

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 421

(SENATORS NOHE, BOLEY, CARMICHAEL AND WALTERS,
ORIGINAL SPONSORS)

[PASSED APRIL 5, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

E N R O L L E D
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 421

(SENATORS NOHE, BOLEY, CARMICHAEL AND WALTERS,
original sponsors)

[Passed April 5, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to providing an exemption for the official mascot of Parkersburg South High School, commonly known as the Patriot, which would allow the mascot to carry a musket on school grounds when the mascot is acting in his or her official capacity.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and in offices of family law master.

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

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

19 (2) This subsection does not apply to:

20 (A) A law-enforcement officer acting in his or her official
21 capacity;

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

26 (C) A person who, as otherwise permitted by the
27 provisions of this article, possesses an unloaded firearm or
28 deadly weapon in a motor vehicle or leaves an unloaded
29 firearm or deadly weapon in a locked motor vehicle;

30 (D) Programs or raffles conducted with the approval of
31 the county board of education or school which include the
32 display of unloaded firearms;

33 (E) The official mascot of West Virginia University,
34 commonly known as the Mountaineer, acting in his or her
35 official capacity; or

36 (F) The official mascot of Parkersburg South High
37 School, commonly known as the Patriot, acting in his or her
38 official capacity.

39 (3) A person violating this subsection is guilty of a felony
40 and, upon conviction thereof, shall be imprisoned in a state
41 correctional facility for a definite term of years of not less
42 than two years nor more than ten years, or fined not more
43 than \$5,000, or both.

44 (c) It is the duty of the principal of each school subject to
45 the authority of the State Board of Education to report a
46 violation of subsection (b) of this section discovered by the
47 principal to the State Superintendent of Schools within
48 seventy-two hours after the violation occurs. The State
49 Board of Education shall keep and maintain these reports and
50 may prescribe rules establishing policy and procedures for
51 the making and delivery of the reports as required by this
52 subsection. In addition, it is the duty of the principal of each
53 school subject to the authority of the State Board of
54 Education to report a violation of subsection (b) of this
55 section discovered by the principal to the appropriate local
56 office of the Division of Public Safety within seventy-two
57 hours after the violation occurs.

58 (d) In addition to the methods of disposition provided by
59 article five, chapter forty-nine of this code, a court which
60 adjudicates a person who is fourteen years of age or older as
61 delinquent for a violation of subsection (b) of this section
62 may, in its discretion, order the Division of Motor Vehicles
63 to suspend a driver's license or instruction permit issued to
64 the person for a period of time as the court considers
65 appropriate, not to extend beyond the person's nineteenth

66 birthday. Where the person has not been issued a driver's
67 license or instruction permit by this state, a court may order
68 the Division of Motor Vehicles to deny the person's
69 application for a license or permit for a period of time as the
70 court considers appropriate, not to extend beyond the person's
71 nineteenth birthday. A suspension ordered by the court
72 pursuant to this subsection is effective upon the date of entry
73 of the order. Where the court orders the suspension of a
74 driver's license or instruction permit pursuant to this
75 subsection, the court shall confiscate any driver's license or
76 instruction permit in the adjudicated person's possession and
77 forward to the Division of Motor Vehicles.

78 (e) (1) If a person eighteen years of age or older is
79 convicted of violating subsection (b) of this section, and if the
80 person does not act to appeal the conviction within the time
81 periods described in subdivision (2) of this subsection, the
82 person's license or privilege to operate a motor vehicle in this
83 state shall be revoked in accordance with the provisions of
84 this section.

85 (2) The clerk of the court in which the person is
86 convicted as described in subdivision (1) of this subsection
87 shall forward to the commissioner a transcript of the
88 judgment of conviction. If the conviction is the judgment of
89 a magistrate court, the magistrate court clerk shall forward
90 the transcript when the person convicted has not requested an
91 appeal within twenty days of the sentencing for the
92 conviction. If the conviction is the judgment of a circuit
93 court, the circuit clerk shall forward a transcript of the
94 judgment of conviction when the person convicted has not
95 filed a notice of intent to file a petition for appeal or writ of
96 error within thirty days after the judgment was entered.

97 (3) If, upon examination of the transcript of the judgment
98 of conviction, the commissioner determines that the person
99 was convicted as described in subdivision (1) of this

100 subsection, the commissioner shall make and enter an order
101 revoking the person's license or privilege to operate a motor
102 vehicle in this state for a period of one year or, in the event
103 the person is a student enrolled in a secondary school, for a
104 period of one year or until the person's twentieth birthday,
105 whichever is the greater period. The order shall contain the
106 reasons for the revocation and the revocation period. The
107 order of suspension shall advise the person that because of
108 the receipt of the court's transcript, a presumption exists that
109 the person named in the order of suspension is the same
110 person named in the transcript. The commissioner may grant
111 an administrative hearing which substantially complies with
112 the requirements of the provisions of section two, article
113 five-a, chapter seventeen-c of this code upon a preliminary
114 showing that a possibility exists that the person named in the
115 notice of conviction is not the same person whose license is
116 being suspended. The request for hearing shall be made
117 within ten days after receipt of a copy of the order of
118 suspension. The sole purpose of this hearing is for the person
119 requesting the hearing to present evidence that he or she is
120 not the person named in the notice. If the commissioner
121 grants an administrative hearing, the commissioner shall stay
122 the license suspension pending the commissioner's order
123 resulting from the hearing.

124 (4) For the purposes of this subsection, a person is
125 convicted when such person enters a plea of guilty or is found
126 guilty by a court or jury.

127 (f) (1) It is unlawful for a parent, guardian or custodian of
128 a person less than eighteen years of age who knows that the
129 person is in violation of subsection (b) of this section or has
130 reasonable cause to believe that the person's violation of
131 subsection (b) is imminent, to fail to immediately report his
132 or her knowledge or belief to the appropriate school or
133 law-enforcement officials.

134 (2) A person violating this subsection is guilty of a
135 misdemeanor and, upon conviction thereof, shall be fined not
136 more than \$1,000, or shall be confined in jail not more than
137 one year, or both.

138 (g) (1) It is unlawful for a person to possess a firearm or
139 other deadly weapon on the premises of a court of law,
140 including family courts.

141 (2) This subsection does not apply to:

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

144 (B) A person exempted from the provisions of this
145 subsection by order of record entered by a court with
146 jurisdiction over the premises or offices.

147 (3) A person violating this subsection is guilty of a
148 misdemeanor and, upon conviction thereof, shall be fined not
149 more than \$1,000, or shall be confined in jail not more than
150 one year, or both.

151 (h) (1) It is unlawful for a person to possess a firearm or
152 other deadly weapon on the premises of a court of law,
153 including family courts, with the intent to commit a crime.

154 (2) A person violating this subsection is guilty of a felony
155 and, upon conviction thereof, shall be imprisoned in a state
156 correctional facility for a definite term of years of not less
157 than two years nor more than ten years, or fined not more
158 than \$5,000, or both.

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

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

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

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 this the
Day of, 2013.

.....
Governor