

1 **H. B. 2604**

2  
3 (By Delegates D. Poling, Iaquinta, Ferro, Pethtel,  
4 Longstreth and Walker)

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6 [Introduced February 22, 2013; referred to the  
7 Committee on Veterans' Affairs and Homeland Security then  
8 the Judiciary.]  
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10 A BILL to amend and reenact §61-7-4 of the Code of West Virginia,  
11 1931, as amended, relating to dangerous weapons; license to  
12 carry deadly weapons; and exempting honorably discharged  
13 veterans of the armed forces of the United States from payment  
14 of fees and costs required by this section.

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  
24 application, a fee of \$75, of which \$15 of that amount shall be  
25 deposited in the Courthouse Facilities Improvement Fund created by

1 section six, article twenty-six, chapter twenty-nine of this code.  
2 Concealed weapons permits may only be issued for pistols or  
3 revolvers. Each applicant shall file with the sheriff a complete  
4 application, as prepared by the Superintendent of the West Virginia  
5 State Police, in writing, duly verified, which sets forth only the  
6 following licensing requirements:

7       (1) The applicant's full name, date of birth, Social Security  
8 number, a description of the applicant's physical features, the  
9 applicant's place of birth, the applicant's country of citizenship  
10 and, if the applicant is not a United States citizen, any alien or  
11 admission number issued by the United States Bureau of Immigration  
12 and Customs enforcement, and any basis, if applicable, for an  
13 exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

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

18       (3) That the applicant is twenty-one years of age or older:  
19 *Provided*, That any individual who is less than twenty-one years of  
20 age and possesses a properly issued concealed weapons license as of  
21 the effective date of this article shall be licensed to maintain  
22 his or her concealed weapons license notwithstanding the provisions  
23 of this section requiring new applicants to be at least twenty-one  
24 years of age: *Provided, however*, That upon a showing of any

1 applicant who is eighteen years of age or older that he or she is  
2 required to carry a concealed weapon as a condition for employment,  
3 and presents satisfactory proof to the sheriff thereof, then he or  
4 she shall be issued a license upon meeting all other conditions of  
5 this section. Upon discontinuance of employment that requires the  
6 concealed weapons license, if the individual issued the license is  
7 not yet twenty-one years of age, then the individual issued the  
8 license is no longer eligible and must return his or her license to  
9 the issuing sheriff;

10 (4) That the applicant is not addicted to alcohol, a  
11 controlled substance or a drug and is not an unlawful user thereof  
12 as evidenced by either of the following within the three years  
13 immediately prior to the application:

14 (A) Residential or court-ordered treatment for alcoholism or  
15 alcohol detoxification or drug treatment; or

16 (B) Two or more convictions for driving while under the  
17 influence or driving while impaired;

18 (5) That the applicant has not been convicted of a felony or  
19 of an act of a misdemeanor crime of violence involving the misuse  
20 of a deadly weapon within the five years immediately preceding the  
21 application;

22 (6) That the applicant has not been convicted of a misdemeanor  
23 crime of domestic violence as defined in 18 U. S. C. §921(a)(33),  
24 or a misdemeanor offense of assault or battery either under the

1 provisions of section twenty-eight, article two of this chapter or  
2 the provisions of subsection (b) or (c), section nine, article two  
3 of this chapter in which the victim was a current or former spouse,  
4 current or former sexual or intimate partner, person with whom the  
5 defendant cohabits or has cohabited, a parent or guardian, the  
6 defendant's child or ward or a member of the defendant's household  
7 at the time of the offense, or a misdemeanor offense with similar  
8 essential elements in a jurisdiction other than this state;

9       (7) That the applicant is not under indictment for a felony  
10 offense or is not currently serving a sentence of confinement,  
11 parole, probation or other court-ordered supervision imposed by a  
12 court of any jurisdiction or is the subject of an emergency or  
13 temporary domestic violence protective order or is the subject of  
14 a final domestic violence protective order entered by a court of  
15 any jurisdiction;

16       (8) That the applicant has not been adjudicated to be mentally  
17 incompetent. If the applicant has been adjudicated mentally  
18 incompetent the applicant must provide a court order reflecting  
19 that the applicant is no longer under such disability;

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

1           (10) That the applicant authorizes the sheriff of the county,  
2 or his or her designee, to conduct an investigation relative to the  
3 information contained in the application.

4           (b) For both initial and renewal applications, the sheriff  
5 shall conduct an investigation including a nationwide criminal  
6 background check consisting of checking the National Instant  
7 Criminal Background Check System and the West Virginia criminal  
8 history record responses in order to verify that the information  
9 required in subsection (a) of this section is true and correct.

10          (c) Sixty dollars of the application fee and any fees for  
11 replacement of lost or stolen licenses received by the sheriff  
12 shall be deposited by the sheriff into a Concealed Weapons License  
13 Administration Fund. The fund shall be administered by the sheriff  
14 and shall take the form of an interest-bearing account with any  
15 interest earned to be compounded to the fund. Any funds deposited  
16 in this Concealed Weapon License Administration Fund are to be  
17 expended by the sheriff to pay for the costs associated with  
18 issuing concealed weapons licenses. Any surplus in the fund on  
19 hand at the end of each fiscal year may be expended for other  
20 law-enforcement purposes or operating needs of the sheriff's  
21 office, as the sheriff may consider appropriate.

22          (d) All persons applying for a license must complete a  
23 training course in handling and firing a handgun. The successful  
24 completion of any of the following courses fulfills this training

1 requirement:

2 (1) Any official National Rifle Association handgun safety or  
3 training course;

4 (2) Any handgun safety or training course or class available  
5 to the general public offered by an official law-enforcement  
6 organization, community college, junior college, college or private  
7 or public institution or organization or handgun training school  
8 utilizing instructors duly certified by the institution;

9 (3) Any handgun training or safety course or class conducted  
10 by a handgun instructor certified as such by the state or by the  
11 National Rifle Association;

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

15 A photocopy of a certificate of completion of any of the  
16 courses or classes or an affidavit from the instructor, school,  
17 club, organization or group that conducted or taught said course or  
18 class attesting to the successful completion of the course or class  
19 by the applicant or a copy of any document which shows successful  
20 completion of the course or class shall constitute evidence of  
21 qualification under this section.

22 (e) All concealed weapons license applications must be  
23 notarized by a notary public duly licensed under article four,  
24 chapter twenty-nine of this code. Falsification of any portion of

1 the application constitutes false swearing and is punishable under  
2 the provisions of section two, article five, chapter sixty-one of  
3 this code.

4 (f) The sheriff shall issue a license unless he or she  
5 determines that the application is incomplete, that it contains  
6 statements that are materially false or incorrect or that applicant  
7 otherwise does not meet the requirements set forth in this section.  
8 The sheriff shall issue, reissue or deny the license within  
9 forty-five days after the application is filed if all required  
10 background checks authorized by this section are completed.

11 (g) Before any approved license shall be issued or become  
12 effective, the applicant shall pay to the sheriff a fee in the  
13 amount of \$25 which the sheriff shall forward to the Superintendent  
14 of the West Virginia State Police within thirty days of receipt.  
15 The license shall be valid for five years throughout the state,  
16 unless sooner revoked.

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

1           (i) 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           (j) 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           (k) 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           (l) Whenever any person after applying for and receiving a



1 concealed handgun license moves from the address named in the  
2 application to another county within the state, the license remains  
3 valid for the remainder of the five years: *Provided*, That the  
4 licensee within twenty days thereafter notifies the sheriff in the  
5 new county of residence in writing of the old and new addresses.

6 (m) The sheriff shall, immediately after the license is  
7 granted as aforesaid, furnish the Superintendent of the West  
8 Virginia State Police a certified copy of the approved application.  
9 The sheriff shall furnish to the Superintendent of the West  
10 Virginia State Police at any time so requested a certified list of  
11 all licenses issued in the county. The Superintendent of the West  
12 Virginia State Police shall maintain a registry of all persons who  
13 have been issued concealed weapons licenses.

14 (n) Except when subject to an exception under section six,  
15 article seven of this chapter, all licensees must carry with them  
16 a state-issued photo identification card with the concealed weapons  
17 license whenever the licensee is carrying a concealed weapon. Any  
18 licensee who, in violation of this subsection, fails to have in his  
19 or her possession a state-issued photo identification card and a  
20 current concealed weapons license while carrying a concealed weapon  
21 is guilty of a misdemeanor and, upon conviction thereof, shall be  
22 fined not less than \$50 or more than \$200 for each offense.

23 (o) The sheriff shall deny any application or revoke any  
24 existing license upon determination that any of the licensing

1 application requirements established in this section have been  
2 violated by the licensee.

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

7 (q) Notwithstanding the provisions of subsection (a) of this  
8 section, with respect to application by an honorably discharged  
9 veteran of the armed forces of the United States or a former  
10 law-enforcement officer honorably retired from agencies governed by  
11 article fourteen, chapter seven of this code; article fourteen,  
12 chapter eight of this code; article two, chapter fifteen of this  
13 code; and article seven, chapter twenty of this code, an honorably  
14 retired officer or an honorably discharged veteran of the armed  
15 forces of the United States is exempt from payment of fees and  
16 costs as otherwise required by this section.

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

NOTE: The purpose of this bill is to exempt honorably  
discharged veterans of the armed forces of the United States from  
payment of fees and costs required by this section for a license

to carry deadly weapons. This exemption already applies to former law-enforcement officers who are honorably retired.

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