

COMMITTEE SUBSTITUTE

FOR

H. B. 2502

(By Delegates Espinosa, Upson, Gearheart, Cooper, Ambler, O' Neal, Miller, Sobonya, Shott,

Arvon and Blair)

(Originating in the Committee on the Judiciary.)

(February 25, 2015)

A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to persons possessing deadly weapons on school buses or on the premises of educational facilities; authorizing active law-enforcement officers in certain circumstances to possess a firearm or deadly weapon on a school bus, on school property or at school sponsored functions; authorizing retired law-enforcement officers in certain circumstances to carry deadly weapons on a school bus, on school property or at school sponsored functions when certain conditions are met; and establishing reporting requirements for the school principal.

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

1 **premises housing courts of law and in offices of family law master courts.**

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

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

13 (2) This subsection does not apply to:

14 (A) A law-enforcement officer ~~acting in his or her official capacity~~ employed by a federal,
15 state, county or municipal law enforcement agency;

16 (B) A retired law-enforcement officer who:

17 (i) Is employed by a state, county or municipal law enforcement agency;

18 (ii) Is covered for liability purposes by his or her employer;

19 (iii) Is authorized by a county board of education and the school principal to serve as security
20 for a school;

21 (iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement
22 officer under the Law Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C.

1 §926C(c); and

2 (v) Meets all of the requirements for handling and using a firearm established by his or her
3 employer, and has qualified with his or her firearm to those requirements;

4 ~~(B)~~ (C) A person specifically authorized by the board of education of the county or principal
5 of the school where the property is located to conduct programs with valid educational purposes;

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

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

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

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

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

18 ~~(c) It is the duty of the principal of each school~~ A school principal subject to the authority of
19 the State Board of Education ~~to report within~~ who discovers a violation of subsection (b) of this
20 section ~~discovered by the principal~~ shall report the violation as soon as possible to:

21 (1) The State Superintendent of Schools. ~~within seventy-two hours after the violation occurs~~
22 The State Board of Education shall keep and maintain these reports and may prescribe rules

1 establishing policy and procedures for the making and ~~delivery of~~ delivering the reports as required
2 by this subsection; and ~~In addition, it is the duty of the principal of each school subject to the~~
3 ~~authority of the State Board of Education to report a violation of subsection (b) of this section~~
4 ~~discovered by the principal to~~

5 (2) The appropriate local office of the Division of Public Safety, ~~within seventy-two hours~~
6 ~~after the violation occurs~~ county sheriff or municipal police agency.

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

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

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

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

1 in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the
2 license suspension pending the commissioner's order resulting from the hearing.

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

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

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

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

14 (2) This subsection does not apply to:

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

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

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

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

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

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