

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 284**

4 (By Senators Nohe, Plymale, Sypolt, Walters, Blair, Williams, Prezioso and D. Hall)

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6 [Originating in the Committee on the Judiciary;  
7 reported January 30, 2015.]  
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11 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
12 designated §61-7-16, relating to dangerous weapons generally; requiring certification of  
13 responsible persons seeking federal authorization to possess certain firearms by a chief law  
14 enforcement officer when person is not legally proscribed therefrom; clarifying what criteria  
15 may be considered when certification is sought from law enforcement that applicant is not  
16 prohibited from securing or possessing firearms covered by the National Firearms Act;  
17 defining terms; and allowing circuit court appeals or adverse decisions.

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

19 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
20 section, designated §61-7-16, to read as follows:

21 **ARTICLE 7. DANGEROUS WEAPONS.**

22 **§61-7-16. Chief officer certification to transfer or make certain firearms; definitions; appeal.**

23 (a) When certification of a chief law-enforcement officer is required by federal law or

1 regulation for the making, transfer, receipt or possession of a firearm, the chief law-enforcement  
2 officer shall, within thirty days of receipt of such a request, provide such certification upon  
3 determining that to his or her knowledge the applicant is not prohibited by federal, state or local law  
4 from making, transferring, receiving or possessing the firearm for which application is being made  
5 and is not the subject of a proceeding that could result in the applicant being prohibited by law from  
6 receiving or possessing a firearm. If the chief law-enforcement officer is unable to make a  
7 certification as contemplated by this section, he or she shall provide the applicant written notification  
8 of the action setting forth the reasons therefore.

9 (b) For purposes of this section:

10 (1) "Chief law-enforcement officer" means any official, or his or her designee, that the  
11 Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by  
12 regulation or otherwise as eligible to provide the required law-enforcement certification for the  
13 making, transfer, receipt or possession of a firearm.

14 (2) "Certification" means written confirmation by the chief law-enforcement officer  
15 necessary under federal law that the applicant seeking to make, transfer, receive or possess a firearm  
16 is not to the chief law-enforcement officer's knowledge prohibited by federal, state or local law from  
17 making, transferring, receiving or possessing the designated firearm.

18 (3) "Firearm" has the same meaning as provided in the National Firearms Act, 26 U. S. C.  
19 § 5845 (a).

20 (c) Chief law-enforcement officers and their designees who act in good faith are immune  
21 from liability arising from any act or omission related to certifying a responsible person.

22 (d) An applicant whose request for certification is denied may appeal the chief law-  
23 enforcement officer's decision to the circuit court of the applicant's county of residence. If the court

1 finds that the applicant is not prohibited by law from making, transferring, receiving or possessing  
2 the firearm, or is not the subject of a proceeding that could result in prohibition, the court shall order  
3 the chief law-enforcement officer to issue the certification.

4 (e) A generalized objection to persons or entities making, transferring, receiving or  
5 possessing firearms or particular types of firearms which may be lawfully made, transferred, received  
6 or possessed does not constitute a valid basis for refusing certification.

7 (f) In making the certification decision the chief law-enforcement officer shall require of the  
8 applicant only such information as is necessary to identify the applicant for purposes of this section  
9 or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to  
10 lawfully possess or receive a firearm.