

1 **H. B. 4575**

2  
3 (By Delegate White)

4 [Introduced February 17, 2012; referred to the  
5 Committee on the Judiciary then Finance.]  
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10 A BILL to amend and reenact §61-7-4 the Code of West Virginia,  
11 1931, as amended, relating to requirements for a license to  
12 carry a deadly weapon; requiring additional information to be  
13 included on the license; and increasing the amount of the  
14 license fee disbursed to the State Police.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-7-4 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 7. DANGEROUS WEAPONS.**

19 **§61-7-4. License to carry deadly weapons; how obtained.**

20 (a) Except as provided in subsection (h) of this section, any  
21 person desiring to obtain a state license to carry a concealed  
22 deadly weapon shall apply to the sheriff of his or her county for  
23 the license, and shall pay to the sheriff, at the time of

1 application, a fee of \$75, of which \$15 of that amount shall be  
2 deposited in the Courthouse Facilities Improvement Fund created by  
3 section six, article twenty-six, chapter twenty-nine of this code.  
4 Concealed weapons permits may only be issued for pistols or  
5 revolvers. Each applicant shall file with the sheriff, a complete  
6 application, as prepared by the Superintendent of the West Virginia  
7 State Police, in writing, duly verified, which sets forth only the  
8 following licensing requirements:

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

11       (2) That, on the date the application is made, the applicant  
12 is a bona fide resident of this state and of the county in which  
13 the application is made and has a valid driver's license or other  
14 state-issued photo identification showing the residence;

15       (3) That the applicant is twenty-one years of age or older:  
16 *Provided*, That any individual who is less than twenty-one years of  
17 age and possesses a properly issued concealed weapons license as of  
18 the effective date of this article shall be licensed to maintain  
19 his or her concealed weapons license notwithstanding the provisions  
20 of this section requiring new applicants to be at least twenty-one  
21 years of age: *Provided, however*, That upon a showing of any  
22 applicant who is eighteen years of age or older that he or she is  
23 required to carry a concealed weapon as a condition for employment,  
24 and presents satisfactory proof to the sheriff thereof, then he or

1 she shall be issued a license upon meeting all other conditions of  
2 this section. Upon discontinuance of employment that requires the  
3 concealed weapons license, if the individual issued the license is  
4 not yet twenty-one years of age, then the individual issued the  
5 license is no longer eligible and must return his or her license to  
6 the issuing sheriff;

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

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

11 (6) That the applicant has not been convicted of a  
12 misdemeanor offense of assault or battery either under the  
13 provisions of section twenty-eight, article two of this chapter or  
14 the provisions of subsection (b) or (c), section nine, article two  
15 of this chapter in which the victim was a current or former spouse,  
16 current or former sexual or intimate partner, person with whom the  
17 defendant has a child in common, person with whom the defendant  
18 cohabits or has cohabited, a parent or guardian, the defendant's  
19 child or ward or a member of the defendant's household at the time  
20 of the offense; or a misdemeanor offense with similar essential  
21 elements in a jurisdiction other than this state;

22 (7) That the applicant is not under indictment for a felony  
23 offense or is not currently serving a sentence of confinement,  
24 parole, probation or other court-ordered supervision imposed by a

1 court of any jurisdiction or is the subject of an emergency or  
2 temporary domestic violence protective order or is the subject of  
3 a final domestic violence protective order entered by a court of  
4 any jurisdiction;

5 (8) That the applicant is physically and mentally competent to  
6 carry the weapon;

7 (9) That the applicant has not been adjudicated to be mentally  
8 incompetent;

9 (10) That the applicant has qualified under the minimum  
10 requirements set forth in subsection (d) of this section for  
11 handling and firing the weapon: *Provided*, That this requirement  
12 shall be waived in the case of a renewal applicant who has  
13 previously qualified;

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

17 (b) The sheriff shall conduct an investigation including a  
18 nationwide criminal background check, consisting of the National  
19 Crime Information Center (NCIC), Interstate Identification Index  
20 (III), National Instant Criminal Background Checks System (NICS)  
21 and West Virginia criminal history record responses, in order to  
22 verify that the information required in subdivisions (1), (2), (3),  
23 (5), (6), (8) and (9), subsection (a) of this section is true and  
24 correct.

1           (c) ~~Sixty~~ Fifty dollars of the application fee and any fees  
2 for replacement of lost or stolen licenses received by the sheriff  
3 shall be deposited by the sheriff into a concealed weapons license  
4 administration fund. The fund shall be administered by the sheriff  
5 and shall take the form of an interest bearing account with any  
6 interest earned to be compounded to the fund. Any funds deposited  
7 in this concealed weapon license administration fund are to be  
8 expended by the sheriff to pay for the costs associated with  
9 issuing concealed weapons licenses. Any surplus in the fund on  
10 hand at the end of each fiscal year may be expended for other law-  
11 enforcement purposes or operating needs of the sheriff's office, as  
12 the sheriff may consider appropriate.

13           (d) All persons applying for a license must complete a  
14 training course in handling and firing a handgun. The successful  
15 completion of any of the following courses fulfills this training  
16 requirement:

17           (1) Any official National Rifle Association handgun safety or  
18 training course;

19           (2) Any handgun safety or training course or class available  
20 to the general public offered by an official law-enforcement  
21 organization, community college, junior college, college or private  
22 or public institution or organization or handgun training school  
23 utilizing instructors duly certified by the institution;

24           (3) Any handgun training or safety course or class conducted

1 by a handgun instructor certified as such by the state or by the  
2 National Rifle Association;

3 (4) Any handgun training or safety course or class conducted  
4 by any branch of the United States Military, Reserve or National  
5 Guard.

6 A photocopy of a certificate of completion of any of the  
7 courses or classes or an affidavit from the instructor, school,  
8 club, organization or group that conducted or taught said course or  
9 class attesting to the successful completion of the course or class  
10 by the applicant or a copy of any document which shows successful  
11 completion of the course or class shall constitute evidence of  
12 qualification under this section.

13 (e) All concealed weapons license applications must be  
14 notarized by a notary public duly licensed under article four,  
15 chapter twenty-nine of this code. Falsification of any portion of  
16 the application constitutes false swearing and is punishable under  
17 the provisions of section two, article five, chapter sixty-one of  
18 this code.

19 (f) If the information in the application is found to be true  
20 and correct, the sheriff shall issue a license. The sheriff shall  
21 issue, reissue or deny the license within forty-five days after the  
22 application is filed if all required background checks authorized  
23 by this section are completed.

24 (g) Before any approved license shall be issued or become

1 effective, the applicant shall pay to the sheriff a fee in the  
2 amount of ~~\$15~~ \$25 which the sheriff shall forward to the  
3 Superintendent of the West Virginia State Police within thirty days  
4 of receipt. The license shall be valid for five years throughout  
5 the state, unless sooner revoked.

6 (h) All persons holding a current and valid concealed weapons  
7 license as of December 16, 1995, shall continue to hold a valid  
8 concealed weapons license until his or her license expires or is  
9 revoked as provided in this article: *Provided*, That all  
10 reapplication fees shall be waived for applications received by  
11 January 1, 1997, for any person holding a current and valid  
12 concealed weapons license as of December 16, 1995, which contains  
13 use restrictions placed upon the license as a condition of issuance  
14 by the issuing circuit court. Any licenses reissued pursuant to  
15 this subsection will be issued for the time period of the original  
16 license.

17 (i) Each license shall contain the full name, date of birth  
18 and address of the licensee and a space upon which the signature of  
19 the licensee shall be signed with pen and ink. The issuing sheriff  
20 shall sign and attach his or her seal to all license cards. The  
21 sheriff shall provide to each new licensee a duplicate license  
22 card, in size similar to other state identification cards and  
23 licenses, suitable for carrying in a wallet, and the license card  
24 is considered a license for the purposes of this section.

1           (j) The Superintendent of the West Virginia State Police shall  
2 prepare uniform applications for licenses and license cards showing  
3 that the license has been granted and shall do any other act  
4 required to be done to protect the state and see to the enforcement  
5 of this section.

6           (k) If an application is denied, the specific reasons for the  
7 denial shall be stated by the sheriff denying the application. Any  
8 person denied a license may file, in the circuit court of the  
9 county in which the application was made, a petition seeking review  
10 of the denial. The petition shall be filed within thirty days of  
11 the denial. The court shall then determine whether the applicant  
12 is entitled to the issuance of a license under the criteria set  
13 forth in this section. The applicant may be represented by  
14 counsel, but in no case may the court be required to appoint  
15 counsel for an applicant. The final order of the court shall  
16 include the court's findings of fact and conclusions of law. If  
17 the final order upholds the denial, the applicant may file an  
18 appeal in accordance with the Rules of Appellate Procedure of the  
19 Supreme Court of Appeals.

20           (l) If a license is lost or destroyed, the person to whom the  
21 license was issued may obtain a duplicate or substitute license for  
22 a fee of \$5 by filing a notarized statement with the sheriff  
23 indicating that the license has been lost or destroyed.

24           (m) The sheriff shall, immediately after the license is

1 granted as aforesaid, furnish the Superintendent of the West  
2 Virginia State Police a certified copy of the approved application.  
3 The sheriff shall furnish to the Superintendent of the West  
4 Virginia State Police at any time so requested a certified list of  
5 all licenses issued in the county. The Superintendent of the West  
6 Virginia State Police shall maintain a registry of all persons who  
7 have been issued concealed weapons licenses.

8       (n) All licensees must carry with them a state-issued photo  
9 identification card with the concealed weapons license whenever the  
10 licensee is carrying a concealed weapon. Any licensee who fails to  
11 have in his or her possession a state-issued photo identification  
12 card and a current concealed weapons license while carrying a  
13 concealed weapon is guilty of a misdemeanor and, upon conviction  
14 thereof, shall be fined not less than \$50 or more than \$200 for  
15 each offense.

16       (o) The sheriff shall deny any application or revoke any  
17 existing license upon determination that any of the licensing  
18 application requirements established in this section have been  
19 violated by the licensee.

20       (p) A person who is engaged in the receipt, review or in the  
21 issuance or revocation of a concealed weapon license does not incur  
22 any civil liability as the result of the lawful performance of his  
23 or her duties under this article.

24       (q) Notwithstanding the provisions of subsection (a) of this

1 section, with respect to application by a former law-enforcement  
2 officer honorably retired from agencies governed by article  
3 fourteen, chapter seven of this code; article fourteen, chapter  
4 eight of this code; article two, chapter fifteen of this code; and  
5 article seven, chapter twenty of this code, an honorably retired  
6 officer is exempt from payment of fees and costs as otherwise  
7 required by this section, and the application of the honorably  
8 retired officer shall be granted without proof or inquiry by the  
9 sheriff as to those requirements set forth in subdivision (9),  
10 subsection (a) of this section, if the officer meets the remainder  
11 of the requirements of this section and has the approval of the  
12 appropriate chief law-enforcement officer.

13 (r) Except as restricted or prohibited by the provisions of  
14 this article or as otherwise prohibited by law, the issuance of a  
15 concealed weapon permit issued in accordance with the provisions of  
16 this section authorizes the holder of the permit to carry a  
17 concealed pistol or revolver on the lands or waters of this state.

NOTE: The purpose of this bill is to update and require additional information to be provided when an individual applies for a dangerous weapons license and establishes an increase in the fee payable to State Police for processing.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.