification of permits (Va. Code §18.2-308.014), False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Prior Juvenile Felony Adjudication (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On June 22, 2105, the OAG received a letter from Lauren R. Earnhardt, Assistant Attorney General, North Carolina Office of the Attorney General. In her letter, Ms. Earnhardt enclosed a list of disqualifying criminal offenses for obtaining a concealed weapon permit in North Carolina. After reviewing the list, it appears that the nine disqualifiers previously identified do not exist under North Carolina law. Under North Carolina Code § 14-415.24, North Carolina will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in North Carolina if North Carolina is removed from the reciprocity list.

Based on this response and review of North Carolinian law, it is my recommendation that North Carolina's reciprocity/recognition be revoked because North Carolina's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Ohio:** In the June 5, 2015 letter, the OAG did not find comparable Ohio disqualifiers for six of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), DUI (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Mental Health (Va. Code §18.2-308.09 (18)).

On June 15, 2015, the OAG received a letter from Jonathan Fulkerson, Deputy Chief Counsel, Ohio Office of the Attorney General. In his letter, Mr. Fulkerson stated that under Ohio law, a conviction for two or more misdemeanor offenses or a DUI, unless it is a felony, does not disqualify an applicant from obtained a concealed weapon permit. Prior assaults must be either a felony or have involved a peace officer to serve as a disqualifier. Additionally, Ohio requires a commitment to disqualify for a mental health issues. Under Ohio Code § 109.69, Ohio will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Ohio if Ohio is removed from the reciprocity list.

Based on this response and review of Ohioan law, it is my recommendation that Ohio's reciprocity/recognition be revoked because Ohio's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Oklahoma:** In the June 5, 2015 letter, the OAG did not find comparable Oklahoma disqualifiers for four of Virginia's disqualifiers, specifically: Instantaneous 24/7 verification of permits (Va. Code §18.2-308.014), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)).

On June 30, 2015, the OAG received a letter from Jared B. Haines, Assistant Solicitor General, Oklahoma Office of the Attorney General. In his letter, Mr. Haines sets forth the various Oklahoma code sections that are analogous with the Virginia disqualifiers. After reviewing his letter, and in deference to the Oklahoma Attorney General's interpretation of his own laws, it appears that Oklahoma law provides for instantaneous 24/7 verification of permits and has adequate disqualifiers to prevent possession of a permit or license by persons who would

be denied a permit in the Commonwealth. Under Oklahoma Code § 21-1290.26, Oklahoma will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in Oklahoma if Oklahoma is removed from the reciprocity list.

Based on this response, a review of Oklahoman law, and deference to the Oklahoma Attorney General's interpretation of his own laws, it is my recommendation that Oklahoma's reciprocity/recognition be maintained because Oklahoma's laws are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Pennsylvania:** In the June 5, 2015 letter, the OAG did not find comparable Pennsylvania disqualifiers for five of Virginia's disqualifiers, specifically: Demonstrated Competence (Va. Code §18.2-308.02(B)), Two misdemeanors within 5 years (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Mental Health (Va. Code §18.2-308.09 (18)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On July 1, 2015, the OAG received a letter from Robert A. Mulle, Executive Deputy Attorney General, Pennsylvania Office of the Attorney General. In his letter, Mr. Mulle stated that "this office must confirm that Pennsylvania does not have equivalent disqualifiers for 'demonstrated competence' or 'deferred disposition, drug offenses.'" For the remaining three disqualifiers, Mr. Mulle states that Pennsylvania law provides fairly comparable disqualifiers to the other three disqualifiers found in Virginia law. Under Pennsylvania Code § 18-6109(k), Pennsylvania will only recognize concealed weapon/firearm permits issued by another state provided that the other state will agree to recognize the licenses issued by Pennsylvania. Therefore, if Pennsylvania is removed from the reciprocity list, a Virginia concealed weapon permit holder will not be allowed to carry concealed in Pennsylvania.

Based on this response and review of Pennsylvanian law, it is my recommendation that Pennsylvania's reciprocity/recognition be revoked because Pennsylvania's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**South Carolina:** In the June 5, 2015 letter, the OAG did not find comparable South Carolina disqualifiers for nine of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), DUI - (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 3, 2015, the OAG sent a follow-up request to information to South Carolina as the OAG had not received any response from South Carolina at that point. On August 7, 2015, the OAG received an email from Brendan McDonald, Assistant Attorney General, Solicitor General's Division, Opinions Section. In Mr. McDonald's email, he stated that he received the June 5, 2015 letter and had forwarded it to the State Law Enforcement Division, the entity responsible for determining the appropriateness of reciprocity agreements. Mr. McDonald

informed the OAG that he would speak with the State Law Enforcement Division about providing a response to Virginia's request.

Based on the August 7, 2015 response from the South Carolina Office of the Attorney General, it is my recommendation that South Carolina be given an additional 30 days to respond. I will follow-up with another request for information from South Carolina and will provide a supplemental memo with any response received from South Carolina at the of the 30 day period.

**South Dakota:** In the June 5, 2015 letter, the OAG did not find comparable South Dakota disqualifiers for eight of Virginia's disqualifiers, specifically: Demonstrated Competence (Va. Code §18.2-308.02(B)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), DUI - (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)).

On August 3, 2015, the OAG sent a follow-up request to information to South Dakota as the OAG had not received any response from South Dakota at that point. To date, no response from South Dakota has been received. Under South Dakota Code § 23-7-7.4, South Dakota will recognize another state's valid permits without requiring mutual recognition so that a Virginia permit holder will be allowed to carry concealed in South Dakota if South Dakota is removed from the reciprocity list.

Based on the lack of response from South Dakota and review of South Dakotan law, it is my recommendation that South Dakota's reciprocity/recognition be revoked because South Dakota's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Tennessee:** In the June 5, 2015 letter, the OAG did not find comparable Tennessee disqualifiers for eight of Virginia's disqualifiers, specifically: Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), DUI - (Va. Code §18.2-308.09 (9)), Endangerment to others (Va. Code §18.2-308.09 (13)), Prior Assaults (Va. Code §18.2-308.09 (14)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 17, 2015, the OAG received a letter from Lizabeth Hale, Staff Attorney, Tennessee Department of Safety & Homeland Security. In Ms. Hale's letter she provided Tennessee statutes that she found comparable to the Virginia disqualifiers listed in the June 5, 2015 letter. She stated that, "There is no disqualifier for voluntarily received mental health treatment in a residential program." Further, Ms. Hale stated, "Under Tennessee law, a juvenile adjudication is not a criminal conviction and cannot be used against the juvenile, unless the juvenile has been transferred to criminal court and found guilty in that court." Ms. Hale also stated, "Tennessee will deny based on a conviction for a Class A misdemeanor while the person is under the jurisdiction of the court, or the offense is a qualifying misdemeanor (misdemeanor crime of domestic violence and stalking) but does not deny for multiple misdemeanors except in certain cases (DUI convictions)." For the remaining disqualifiers, it appears that Tennessee law provides fairly comparable disqualifiers to the other disqualifiers found in Virginia law.

Additionally, Ms. Hale provided that under Tennessee Code § 39-17-1351(r)(1), any person with a facially valid Virginia Handgun Carry Permit may carry their handgun in Tennessee, regardless of whether or not we have entered into a reciprocity agreement with your state, so that a Virginia permit holder will be allowed to carry concealed in Tennessee if Tennessee is removed from the reciprocity list.

Based on this response and review of Tennessean law, it is my recommendation that Tennessee's reciprocity/recognition be revoked because Tennessee's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Texas:** In the June 5, 2015 letter, the OAG did not find comparable Texas disqualifiers for six of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Endangerment to others (Va. Code §18.2-308.09 (13)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On August 3, 2015, the OAG sent a follow-up request to information to Texas as the OAG had not received any response from Texas at that point. On August 21, 2015, the OAG received a letter from John Ellis, Assistant Attorney General, General Counsel Division. In Mr. Ellis' letter he provided a list of Texas statutes that he believes meet or exceeds the requirements of analogous provisions in Virginia law, specifically: False Statement (Texas Gov't Code § 411.172(a)(14), 411.174(a)(8)), Mental Health/Non-adjudicatory/Endangerment to others (Texas Gov't Code § 411.172(a), (d)(1), (e), (e)(5)), Juvenile Offenses (Texas Gov't Code § 411.172(a)(13)), Deferred Disposition, Drug Offenses (Texas Gov't Code § 411.172(a)(3), (a)(8))). Mr. Ellis also stated that it is a condition of eligibility for a concealed handgun license in Texas that the applicant be "fully qualified under applicable federal and state law to purchase a handgun." Texas Gov't Code § 411.172(a)(9). Under Texas Code § 411.173, Texas will only recognize concealed weapon/firearm permits issued by another state provided that the other state will agree to recognize the licenses issued by Texas. Therefore, if Texas is removed from the reciprocity list, a Virginia concealed weapon permit holder will not be allowed to carry concealed in Texas.

Based on this response, a review of Texan law, and deference to the Texas's Attorney General's interpretation of his own laws, it is my recommendation that Texas's reciprocity/recognition be maintained because Texas's laws are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Utah:** In the June 5, 2015 letter, the OAG did not find comparable Utah disqualifiers for seven of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Mental Health (Va. Code §18.2-308.09 (18)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20))

On June 24, 2015, the OAG received a letter from Sergeant Mark Atkinson, Firearms Investigator Supervisor, Utah Department of Public Safety, State Bureau of Investigation,

Bureau of Criminal Identification. In Sgt. Atkinson's letter, he provided a list of Utah statutes and regulations that would be comparable to Virginia's disqualifiers, specifically: False Statement (Utah Code Ann. § 53-5-704(15)), Mental Health/Non-adjudicatory (Utah Code Ann. § 76-10-503(1)(b)(vii)), Juvenile Offenses (Utah Code Ann. § 76-10-503(1)(b)(ii)), Two or more Misdemeanor Offenses (Utah Admin. Code R722-300-4(5)(b)), Prior Assaults (Utah Code Ann. § 53-5-704(2)(a)(ii)), Stalking (Utah Code Ann. § 53-5-704(3)(a)), Deferred Disposition, Drug Offenses (Utah Code Ann. § 53-5-704(2)(a)(iv); 53-5-702(6)(d) and (e)). Under Utah Code § 76-10-523, Utah will honor a permit to carry a concealed firearm issued by another state or county, so that a Virginia permit holder will be allowed to carry concealed in Utah if Utah is removed from the reciprocity list.

Based on this response, a review of Utah law, and deference to the Utah Department of Public Safety's interpretation of his own laws, it is my recommendation that Utah's reciprocity/recognition be maintained because Utah's laws are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Washington:** In the June 5, 2015 letter, the OAG did not find comparable Washington disqualifiers for eleven of Virginia's disqualifiers, specifically: Demonstrated Competence (Va. Code §18.2-308.02(B)), False Statement (Va. Code §18.2-308.02(C)), Mental Health/Non-adjudicatory (Va. Code §18.2-308.09 (18)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Endangerment to others (Va. Code §18.2-308.09 (13)), Public Drunkenness - (Va. Code §18.2-308.09 (9)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20))

On August 3, 2015, the OAG sent a follow-up request to information to Washington as the OAG had not received any response from Washington at that point. To date, no response from Washington has been received. Washington does not currently recognize Virginia permits but Virginia does recognize Washington permits. There will be no change in status to a Virginia permit holder if Washington is removed from the reciprocity list.

Based on the lack of response from Washington and review of Washington law, it is my recommendation that Washington's reciprocity/recognition be revoked because Washington's laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**West Virginia:** In the June 5, 2015 letter, the OAG did not find comparable West Virginia disqualifiers for ten of Virginia's disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Mental Health/Non-adjudicatory (Va. Code §18.2-308.09 (18)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Stalking (Va. Code §18.2-308.09 (15)), Endangerment to others (Va. Code §18.2-308.09 (13)), DUI - (Va. Code §18.2-308.09 (9)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On September 9, 2015, the OAG received a letter from Julie A. Warren, Assistant Attorney General, West Virginia Office of the Attorney General. In her letter, Ms. Warren sets

forth the comparable West Virginia Code provisions that are analogous to the Virginia disqualifiers. In her letter, she states that the comparable code provisions would “adequately prevent possession of a license by a person who would be denied a similar license in the State of Virginia.” Under West Virginia Code § 61-7-6a, West Virginia will only recognize concealed weapon/firearm permits issued by another state provided that the other state will agree to recognize the licenses issued by West Virginia. Therefore, if West Virginia is removed from the reciprocity list, a Virginia concealed weapon permit holder will not be allowed to carry concealed in West Virginia.

Based on this response, a review of West Virginian law, and deference to the West Virginia Attorney General’s interpretation of his own laws, it is my recommendation that West Virginia’s reciprocity/recognition be maintained because West Virginia’s laws are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Wisconsin:** In the June 5, 2015 letter, the OAG did not find comparable Wisconsin disqualifiers for eight of Virginia’s disqualifiers, specifically: False Statement (Va. Code §18.2-308.02(C)), Mental Health/Non-adjudicatory (Va. Code §18.2-308.09 (18)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Endangerment to others (Va. Code §18.2-308.09 (13)), Public Drunkenness - (Va. Code §18.2-308.09 (9)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

On September 9, 2015, the OAG received a letter from Brian R. O’Keefe, Administrator, Division of Law Enforcement Services, Wisconsin Department of Justice. In his letter, Mr. O’Keefe states that a person convicted of two or more misdemeanors, certain prior assaults, drunkenness related crimes, and certain drug offenses would not be automatically disqualified from obtaining a Wisconsin concealed weapon permit. Additionally, Wisconsin does not disqualify for deferred disposition drug offenses, or non-adjudicatory mental health treatment. Wisconsin does not currently recognize Virginia resident permits but Virginia does recognize Wisconsin permits. There will be no change in status to a Virginia resident permit holder if Wisconsin is removed from the reciprocity list.<sup>1</sup>

Based on this response and review of Wisconsin law, it is my recommendation that Wisconsin’s reciprocity/recognition be revoked because Wisconsin’s laws are not adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth.

**Wyoming:** In the June 5, 2015 letter, the OAG did not find comparable Wyoming disqualifiers for six of Virginia’s disqualifiers, specifically: Mental health/non-adjudicatory (Va. Code §18.2-308.09 (18)), Juvenile Offenses (Va. Code §18.2-308.09 (16)), Two or more Misdemeanor Offenses (Va. Code §18.2-308.09 (7)), Prior Assaults (Va. Code §18.2-308.09 (14)), Drug Offenses (Va. Code §18.2-308.09 (19)), Deferred Disposition, Drug Offenses (Va. Code §18.2-308.09 (20)).

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<sup>1</sup> Wisconsin does recognize a Virginia non-resident permit.

On June 26, 2015, the OAG received a phone call from Wyoming Deputy Attorney General Dave Delicath who was confused about Virginia's request. After explaining the basis of the request, Mr. Delicath indicated he would prepare a response. On August 14, 2015, the OAG sent a follow-up request to Mr. Delicath. To date, no response has been received.

Based on the June 26, 2015 response from the Wyoming Office of the Attorney General, it is my recommendation that Wyoming be given an additional 30 days to respond. I will follow-up with another request for information from Wyoming and will provide a supplemental memo with any response received from Wyoming at the of the 30 day period.

### **CONCLUSION**

Therefore, the OAG is recommending that that following states be removed from Virginia's reciprocity/recognition list: Alaska, Arizona, Arkansas, Delaware, **Florida**, Idaho, Indiana, Kansas, Kentucky, Minnesota, Mississippi, Montana, Nebraska, New Mexico, **North Dakota**, North Carolina, Ohio, **Pennsylvania**, South Dakota, Tennessee, Washington, and Wisconsin.<sup>2</sup> The OAG recommends that reciprocity/recognition should be maintained for the following states: Michigan, Oklahoma, Texas, Utah, and West Virginia, and that additional time for a recommendation decision is needed for the following states: Louisiana, South Carolina, and Wyoming.

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<sup>2</sup> A bolded state indicates that by removing this state from the reciprocity/recognition list that this state will no longer recognize a Virginia permit in that state. Delaware, Minnesota, Washington, and Wisconsin do not currently recognize Virginia permits so there will be to no change a Virginia permit holder by removing those states from the reciprocity/recognition list.