

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4501**

4  
5 (By Delegates Summer, Cooper, O'Neal, Arvon, Shott, Moye,  
6 Ambler, Gearheart, Staggers, Miller and Sobonya)

7 (Originating in the Committee on the Judiciary.)

8 (February 21, 2014)

9  
10 A BILL to amend and reenact §61-7-11a of the Code of West Virginia,  
11 1931, as amended, relating to persons possessing deadly  
12 weapons on school buses or on the premises of educational  
13 facilities; authorizing active law-enforcement officers and  
14 retired law enforcement officers acting as security for  
15 schools to carry deadly weapons on a school bus, on school  
16 property or at school sponsored functions when certain  
17 conditions are met.

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

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

21 **ARTICLE 7. DANGEROUS WEAPONS.**

22 **§61-7-11a. Possessing deadly weapons on premises of educational**  
23 **facilities; reports by school principals;**  
24 **suspension of driver's license; possessing deadly**  
25 **weapons on premises housing courts of law and in**  
26 **~~offices of family law master courts.~~**

1 (a) The Legislature hereby finds that the safety and welfare  
2 of the citizens of this state are inextricably dependent upon  
3 assurances of safety for children attending and persons employed by  
4 schools in this state and for persons employed by the judicial  
5 department of this state. It is for the purpose of providing  
6 assurances of safety that subsections (b), (g) and (h) of this  
7 section are enacted as a reasonable regulation of the manner in  
8 which citizens may exercise the rights accorded to them pursuant to  
9 section twenty-two, article three of the Constitution of the State  
10 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 one,  
13 article one, chapter seventeen-a of this code, or in or on a public  
14 or private primary or secondary education building, structure,  
15 facility or grounds including a vocational education building,  
16 structure, facility or grounds where secondary vocational education  
17 programs are conducted or at a school-sponsored function.

18 (2) This subsection does not apply to:

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

21 (B) A law-enforcement officer who is specifically authorized  
22 by a county board and the school principal to act as security for  
23 the school, who meets all the requirements set forth by the  
24 applicable law-enforcement agency regulating the handling and who  
25 has qualified with that firearm to the standards set by that law-  
26 enforcement agency;

1        (C) A retired law-enforcement officer who is specifically  
2 authorized by a county board and the school principal to act as  
3 security for a school, who meets all the requirements to carry a  
4 firearm as a qualified retired law enforcement officer under the  
5 Law Enforcement Officer Safety Act of 2004, as amended, as set forth  
6 in 18 U.S.C. §926C(c), and who meets all of the requirements set  
7 forth by the applicable law-enforcement agency regulating the  
8 handling and use of a firearm, and who has qualified with that  
9 firearm to the standards set by that law-enforcement agency;

10        ~~(B)~~ (D) A person specifically authorized by the board of  
11 education of the county or principal of the school where the  
12 property is located to conduct programs with valid educational  
13 purposes;

14        ~~(C)~~ (E) A person who, as otherwise permitted by the provisions  
15 of this article, possesses an unloaded firearm or deadly weapon in  
16 a motor vehicle or leaves an unloaded firearm or deadly weapon in  
17 a locked motor vehicle;

18        ~~(D)~~ (F) Programs or raffles conducted with the approval of the  
19 county board of education or school which include the display of  
20 unloaded firearms;

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

24        ~~(F)~~ (H) The official mascot of Parkersburg South High School,  
25 commonly known as the Patriot, acting in his or her official  
26 capacity.

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

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

19           (d) In addition to the methods of disposition provided by  
20 article five, chapter forty-nine of this code, a court which  
21 adjudicates a person who is fourteen years of age or older as  
22 delinquent for a violation of subsection (b) of this section may,  
23 in its discretion, order the Division of Motor Vehicles to suspend  
24 a driver's license or instruction permit issued to the person for  
25 a period of time as the court considers appropriate, not to extend  
26 beyond the person's nineteenth birthday. Where the person has not

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

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

19 (2) The clerk of the court in which the person is convicted as  
20 described in subdivision (1) of this subsection shall forward to  
21 the commissioner a transcript of the judgment of conviction. If  
22 the conviction is the judgment of a magistrate court, the  
23 magistrate court clerk shall forward the transcript when the person  
24 convicted has not requested an appeal within twenty days of the  
25 sentencing for the conviction. If the conviction is the judgment  
26 of a circuit court, the circuit clerk shall forward a transcript of

1 the judgment of conviction when the person convicted has not filed  
2 a notice of intent to file a petition for appeal or writ of error  
3 within thirty days after the judgment was entered.

4 (3) If, upon examination of the transcript of the judgment of  
5 conviction, the commissioner determines that the person was  
6 convicted as described in subdivision (1) of this subsection, the  
7 commissioner shall make and enter an order revoking the person's  
8 license or privilege to operate a motor vehicle in this state for  
9 a period of one year or, in the event the person is a student  
10 enrolled in a secondary school, for a period of one year or until  
11 the person's twentieth birthday, whichever is the greater period.  
12 The order shall contain the reasons for the revocation and the  
13 revocation period. The order of suspension shall advise the person  
14 that because of the receipt of the court's transcript, a  
15 presumption exists that the person named in the order of suspension  
16 is the same person named in the transcript. The commissioner may  
17 grant an administrative hearing which substantially complies with  
18 the requirements of the provisions of section two, article five-a,  
19 chapter seventeen-c of this code upon a preliminary showing that a  
20 possibility exists that the person named in the notice of  
21 conviction is not the same person whose license is being suspended.  
22 The request for hearing shall be made within ten days after receipt  
23 of a copy of the order of suspension. The sole purpose of this  
24 hearing is for the person requesting the hearing to present  
25 evidence that he or she is not the person named in the notice. If  
26 the commissioner grants an administrative hearing, the commissioner

1 shall stay the license suspension pending the commissioner's order  
2 resulting from the hearing.

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

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

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

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

19 (2) This subsection does not apply to:

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

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

25 (3) A person violating this subsection is guilty of a  
26 misdemeanor and, upon conviction thereof, shall be fined not more

1 than \$1,000, or shall be confined in jail not more than one year,  
2 or both.

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

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

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