

H. B. 2390

(By Delegate Cadle)

[Introduced February 13, 2013; referred to the
Committee on Education then the Judiciary.]

A BILL to amend and reenact §61-7-11a and §61-7-14 of the Code of
West Virginia, 1931, as amended, all relating to dangerous
weapons; and providing that a teacher who holds a valid
license to carry a concealed deadly weapon may carry the
concealed weapon on the school property for the protection of
students and school employees, if the county board of
education of the county in which the teacher is employed
approves that person in writing.

Be it enacted by the Legislature of West Virginia:

That §61-7-11a and §61-7-14 of the Code of West Virginia,
1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

**§61-7-11a. Possessing deadly weapons on premises of educational
facilities; reports by school principals;**

1 **suspension of driver license; possessing deadly**
2 **weapons on premises housing courts of law and in**
3 **offices of family law master.**

4 (a) The Legislature hereby finds that the safety and welfare
5 of the citizens of this state are inextricably dependent upon
6 assurances of safety for children attending, and the persons
7 employed by, schools in this state and for those persons employed
8 with the judicial department of this state. It is for the purpose
9 of providing such assurances of safety, therefore, that subsections
10 (b), (g) and (h) of this section are enacted as a reasonable
11 regulation of the manner in which citizens may exercise those
12 rights accorded to them pursuant to section twenty-two, article
13 three of the Constitution of the State of West Virginia.

14 (b) (1) It ~~shall be~~ is unlawful for any person to possess any
15 firearm or any other deadly weapon on any school bus as defined in
16 section one, article one, chapter seventeen-a of this code, or in
17 or on any public or private primary or secondary education
18 building, structure, facility or grounds thereof, including any
19 vocational education building, structure, facility or grounds
20 thereof where secondary vocational education programs are conducted
21 or at any school-sponsored function.

22 (2) This subsection shall not apply to:

23 (A) A law-enforcement officer acting in his or her official
24 capacity;

1 (B) A person specifically authorized by the board of education
2 of the county or principal of the school where the property is
3 located to conduct programs with valid educational purposes;

4 (C) A person who, as otherwise permitted by the provisions of
5 this article, possesses an unloaded firearm or deadly weapon in a
6 motor vehicle, or leaves an unloaded firearm or deadly weapon in a
7 locked motor vehicle;

8 (D) Programs or raffles conducted with the approval of the
9 county board of education or school which include the display of
10 unloaded firearms; ~~or~~

11 (E) A person who is a teacher and who holds a valid license to
12 carry a concealed deadly weapon pursuant to section four of this
13 article: *Provided*, That the county board of education of the
14 county in which the teacher is employed approves in writing that
15 the person may carry the concealed weapon on the school property
16 for the protection of students and school employees and that this
17 person has successfully passed drug testing approved by the county
18 board: *Provided, however*, That the name of any such teacher may
19 not be published as the holder of a license to carry a concealed
20 deadly weapon; or

21 ~~(E)~~ (F) The official mascot of West Virginia University,
22 commonly known as "The Mountaineer", acting in his or her official
23 capacity.

24 (3) Any person violating this subsection shall be guilty of a

1 felony and, upon conviction thereof, shall be imprisoned in the
2 penitentiary of this state for a definite term of years of not less
3 than two years nor more than ten years, or fined not more than
4 \$5,000, or both.

5 (c) ~~It shall be the duty of the~~ The principal of each school
6 subject to the authority of the State Board of Education ~~to~~ shall
7 report any violation of subsection (b) of this section discovered
8 by such principal to the State Superintendent of Schools within
9 seventy-two hours after such violation occurs. The State Board of
10 Education shall keep and maintain such reports and may prescribe
11 rules establishing policy and procedures for the making and
12 delivery of the same as required by this subsection. In addition,
13 ~~it shall be the duty of~~ the principal of each school subject to the
14 authority of the State Board of Education ~~to~~ shall report any
15 violation of subsection (b) of this section discovered by ~~such~~ the
16 principal to the appropriate local office of the division of public
17 safety within seventy-two hours after ~~such~~ the violation occurs.

18 (d) In addition to the methods of disposition provided by
19 article five, chapter forty-nine of this code, any court which
20 adjudicates a person who is fourteen years of age or older as
21 delinquent for a violation of subsection (b) of this section may,
22 ~~in its discretion,~~ order the Division of Motor Vehicles to suspend
23 any driver's license or instruction permit issued to such person
24 for such period of time as the court ~~may deem~~ considers

1 appropriate, ~~such~~ the suspension, however, not to extend beyond
2 ~~such~~ the person's nineteenth birthday; or, where ~~such~~ the person
3 has not been issued a driver's license or instruction permit by
4 this state, order the Division of Motor Vehicles to deny ~~such~~ the
5 person's application ~~for the same~~ for such period of time as the
6 court ~~may deem~~ considers appropriate, ~~such~~ the denial, however, may
7 not ~~to~~ extend beyond ~~such~~ the person's nineteenth birthday. Any
8 suspension ordered by the court pursuant to this subsection shall
9 be effective upon the date of entry of ~~such~~ the order. Where the
10 court orders the suspension of a driver's license or instruction
11 permit pursuant to this subsection, the court shall confiscate any
12 driver's license or instruction permit in the adjudicated person's
13 possession and forward the same to the Division of Motor Vehicles.

14 (e) (1) If a person eighteen years of age or older is
15 convicted of violating subsection (b) of this section, and if ~~such~~
16 the person does not act to appeal ~~such~~ the conviction within the
17 time periods described in subdivision (2) of this subsection, ~~such~~
18 the person's license or privilege to operate a motor vehicle in
19 this state shall be revoked in accordance with the provisions of
20 this section.

21 (2) The clerk of the court in which the person is convicted as
22 described in subdivision (1) of this subsection shall forward to
23 the commissioner a transcript of the judgment of conviction. If
24 the conviction is the judgment of a magistrate court, the

1 magistrate court clerk shall forward such transcript when the
2 person convicted has not requested an appeal within twenty days of
3 the sentencing for ~~such~~ the conviction. If the conviction is the
4 judgment of a circuit court, the circuit clerk shall forward ~~such~~
5 the transcript when the person convicted has not filed a notice of
6 intent to file a petition for appeal or writ of error within thirty
7 days after the judgment was entered.

8 (3) If, upon examination of the transcript of the judgment of
9 conviction, the commissioner shall determine that the person was
10 convicted as described in subdivision (1) of this subsection, the
11 commissioner shall make and enter an order revoking ~~such~~ the
12 person's license or privilege to operate a motor vehicle in this
13 state for a period of one year, or, ~~in the event~~ if the person is
14 a student enrolled in a secondary school, for a period of one year
15 or until the person's twentieth birthday, whichever is the greater
16 period. The order shall contain the reasons for the revocation and
17 the revocation period. The order of suspension shall advise the
18 person that because of the receipt of the court's transcript, a
19 presumption exists that the person named in the order of suspension
20 is the same person named in the transcript. The commissioner may
21 grant an administrative hearing which substantially complies with
22 the requirements of the provisions of section two, article five-a,
23 chapter seventeen-c of this code upon a preliminary showing that a
24 possibility exists that the person named in the notice of

1 conviction is not the same person whose license is being suspended.
2 ~~Such~~ The request for hearing shall be made within ten days after
3 receipt of a copy of the order of suspension. The sole purpose of
4 this hearing shall be for the person requesting the hearing to
5 present evidence that he or she is not the person named in the
6 notice. ~~In the event~~ If the commissioner grants an administrative
7 hearing, the commissioner shall stay the license suspension pending
8 the commissioner's order resulting from the hearing.

9 (4) For the purposes of this subsection, a person is convicted
10 when ~~such~~ the person enters a plea of guilty or is found guilty by
11 a court or jury.

12 (f) (1) It ~~shall be~~ is unlawful for any parent(s), guardian(s)
13 or custodian(s) of a person less than eighteen years of age who
14 knows that said person is in violation of subsection (b) of this
15 section, or who has reasonable cause to believe that ~~said~~ the
16 person's violation of said subsection is imminent, to fail to
17 immediately report ~~such~~ that knowledge or belief to the appropriate
18 school or law-enforcement officials.

19 (2) Any person violating this subsection ~~shall be~~ is guilty of
20 a misdemeanor and, upon conviction thereof, shall be fined not more
21 than \$1,000, or shall be confined in jail not more than one year,
22 or both fined and confined.

23 (g) (1) It ~~shall be~~ is unlawful for any person to possess any
24 firearm or any other deadly weapon on any premises which houses a

1 court of law or in the offices of a family law master.

2 (2) This subsection ~~shall~~ does not apply to:

3 (A) A law-enforcement officer acting in his or her official
4 capacity; and

5 (B) A person exempted from the provisions of this subsection
6 by order of record entered by a court with jurisdiction over such
7 premises or offices.

8 (3) Any person violating this subsection ~~shall be~~ is guilty of
9 a misdemeanor and, upon conviction thereof, shall be fined not more
10 than \$1,000, or shall be confined in jail not more than one year,
11 or both fined and confined.

12 (h) (1) It ~~shall be~~ is unlawful for any person to possess any
13 firearm or any other deadly weapon on any premises which houses a
14 court of law or in the offices of a family law master with the
15 intent to commit a crime.

16 (2) Any person violating this subsection ~~shall be~~ is guilty of
17 a felony and, upon conviction thereof, shall be imprisoned in ~~the~~
18 ~~penitentiary of this state for a definite term of years of not a~~
19 state correctional facility not less than two years nor more than
20 ten years, or fined not more than \$5,000, or both fined and
21 imprisoned.

22 (i) Nothing in this section may be construed to be in conflict
23 with the provisions of federal law.

24 **§61-7-14. Right of certain persons to limit possession of**

1 **firearms on premises.**

2 Notwithstanding the provisions of this article, any owner,
3 lessee or other person charged with the care, custody and control
4 of real property may prohibit the carrying openly or concealed of
5 any firearm or deadly weapon on property under his or her domain:
6 *Provided*, That for purposes of this section "person" means an
7 individual or any entity which may acquire title to real property.

8 Any person carrying or possessing a firearm or other deadly
9 weapon on the property of another who refuses to temporarily
10 relinquish possession of such firearm or other deadly weapon, upon
11 being requested to do so, or to leave such premises, while in
12 possession of such firearm or other deadly weapon, shall be guilty
13 of a misdemeanor and, upon conviction thereof, shall be fined not
14 more than \$1,000 or confined in jail not more than six months, or
15 both: *Provided*, That the provisions of this section shall not
16 apply to those persons set forth in subsections (3) through (6) of
17 section six of this code while such persons are acting in an
18 official capacity: *Provided, however*, That under no circumstances
19 may any person possess or carry or cause the possession or carrying
20 of any firearm or other deadly weapon on the premises of any
21 primary or secondary educational facility in this state unless such
22 person is a law-enforcement officer, is a teacher who holds a
23 valid license to carry a concealed deadly weapon pursuant to
24 section four of this article and the county board of education of

1 the county in which the teacher is employed approves, in writing,
2 that the person may carry the concealed weapon on the school
3 property for the protection of students and school employees as
4 provided in section eleven-a of this article or he or she otherwise
5 has the express written permission of the county school
6 superintendent.

NOTE: The purpose of this bill is to provide that a teacher who holds a valid license to carry a concealed deadly weapon may carry the concealed weapon on the school property for the protection of students and school employees, if the county board of education of the county in which the teacher is employed approves that person in writing and the person has passed drug testing approved by the county board. The bill also prohibits the publication of the names of these teachers.

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