

1 **H. B. 4441**

2
3 (By Delegates Cadle, Eldridge, R. Phillips,
4 Barill, Perry, Staggers, Iaquina, Miller
5 and Butler)
6

7 [Introduced February 7, 2014; referred to the
8 Committee on Education then the Judiciary.]
9

10 A BILL to amend and reenact §61-7-11a and §61-7-14 of the Code of
11 West Virginia, 1931, as amended, all relating to dangerous
12 weapons; permitting a teacher who holds a valid license to
13 carry a concealed deadly weapon to carry that weapon on the
14 school property for the protection of students and school
15 employees if approved in writing by the county board of
16 education and the teacher has passed a drug test; providing
17 that the teacher's name may not be published as the holder of
18 a license to carry a concealed deadly weapon; and making
19 stylistic changes.

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

21 That §61-7-11a and §61-7-14 of the Code of West Virginia,
22 1931, as amended, be amended and reenacted, all to read as follows:

23 **ARTICLE 7. DANGEROUS WEAPONS.**

24 **§61-7-11a. Possessing deadly weapons on premises of educational**
25 **facilities; reports by school principals;**

1 **suspension of driver's 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 persons employed by
7 schools in this state and for persons employed by the judicial
8 department of this state. It is for the purpose of providing
9 assurances of safety that subsections (b), (g) and (h) of this
10 section are enacted as a reasonable regulation of the manner in
11 which citizens may exercise the rights accorded to them pursuant to
12 section twenty-two, article three of the Constitution of the State
13 of West Virginia.

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

21 (2) This subsection does not apply to:

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

24 (B) A person specifically authorized by the board of education

1 of the county or principal of the school where the property is
2 located to conduct programs with valid educational purposes;

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

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

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

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

23 ~~(F)~~ (G) The official mascot of Parkersburg South High School,
24 commonly known as the Patriot, acting in his or her official

1 capacity.

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

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

20 (d) In addition to the methods of disposition provided by
21 article five, chapter forty-nine of this code, a court which
22 adjudicates a person who is fourteen years of age or older as
23 delinquent for a violation of subsection (b) of this section may ~~in~~
24 ~~its discretion,~~ order the Division of Motor Vehicles to suspend a

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

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

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

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

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

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

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

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

19 (2) A person violating this subsection is guilty of a
20 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 is unlawful for a person to possess a firearm or
24 other deadly weapon on the premises of a court of law, including

1 family courts.

2 (2) This subsection 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 the
7 premises or offices.

8 (3) A person violating this subsection is guilty of a
9 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 is unlawful for a person to possess a firearm or
13 other deadly weapon on the premises of a court of law, including
14 family courts, with the intent to commit a crime.

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

20 (i) ~~Nothing in this section may~~ This section may not be
21 construed to be in conflict with ~~the provisions of~~ federal law.

22 **§61-7-14. Right of certain persons to limit possession of firearms**
23 **on premises.**

24 Notwithstanding the provisions of this article, any owner,

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

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

1 school property for the protection of students and school employees
2 as provided in section eleven-a of this article or he or she
3 otherwise has the express written permission of the county school
4 superintendent.

NOTE: The purpose of this bill is to permit a teacher who holds a valid concealed deadly weapon license to carry the weapon on school property for the protection of students and school employees if approved in writing by the county board of education and the teacher has passed drug testing. The bill provides that the teacher's name may not be published as the holder of a license to carry a concealed deadly weapon. The bill also makes stylistic changes.

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