

HB 3074
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2007 APR -3 PM 4: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2007

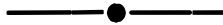


ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 3074

(By Delegates Varner, Proudfoot, Stemple, Mahan,
Hrutkay, Tabb, Browning, Kominar, Stalnaker,
Shaver and Moye)



Passed March 9, 2007

In Effect Ninety Days from Passage

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(BY DELEGATES VARNER, PROUDFOOT, STEMPLER, MAHAN,
HRUTKAY, TABB, BROWNING, KOMINAR, STALNAKER,
SHAVER AND MOYE)

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §61-7-4 and §61-7-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-7-6a, all relating to the carrying of concealed weapons; clarifying the scope of a concealed weapons permit; amending reciprocity requirements; authorizing the Attorney General to investigate and execute reciprocity agreements with other states pertaining to the mutual recognition of permits or licenses to carry concealed handguns; setting forth minimum standards which must be met before such reciprocity agreements may be executed; clarifying the scope of valid out-of-state permits that may be recognized in West Virginia; establishing a registry of states with which West Virginia has entered into reciprocal agreements; and requiring the State Police to provide the public with a list of the states which have entered into reciprocity agreements.

Be it enacted by the Legislature of West Virginia:

That §61-7-4 and §61-7-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §61-7-6a, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

1 (a) Except as provided in subsection (h) of this section,
2 any person desiring to obtain a state license to carry a
3 concealed deadly weapon shall apply to the sheriff of his or
4 her county for such license, and shall pay to the sheriff, at the
5 time of application, a fee of seventy-five dollars, of which
6 fifteen dollars of that amount shall be deposited in the
7 courthouse facilities improvement fund created by section
8 six, article twenty-six, chapter twenty-nine of this code.
9 Concealed weapons permits may only be issued for pistols or
10 revolvers. Each applicant shall file with the sheriff, a
11 complete application, as prepared by the superintendent of
12 the West Virginia state police, in writing, duly verified,
13 which sets forth only the following licensing requirements:

14 (1) The applicant's full name, date of birth, social security
15 number and a description of the applicant's physical features;

16 (2) That, on the date the application is made, the
17 applicant is a bona fide resident of this state and of the county
18 in which the application is made and has a valid driver's
19 license or other state-issued photo identification showing
20 such residence;

21 (3) That the applicant is twenty-one years of age or older:
22 *Provided*, That any individual who is less than twenty-one
23 years of age and possesses a properly issued concealed
24 weapons license as of the effective date of this article shall be
25 licensed to maintain his or her concealed weapons license
26 notwithstanding the provisions of this section requiring new
27 applicants to be at least twenty-one years of age: *Provided*,
28 *however*, That upon a showing of any applicant who is
29 eighteen years of age or older that he or she is required to
30 carry a concealed weapon as a condition for employment, and
31 presents satisfactory proof to the sheriff thereof, then he or
32 she shall be issued a license upon meeting all other
33 conditions of this section. Upon discontinuance of
34 employment that requires the concealed weapons license, if
35 the individual issued the license is not yet twenty-one years
36 of age, then the individual issued the license is no longer
37 eligible and must return his or her license to the issuing
38 sheriff;

39 (4) That the applicant is not addicted to alcohol, a
40 controlled substance or a drug and is not an unlawful user
41 thereof;

42 (5) That the applicant has not been convicted of a felony
43 or of an act of violence involving the misuse of a deadly
44 weapon;

45 (6) That the applicant has not been convicted of a
46 misdemeanor offense of assault or battery either under the
47 provisions of section twenty-eight, article two of this chapter
48 or the provisions of subsection (b) or (c), section nine, article
49 two of this chapter in which the victim was a current or
50 former spouse, current or former sexual or intimate partner,
51 person with whom the defendant has a child in common,
52 person with whom the defendant cohabits or has cohabited,
53 a parent or guardian, the defendant's child or ward or a
54 member of the defendant's household at the time of the
55 offense; or a misdemeanor offense with similar essential
56 elements in a jurisdiction other than this state;

57 (7) That the applicant is not under indictment for a felony
58 offense or is not currently serving a sentence of confinement,
59 parole, probation or other court-ordered supervision imposed
60 by a court of any jurisdiction or is the subject of an
61 emergency or temporary domestic violence protective order
62 or is the subject of a final domestic violence protective order
63 entered by a court of any jurisdiction;

64 (8) That the applicant is physically and mentally
65 competent to carry such weapon;

66 (9) That the applicant has not been adjudicated to be
67 mentally incompetent;

68 (10) That the applicant has qualified under the minimum
69 requirements set forth in subsection (d) of this section for
70 handling and firing such weapon: *Provided*, That this
71 requirement shall be waived in the case of a renewal
72 applicant who has previously qualified;

73 (11) That the applicant authorizes the sheriff of the
74 county, or his or her designee, to conduct an investigation
75 relative to the information contained in the application.

76 (b) The sheriff shall conduct an investigation which shall
77 verify that the information required in subdivisions (1), (2),
78 (3), (5), (6), (8) and (9), subsection (a) of this section are true
79 and correct.

80 (c) Sixty dollars of the application fee and any fees for
81 replacement of lost or stolen licenses received by the sheriff
82 shall be deposited by the sheriff into a concealed weapons

83 license administration fund. Such fund shall be administered
84 by the sheriff and shall take the form of an interest bearing
85 account with any interest earned to be compounded to the
86 fund. Any funds deposited in this concealed weapon license
87 administration fund are to be expended by the sheriff to pay
88 for the costs associated with issuing concealed weapons
89 licenses. Any surplus in the fund on hand at the end of each
90 fiscal year may be expended for other law-enforcement
91 purposes or operating needs of the sheriff's office, as the
92 sheriff may consider appropriate.

93 (d) All persons applying for a license must complete a
94 training course in handling and firing a handgun. The
95 successful completion of any of the following courses fulfills
96 this training requirement:

97 (1) Any official national rifle association handgun safety
98 or training course;

99 (2) Any handgun safety or training course or class
100 available to the general public offered by an official law-
101 enforcement organization, community college, junior college,
102 college or private or public institution or organization or
103 handgun training school utilizing instructors duly certified by
104 such institution;

105 (3) Any handgun training or safety course or class
106 conducted by a handgun instructor certified as such by the
107 state or by the national rifle association;

108 (4) Any handgun training or safety course or class
109 conducted by any branch of the United States military,
110 reserve or national guard.

111 A photocopy of a certificate of completion of any of the
112 courses or classes or an affidavit from the instructor, school,
113 club, organization or group that conducted or taught said
114 course or class attesting to the successful completion of the
115 course or class by the applicant or a copy of any document
116 which shows successful completion of the course or class
117 shall constitute evidence of qualification under this section.

118 (e) All concealed weapons license applications must be
119 notarized by a notary public duly licensed under article four,
120 chapter twenty-nine of this code. Falsification of any portion
121 of the application constitutes false swearing and is punishable
122 under the provisions of section two, article five, chapter
123 sixty-one of this code.

124 (f) If the information in the application is found to be true
125 and correct, the sheriff shall issue a license. The sheriff shall
126 issue or deny the license within forty-five days after the
127 application is filed if all required background checks
128 authorized by this section are completed.

129 (g) Before any approved license shall be issued or
130 become effective, the applicant shall pay to the sheriff a fee
131 in the amount of fifteen dollars which the sheriff shall
132 forward to the superintendent of the West Virginia state
133 police within thirty days of receipt. Any such license shall be
134 valid for five years throughout the state, unless sooner
135 revoked.

136 (h) All persons holding a current and valid concealed
137 weapons license as of the sixteenth day of December, one
138 thousand nine hundred ninety-five, shall continue to hold a
139 valid concealed weapons license until his or her license
140 expires or is revoked as provided in this article: *Provided,*
141 That all reapplication fees shall be waived for applications
142 received by the first day of January, one thousand nine
143 hundred ninety-seven, for any person holding a current and
144 valid concealed weapons license as of the sixteenth day of
145 December, one thousand nine hundred ninety-five, which
146 contains use restrictions placed upon the license as a
147 condition of issuance by the issuing circuit court. Any
148 licenses reissued pursuant to this subsection will be issued for
149 the time period of the original license.

150 (i) Each license shall contain the full name, social
151 security number and address of the licensee and a space upon
152 which the signature of the licensee shall be signed with pen
153 and ink. The issuing sheriff shall sign and attach his or her
154 seal to all license cards. The sheriff shall provide to each
155 new licensee a duplicate license card, in size similar to other
156 state identification cards and licenses, suitable for carrying in
157 a wallet, and such license card is deemed a license for the
158 purposes of this section.

159 (j) The superintendent of the West Virginia state police
160 shall prepare uniform applications for licenses and license
161 cards showing that such license has been granted and shall do
162 any other act required to be done to protect the state and see
163 to the enforcement of this section.

164 (k) In the event an application is denied, the specific
165 reasons for the denial shall be stated by the sheriff denying
166 the application. Any person denied a license may file, in the
167 circuit court of the county in which the application was made,

168 a petition seeking review of the denial. Such petition shall be
169 filed within thirty days of the denial. The court shall then
170 determine whether the applicant is entitled to the issuance of
171 a license under the criteria set forth in this section. The
172 applicant may be represented by counsel, but in no case shall
173 the court be required to appoint counsel for an applicant. The
174 final order of the court shall include the court's findings of
175 fact and conclusions of law. If the final order upholds the
176 denial, the applicant may file an appeal in accordance with
177 the rules of appellate procedure of the supreme court of
178 appeals.

179 (l) In the event a license is lost or destroyed, the person
180 to whom the license was issued may obtain a duplicate or
181 substitute license for a fee of five dollars by filing a notarized
182 statement with the sheriff indicating that the license has been
183 lost or destroyed.

184 (m) The sheriff shall, immediately after the license is
185 granted as aforesaid, furnish the superintendent of the West
186 Virginia state police a certified copy of the approved
187 application. It shall be the duty of the sheriff to furnish to the
188 superintendent of the West Virginia state police at any time
189 so requested a certified list of all such licenses issued in the
190 county. The superintendent of the West Virginia state police
191 shall maintain a registry of all persons who have been issued
192 concealed weapons licenses.

193 (n) All licensees must carry with them a state-issued
194 photo identification card with the concealed weapons license
195 whenever the licensee is carrying a concealed weapon. Any
196 licensee who fails to have in his or her possession a state-
197 issued photo identification card and a current concealed
198 weapons license while carrying a concealed weapon shall be
199 guilty of a misdemeanor and, upon conviction thereof, shall
200 be fined not less than fifty or more than two hundred dollars
201 for each offense.

202 (o) The sheriff shall deny any application or revoke any
203 existing license upon determination that any of the licensing
204 application requirements established in this section have been
205 violated by the licensee.

206 (p) No person who is engaged in the receipt, review or in
207 the issuance or revocation of a concealed weapon license
208 shall incur any civil liability as the result of the lawful
209 performance of his or her duties under this article.

210 (q) Notwithstanding the provisions of subsection (a) of
211 this section, with respect to application by a former law-
212 enforcement officer honorably retired from agencies
213 governed by article fourteen, chapter seven of this code;
214 article fourteen, chapter eight of this code; article two,
215 chapter fifteen of this code; and article seven, chapter twenty
216 of this code, an honorably retired officer is exempt from
217 payment of fees and costs as otherwise required by this
218 section, and the application of the honorably retired officer
219 shall be granted without proof or inquiry by the sheriff as to
220 those requirements set forth in subdivision (9), subsection (a)
221 of this section, if the officer meets the remainder of the
222 requirements of this section and has the approval of the
223 appropriate chief law-enforcement officer.

224 (r) Except as restricted or prohibited by the provisions of
225 this article or as otherwise prohibited by law, the issuance of
226 a concealed weapon permit issued in accordance with the
227 provisions of this section shall authorize the holder of the
228 permit to carry a concealed pistol or revolver on the lands or
229 waters of this state.

**§61-7-6. Exceptions as to prohibitions against carrying
concealed deadly weapons.**

1 The licensure provisions set forth in this article do not
2 apply to:

3 (1) Any person carrying a deadly weapon upon his or her
4 own premises; nor shall anything herein prevent a person
5 from carrying any firearm, unloaded, from the place of
6 purchase to his or her home, residence or place of business or
7 to a place of repair and back to his or her home, residence or
8 place of business, nor shall anything herein prohibit a person
9 from possessing a firearm while hunting in a lawful manner
10 or while traveling from his or her home, residence or place of
11 business to a hunting site and returning to his or her home,
12 residence or place of business;

13 (2) Any person who is a member of a properly organized
14 target-shooting club authorized by law to obtain firearms by
15 purchase or requisition from this state or from the United
16 States for the purpose of target practice from carrying any
17 pistol, as defined in this article, unloaded, from his or her
18 home, residence or place of business to a place of target
19 practice and from any place of target practice back to his or
20 her home, residence or place of business, for using any such
21 weapon at a place of target practice in training and improving
22 his or her skill in the use of the weapons;

23 (3) Any law-enforcement officer or law-enforcement
24 official as defined in section one, article twenty-nine, chapter
25 thirty of this code;

26 (4) Any employee of the West Virginia Division of
27 Corrections duly appointed pursuant to the provisions of
28 section five, article five, chapter twenty-eight of this code
29 while the employee is on duty;

30 (5) Any member of the Armed Forces of the United
31 States or the militia of this state while the member is on duty;

32 (6) Any circuit judge, including any retired circuit judge
33 designated senior status by the Supreme Court of Appeals of
34 West Virginia, Prosecuting Attorney, Assistant Prosecuting
35 Attorney or a duly appointed investigator employed by a
36 Prosecuting Attorney;

37 (7) Any resident of another state who holds a valid
38 license to carry a concealed weapon by a state or a political
39 subdivision which has entered into a reciprocity agreement
40 with this state, subject to the provisions and limitations set
41 forth in section six-a of this article;

42 (8) Any federal law-enforcement officer or federal police
43 officer authorized to carry a weapon in the performance of
44 the officer's duty; and

45 (9) Any Hatfield-McCoy regional recreation authority
46 ranger while the ranger is on duty.

§61-7-6a. Reciprocity; out-of-state concealed handgun permits.

1 (a) A holder of a valid out-of-state permit or license to
2 carry a concealed handgun, as issued by another state with
3 which the State of West Virginia has executed a reciprocity
4 agreement, shall be recognized as valid in this state, if the
5 following conditions are met:

6 (1) The permit or license holder is a resident of the
7 issuing state;

8 (2) The permit or license holder is 21 years or older;

9 (3) The permit or license is in his or her immediate
10 possession;

11 (4) The permit or license holder is not a resident of the
12 state of West Virginia; and,

13 (5) The State of West Virginia has executed a valid and
14 effective reciprocity agreement with the issuing state
15 pertaining to the carrying and verification of concealed
16 handgun licenses and permits issued in the respective states.

17 (b) A holder of a valid permit or license from another
18 state who is authorized to carry a concealed handgun in this
19 state pursuant to provisions of this section is subject to the
20 same laws and restrictions with respect to carrying a
21 concealed handgun as a resident of West Virginia who is so
22 permitted, and must carry the concealed handgun in
23 compliance with the laws of this state.

24 (c) No license or permit from another state is valid in this
25 state if the holder is or becomes prohibited by law from
26 possessing a firearm.

27 (d) The West Virginia Attorney General shall seek to
28 enter into and may execute reciprocity agreements on behalf
29 of the state of West Virginia with states which meet the
30 following standards and requirements:

31 (1) The standards applied by the other state before issuing
32 a concealed handgun license or permit must be equal to or
33 greater than the standards imposed by this article;

34 (2) This state's law enforcement officers have continuous
35 access to data bases on the criminal information network,
36 twenty-four hours per day, seven days per week, to verify the
37 continued validity of any license or permit to carry a
38 concealed handgun that has been granted by the issuing state;

39 (3) The other state agrees to grant the right to carry a
40 concealed handgun to residents of West Virginia who have
41 valid concealed handgun permits issued pursuant to this
42 article in their possession while carrying concealed weapons
43 in that state; and,

44 (4) The states agree to apprise one another of changes in
45 permitting standards and requirements, to provide for a
46 prompt reexamination of whether any adopted change in
47 licensing or permitting standards negates the states' ability to
48 continue with the reciprocity agreement.

49 (e) The West Virginia State Police shall maintain a
50 registry of states with which the state of West Virginia has
51 entered into reciprocity agreements on the criminal
52 information network and make the registry available to law-
53 enforcement officers for investigative purposes.

54 (f) Every twelve months after the effective date of this
55 section, the West Virginia Attorney General shall make
56 written inquiry of the concealed handgun permitting
57 authorities in each other state as to: (i) Whether a West
58 Virginia resident may carry a concealed handgun in their
59 state based upon having a valid West Virginia concealed
60 handgun permit; and (ii) whether a West Virginia resident
61 may carry a concealed handgun in that state based upon
62 having a valid West Virginia concealed handgun permit,
63 pursuant to the laws of that state or by the execution of a
64 valid reciprocity agreement between the states.

65 (g) The West Virginia State Police shall make available
66 to the public a list of states which have entered into
67 reciprocity agreements with the State of West Virginia.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.




Chairman Senate Committee



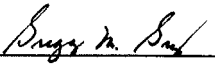
Chairman House Committee

Originating in the House.


In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

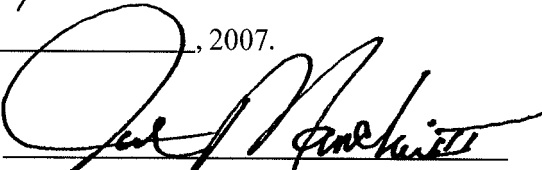


President of the Senate



Speaker of the House of Delegates

The within is approved this the 3rd
day of April, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2007

Time 3:50 pm