

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 539**

4 (By Senators Green, Stollings, D. Hall, Cookman, Barnes,  
5 Carmichael and Nohe)

6 \_\_\_\_\_  
7 [Originating in the Committee on the Judiciary;  
8 reported February 24, 2014.]  
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12 A BILL to amend and reenact §61-7-11a of the Code of West Virginia,  
13 1931, as amended, relating to persons possessing deadly  
14 weapons on school buses or on the premises of educational  
15 facilities; and authorizing active law-enforcement officers  
16 and certain retired law-enforcement officers acting as  
17 security for schools to carry deadly weapons on a school bus,  
18 on school property or at school-sponsored functions when  
19 certain conditions are met.

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

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

23 **ARTICLE 7. DANGEROUS WEAPONS.**

24 **§61-7-11a. Possessing deadly weapons on premises of educational**

1                   **facilities; reports by school principals;**  
2                   **suspension of driver's license; possessing deadly**  
3                   **weapons on premises housing courts of law and in**  
4                   **family courts.**

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

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

22           (2) This subsection does not apply to:

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

1       (B) A certified law-enforcement officer who is specifically  
2 authorized by a county board and the school principal to act as  
3 security for the school, who meets all the requirements of the law-  
4 enforcement agency of his or her employer regulating the handling  
5 of firearms and who has met all applicable state training and  
6 firearms certification requirements;

7       (C) A retired law-enforcement officer who has maintained his  
8 or her law-enforcement certification who is specifically authorized  
9 by a county board and the school principal to act as security for  
10 a school, who meets all the requirements to carry a firearm as a  
11 qualified retired law-enforcement officer under the Law Enforcement  
12 Officer Safety Act of 2004, as amended, and who holds a valid West  
13 Virginia concealed handgun weapon.

14       ~~(B)~~ (D) A person specifically authorized by the board of  
15 education of the county or principal of the school where the  
16 property is located to conduct programs with valid educational  
17 purposes;

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

22       ~~(D)~~ (F) Programs or raffles conducted with the approval of the  
23 county board of education or school which include the display of  
24 unloaded firearms;

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

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

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

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

1       (d) In addition to the methods of disposition provided by  
2 article five, chapter forty-nine of this code, a court which  
3 adjudicates a person who is fourteen years of age or older as  
4 delinquent for a violation of subsection (b) of this section may,  
5 in its discretion, order the Division of Motor Vehicles to suspend  
6 a driver's license or instruction permit issued to the person for  
7 a period of time as the court considers appropriate, not to extend  
8 beyond the person's nineteenth birthday. Where the person has not  
9 been issued a driver's license or instruction permit by this state,  
10 a court may order the Division of Motor Vehicles to deny the  
11 person's application for a license or permit for a period of time  
12 as the court considers appropriate, not to extend beyond the  
13 person's nineteenth birthday. A suspension ordered by the court  
14 pursuant to this subsection is effective upon the date of entry of  
15 the order. Where the court orders the suspension of a driver's  
16 license or instruction permit pursuant to this subsection, the  
17 court shall confiscate any driver's license or instruction permit  
18 in the adjudicated person's possession and forward to the Division  
19 of Motor Vehicles.

20       (e) (1) If a person eighteen years of age or older is  
21 convicted of violating subsection (b) of this section, and if the  
22 person does not act to appeal the conviction within the time  
23 periods described in subdivision (2) of this subsection, the  
24 person's license or privilege to operate a motor vehicle in this

1 state shall be revoked in accordance with the provisions of this  
2 section.

3       (2) The clerk of the court in which the person is convicted as  
4 described in subdivision (1) of this subsection shall forward to  
5 the commissioner a transcript of the judgment of conviction. If  
6 the conviction is the judgment of a magistrate court, the  
7 magistrate court clerk shall forward the transcript when the person  
8 convicted has not requested an appeal within twenty days of the  
9 sentencing for the conviction. If the conviction is the judgment  
10 of a circuit court, the circuit clerk shall forward a transcript of  
11 the judgment of conviction when the person convicted has not filed  
12 a notice of intent to file a petition for appeal or writ of error  
13 within thirty days after the judgment was entered.

14       (3) If, upon examination of the transcript of the judgment of  
15 conviction, the commissioner determines that the person was  
16 convicted as described in subdivision (1) of this subsection, the  
17 commissioner shall make and enter an order revoking the person's  
18 license or privilege to operate a motor vehicle in this state for  
19 a period of one year or, in the event the person is a student  
20 enrolled in a secondary school, for a period of one year or until  
21 the person's twentieth birthday, whichever is the greater period.  
22 The order shall contain the reasons for the revocation and the  
23 revocation period. The order of suspension shall advise the person  
24 that because of the receipt of the court's transcript, a

1 presumption exists that the person named in the order of suspension  
2 is the same person named in the transcript. The commissioner may  
3 grant an administrative hearing which substantially complies with  
4 the requirements of the provisions of section two, article five-a,  
5 chapter seventeen-c of this code upon a preliminary showing that a  
6 possibility exists that the person named in the notice of  
7 conviction is not the same person whose license is being suspended.  
8 The request for hearing shall be made within ten days after receipt  
9 of a copy of the order of suspension. The sole purpose of this  
10 hearing is for the person requesting the hearing to present  
11 evidence that he or she is not the person named in the notice. If  
12 the commissioner grants an administrative hearing, the commissioner  
13 shall stay the license suspension pending the commissioner's order  
14 resulting from the hearing.

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

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

24       (2) A person violating this subsection is guilty of a

1 misdemeanor and, upon conviction thereof, shall be fined not more  
2 than \$1,000, or shall be confined in jail not more than one year,  
3 or both.

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

7       (2) This subsection does not apply to:

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

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

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

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

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



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