

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4145**

(BY DELEGATES BLAIR, AZINGER, BUTLER, CADLE,  
ELDRIDGE, HOUSEHOLDER, MARCUM, OVERINGTON,  
R. PHILLIPS, SOBONYA AND UPSON)

[Passed February 24, 2016; in effect ninety days from passage.]



1 AN ACT to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and  
2 reenact §61-7-3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code; and to amend  
3 said code by adding thereto three new sections, designated §61-7-4a and §61-7-15a and  
4 §61-7-17, all relating to the carrying of firearms and deadly weapons generally;  
5 establishing that criminal penalties for carrying a concealed deadly weapon without state  
6 license or other lawful authorization apply only to persons under twenty-one years of age  
7 and prohibited persons; requiring an applicant for a concealed weapon permit be a United  
8 States citizen or legal resident thereof, a resident of this state and of the county in which  
9 application is made; requiring training courses in handling and firing a handgun to include  
10 the actual live firing of ammunition; requiring certificates of completion of a training course  
11 which are submitted with license applications include the instructor's name, signature and  
12 NRA or state instructor identification number; requiring that on or after January 1, 2017,  
13 all duplicate license cards issued by county sheriffs be uniform across all fifty-five counties  
14 and feature a photograph of the licensee; requiring State Police, in cooperation with the  
15 Sheriffs' Bureau of Professional Standards, prepare uniform applications for licenses and  
16 license cards; entitling a person who pays fees for training or application after the effective  
17 date to a tax credit equal to the amount actually paid for training not to exceed \$50, unless  
18 such training was provided for free or for less than \$50, then such tax credit may be applied  
19 to the fees associated with the initial application; establishing a provisional license to carry  
20 concealed deadly weapons for persons at least eighteen years of age and less than  
21 twenty-one years of age; establishing provisional license application requirements and  
22 procedures; providing for exceptions as to prohibitions against carrying handguns  
23 concealed for persons at least eighteen years of age and fewer than twenty-one years of  
24 age; providing for any United States citizen or legal resident thereof at least twenty-one  
25 years of age and not otherwise prohibited from possessing a firearm may carry a  
26 concealed deadly weapon without a license; creating felony offenses for any persons

27 prohibited from possessing firearms who carry concealed firearms and providing for  
28 criminal penalties; providing that it shall not be unlawful to possess a firearm in or on a  
29 private primary or secondary education building, structure or facility when such institution  
30 has adopted written policies allowing for possession of firearms; exempting probation  
31 officers from prohibition against possessing firearms on premises of educational facilities;  
32 requiring a school principal to report certain violations to the State Police; creating felony  
33 offense for persons using or presenting a firearm while engaged in the commission of a  
34 felony and providing for criminal penalties; and providing for construction of article.

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

1 That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-  
2 3, §61-7-4, §61-7-6, §61-7-7 and §61-7-11a of said code be amended and reenacted; and that  
3 said code be amended by adding thereto three new sections, designated §61-7-4a, §61-7-15a  
4 and §61-7-17, all to read as follows:

**ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-3. Carrying a deadly weapon without provisional license or other authorization by  
persons under twenty-one years of age; penalties.**

1 (a) Any person under twenty-one years of age and not otherwise prohibited from  
2 possessing firearms under section seven of this article who carries a concealed deadly weapon,  
3 without a state license or other lawful authorization established under the provisions of this code,  
4 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor  
5 more than \$1,000 and may be imprisoned in jail for not more than twelve months for the first  
6 offense; but upon conviction of a second or subsequent offense, he or she is guilty of a felony  
7 and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one  
8 nor more than five years and fined not less than \$1,000 nor more than \$5,000.

9 (b) The prosecuting attorney in all cases shall ascertain whether or not the charge made  
10 by the grand jury is a first offense or is a second or subsequent offense and, if it is a second or

11 subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney  
12 shall introduce the record evidence before the trial court of such second or subsequent offense  
13 and may not be permitted to use discretion in introducing evidence to prove the same on the trial.

**§61-7-4. License to carry deadly weapons; how obtained.**

1 (a) Except as provided in subsection (h) of this section, any person desiring to obtain a  
2 state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for  
3 the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that  
4 amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six,  
5 article twenty-six, chapter twenty-nine of this code. Concealed weapons license may only be  
6 issued for pistols and revolvers. Each applicant shall file with the sheriff a complete application,  
7 as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which  
8 sets forth only the following licensing requirements:

9 (1) The applicant's full name, date of birth, Social Security number, a description of the  
10 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship  
11 and, if the applicant is not a United States citizen, any alien or admission number issued by the  
12 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for  
13 an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

14 (2) That, on the date the application is made, the applicant is a bona fide United States  
15 citizen or legal resident thereof and resident of this state and of the county in which the application  
16 is made and has a valid driver's license or other state-issued photo identification showing the  
17 residence;

18 (3) That the applicant is twenty-one years of age or older;

19 (4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is  
20 not an unlawful user thereof as evidenced by either of the following within the three years  
21 immediately prior to the application:

22 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug  
23 treatment; or

24 (B) Two or more convictions for driving while under the influence or driving while impaired;

25 (5) That the applicant has not been convicted of a felony unless the conviction has been  
26 expunged or set aside or the applicant's civil rights have been restored or the applicant has been  
27 unconditionally pardoned for the offense;

28 (6) That the applicant has not been convicted of a misdemeanor crime of violence other  
29 than an offense set forth in subdivision (7) of this section in the five years immediately preceding  
30 the application;

31 (7) That the applicant has not been convicted of a misdemeanor crime of domestic  
32 violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery  
33 either under section twenty-eight, article two of this chapter or subsection (b) or (c), section nine,  
34 article two of this chapter in which the victim was a current or former spouse, current or former  
35 sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent  
36 or guardian, the defendant's child or ward or a member of the defendant's household at the time  
37 of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other  
38 than this state;

39 (8) That the applicant is not under indictment for a felony offense or is not currently serving  
40 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a  
41 court of any jurisdiction or is the subject of an emergency or temporary domestic violence  
42 protective order or is the subject of a final domestic violence protective order entered by a court  
43 of any jurisdiction;

44 (9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily  
45 committed to a mental institution. If the applicant has been adjudicated mentally incompetent or  
46 involuntarily committed the applicant must provide a court order reflecting that the applicant is no  
47 longer under such disability and the applicant's right to possess or receive a firearm has been  
48 restored;

49           (10) That the applicant is not prohibited under the provisions of section seven of this article  
50 or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a  
51 firearm;

52           (11) That the applicant has qualified under the minimum requirements set forth in  
53 subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement  
54 shall be waived in the case of a renewal applicant who has previously qualified; and

55           (12) That the applicant authorizes the sheriff of the county, or his or her designee, to  
56 conduct an investigation relative to the information contained in the application.

57           (b) For both initial and renewal applications, the sheriff shall conduct an investigation  
58 including a nationwide criminal background check consisting of inquiries of the National Instant  
59 Criminal Background Check System, the West Virginia criminal history record responses and the  
60 National Interstate Identification Index and shall review the information received in order to verify  
61 that the information required in subsection (a) of this section is true and correct. A license may  
62 not be issued unless the issuing sheriff has verified through the National Instant Criminal  
63 Background Check System that the information available to him or her does not indicate that  
64 receipt or possession of a firearm by the applicant would be in violation of the provisions of section  
65 seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

66           (c) Sixty dollars of the application fee and any fees for replacement of lost or stolen  
67 licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license  
68 administration fund. The fund shall be administered by the sheriff and shall take the form of an  
69 interest-bearing account with any interest earned to be compounded to the fund. Any funds  
70 deposited in this concealed weapon license administration fund are to be expended by the sheriff  
71 to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on  
72 hand at the end of each fiscal year may be expended for other law-enforcement purposes or  
73 operating needs of the sheriff's office, as the sheriff considers appropriate.

74 (d) All persons applying for a license must complete a training course in handling and firing  
75 a handgun, which includes the actual live firing of ammunition by the applicant. The successful  
76 completion of any of the following courses fulfills this training requirement: *Provided*, That the  
77 completed course includes the actual live firing of ammunition by the applicant:

78 (1) Any official National Rifle Association handgun safety or training course;

79 (2) Any handgun safety or training course or class available to the general public offered  
80 by an official law-enforcement organization, community college, junior college, college or private  
81 or public institution or organization or handgun training school utilizing instructors certified by the  
82 institution;

83 (3) Any handgun training or safety course or class conducted by a handgun instructor  
84 certified as such by the state or by the National Rifle Association;

85 (4) Any handgun training or safety course or class conducted by any branch of the United  
86 States military, reserve or National Guard or proof of other handgun qualification received while  
87 serving in any branch of the United States military, reserve or National Guard.

88 A photocopy of a certificate of completion of any of the courses or classes or an affidavit  
89 from the instructor, school, club, organization or group that conducted or taught the course or  
90 class attesting to the successful completion of the course or class by the applicant or a copy of  
91 any document which shows successful completion of the course or class is evidence of  
92 qualification under this section and shall include the instructor's name, signature and NRA or state  
93 instructor identification number, if applicable.

94 (e) All concealed weapons license applications must be notarized by a notary public duly  
95 licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the  
96 application constitutes false swearing and is punishable under section two, article five, chapter  
97 sixty-one of this code.

98 (f) The sheriff shall issue a license unless he or she determines that the application is  
99 incomplete, that it contains statements that are materially false or incorrect or that applicant

100 otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue  
101 or deny the license within forty-five days after the application is filed if all required background  
102 checks authorized by this section are completed.

103 (g) Before any approved license is issued or is effective, the applicant shall pay to the  
104 sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West  
105 Virginia State Police within thirty days of receipt. The license is valid for five years throughout the  
106 state, unless sooner revoked.

107 (h) Each license shall contain the full name and address of the licensee and a space upon  
108 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign  
109 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a  
110 duplicate license card, in size similar to other state identification cards and licenses, suitable for  
111 carrying in a wallet, and the license card is considered a license for the purposes of this section.  
112 All duplicate license cards issued on or after July 1, 2017, shall be uniform across all fifty-five  
113 counties in size, appearance and information and shall feature a photograph of the licensee.

114 (i) The Superintendent of the West Virginia State Police, in cooperation with the West  
115 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses  
116 and license cards showing that the license has been granted and shall do any other act required  
117 to be done to protect the state and see to the enforcement of this section.

118 (j) If an application is denied, the specific reasons for the denial shall be stated by the  
119 sheriff denying the application. Any person denied a license may file, in the circuit court of the  
120 county in which the application was made, a petition seeking review of the denial. The petition  
121 shall be filed within thirty days of the denial. The court shall then determine whether the applicant  
122 is entitled to the issuance of a license under the criteria set forth in this section. The applicant  
123 may be represented by counsel, but in no case is the court required to appoint counsel for an  
124 applicant. The final order of the court shall include the court's findings of fact and conclusions of  
125 law. If the final order upholds the denial, the applicant may file an appeal in accordance with the

126 Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and  
127 conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable  
128 costs and attorney's fees, payable by the sheriff's office which issued the denial.

129 (k) If a license is lost or destroyed, the person to whom the license was issued may obtain  
130 a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff  
131 indicating that the license has been lost or destroyed.

132 (l) Whenever any person after applying for and receiving a concealed weapon license  
133 moves from the address named in the application to another county within the state, the license  
134 remains valid for the remainder of the five years unless the sheriff of the new county has  
135 determined that the person is no longer eligible for a concealed weapon license under this article,  
136 and the sheriff shall issue a new license bearing the person's new address and the original  
137 expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within twenty days  
138 thereafter, notifies the sheriff in the new county of residence in writing of the old and new  
139 addresses.

140 (m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the  
141 Superintendent of the West Virginia State Police a certified copy of the approved application. The  
142 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so  
143 requested a certified list of all licenses issued in the county. The Superintendent of the West  
144 Virginia State Police shall maintain a registry of all persons who have been issued concealed  
145 weapons licenses.

146 (n) The sheriff shall deny any application or revoke any existing license upon  
147 determination that any of the licensing application requirements established in this section have  
148 been violated by the licensee.

149 (o) A person who is engaged in the receipt, review or in the issuance or revocation of a  
150 concealed weapon license does not incur any civil liability as the result of the lawful performance  
151 of his or her duties under this article.

152 (p) Notwithstanding subsection (a) of this section, with respect to application by a former  
153 law-enforcement officer honorably retired from agencies governed by article fourteen, chapter  
154 seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this  
155 code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from  
156 payment of fees and costs as otherwise required by this section. All other application and  
157 background check requirements set forth in this section are applicable to these applicants.

158 (q) Information collected under this section, including applications, supporting documents,  
159 permits, renewals or any other information that would identify an applicant for or holder of a  
160 concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a  
161 law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a  
162 criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person  
163 who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be  
164 fined not less than \$50 or more than \$200 for each offense.

165 (r) A person who pays fees for training or application pursuant to this article after the  
166 effective date of this section is entitled to a tax credit equal to the amount actually paid for training  
167 not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then  
168 such tax credit may be applied to the fees associated with the initial application.

169 (s) Except as restricted or prohibited by the provisions of this article or as otherwise  
170 prohibited by law, the issuance of a concealed weapon license issued in accordance with the  
171 provisions of this section authorizes the holder of the license to carry a concealed pistol or  
172 revolver on the lands or waters of this state.

**§61-7-4a. Provisional license to carry deadly weapons; how obtained.**

1 (a) Any person who is at least eighteen years of age and less than twenty-one years of  
2 age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the  
3 sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application,  
4 a fee of \$25, of which \$5 of that amount shall be deposited in the Courthouse Facilities

5 Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code.  
6 Provisional licenses may only be issued for pistols or revolvers. Each applicant shall file with the  
7 sheriff a complete application, as prepared by the Superintendent of the West Virginia State  
8 Police, in writing, duly verified, which sets forth only the following licensing requirements:

9 (1) The applicant's full name, date of birth, Social Security number, a description of the  
10 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship  
11 and, if the applicant is not a United States citizen, any alien or admission number issued by the  
12 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for  
13 an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

14 (2) That, on the date the application is made, the applicant is a bona fide resident of this  
15 state and of the county in which the application is made and has a valid driver's license or other  
16 state-issued photo identification showing the residence;

17 (3) That the applicant is at least eighteen years of age and less than twenty-one years of  
18 age;

19 (4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is  
20 not an unlawful user thereof as evidenced by either of the following within the three years  
21 immediately prior to the application:

22 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug  
23 treatment; or

24 (B) Two or more convictions for driving while under the influence or driving while impaired;

25 (5) That the applicant has not been convicted of a felony unless the conviction has been  
26 expunged or set aside, or the applicant's civil rights have been restored or the applicant has been  
27 unconditionally pardoned for the offense;

28 (6) That the applicant has not been convicted of a misdemeanor crime of violence other  
29 than an offense set forth in subdivision (7) of this section within five years immediately preceding  
30 the application;

31           (7) That the applicant has not been convicted of a misdemeanor crime of domestic  
32 violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery  
33 under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine,  
34 article two of this chapter in which the victim was a current or former spouse, current or former  
35 sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent  
36 or guardian, the defendant's child or ward or a member of the defendant's household at the time  
37 of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other  
38 than this state;

39           (8) That the applicant is not under indictment for a felony offense or is not currently serving  
40 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a  
41 court of any jurisdiction, or is the subject of an emergency or temporary domestic violence  
42 protective order or is the subject of a final domestic violence protective order entered by a court  
43 of any jurisdiction;

44           (9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily  
45 committed to a mental institution. If the applicant has been adjudicated mentally incompetent or  
46 involuntarily committed, the applicant must provide a court order reflecting that the applicant is no  
47 longer under such disability and the applicant's right to possess or receive a firearm has been  
48 restored;

49           (10) That the applicant is not prohibited under section seven of this article or federal law,  
50 including 18 U. S. C. §922(g) or (n), from receiving, possessing or transporting a firearm;

51           (11) That the applicant has qualified under the minimum requirements set forth in  
52 subsection (d) of this section for handling and firing the weapon;

53           (12) That the applicant authorizes the sheriff of the county, or his or her designee, to  
54 conduct an investigation relative to the information contained in the application.

55           (b) For provisional license applications, the sheriff shall conduct an investigation including  
56 a nationwide criminal background check consisting of inquiries of the National Instant Criminal

57 Background Check System, the West Virginia criminal history record responses and the National  
58 Interstate Identification Index, and shall review the information received in order to verify that the  
59 information required in subsection (a) of this section is true and correct. A provisional license may  
60 not be issued unless the issuing sheriff has verified through the National Instant Criminal  
61 Background Check System that the information available does not indicate that receipt of or  
62 possession of a firearm by the applicant would be in violation of the provisions of section seven  
63 of this article or federal law, including 18 U. S. C. §922(g) or (n).

64 (c) Twenty dollars of the application fee and any fees for replacement of lost or stolen  
65 provisional licenses received by the sheriff shall be deposited by the sheriff into a concealed  
66 weapons license administration fund. The fund shall be administered by the sheriff and shall take  
67 the form of an interest-bearing account with any interest earned to be compounded to the fund.  
68 Any funds deposited in said fund are to be expended by the sheriff to pay the costs associated  
69 with issuing concealed weapons provisional licenses. Any surplus in the fund on hand at the end  
70 of each fiscal year may be expended for other law-enforcement purposes or operating needs of  
71 the sheriff's office, as the sheriff considers appropriate.

72 (d) All persons applying for a provisional license must complete a training course in  
73 handling and firing a handgun, which includes the actual live firing of ammunition by the applicant.  
74 The successful completion of any of the following courses fulfills this training requirement:  
75 *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

76 (1) Any official National Rifle Association handgun safety or training course;

77 (2) Any handgun safety or training course or class available to the general public offered  
78 by an official law-enforcement organization, community college, junior college, college, or private  
79 or public institution, or organization or handgun training school utilizing instructors certified by the  
80 institution;

81 (3) Any handgun training or safety course or class conducted by a handgun instructor  
82 certified as such by the state or by the National Rifle Association;

83 (4) Any proof of current or former service in the United States armed forces, armed forces  
84 reserves or National Guard.

85 A photocopy of a certificate of completion of any of the courses or classes or an affidavit  
86 from the instructor, school, club, organization or group that conducted or taught the course or  
87 class attesting to the successful completion of the course or class by the applicant, or a copy of  
88 any document which shows successful completion of the course or class, is evidence of  
89 qualification under this section. Certificates, affidavits or other documents submitted to show  
90 completion of a course or class shall include instructor information and proof of instructor  
91 certification, including, if applicable, the instructor's NRA instructor certification number.

92 (e) All provisional license applications must be notarized by a notary public duly licensed  
93 under article four, chapter twenty-nine of this code. Falsification of any portion of the application  
94 constitutes false swearing and is punishable under section two, article five of this chapter.

95 (f) The sheriff shall issue a provisional license unless the sheriff determines that the  
96 application is incomplete, that it contains statements that are materially false or incorrect or that  
97 applicant otherwise does not meet the requirements set forth in this section. The sheriff shall  
98 issue, reissue or deny the license within forty-five days after the application is filed once all  
99 required background checks authorized by this section are completed.

100 (g) Before any approved license is issued or is effective, the applicant shall pay to the  
101 sheriff a fee in the amount of \$15 which the sheriff shall forward to the Superintendent of the West  
102 Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee  
103 turns twenty-one years of age, unless sooner revoked.

104 (h) Each provisional license shall contain the full name and address of the licensee and a  
105 space upon which the signature of the licensee shall be signed with pen and ink. The issuing  
106 sheriff shall sign and attach his or her seal to all provisional license cards. The sheriff shall provide  
107 to each new licensee a duplicate license card, in size similar to other state identification cards  
108 and licenses, suitable for carrying in a wallet, and the license card is considered a license for the

109 purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five  
110 counties in size, appearance and information and must feature a photograph of the licensee. The  
111 provisional license shall be readily distinguishable from a license issued pursuant to section four  
112 of this article and shall state: "NOT NICS EXEMPT. This license confers the same rights and  
113 privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license  
114 issued pursuant to section four, article seven, chapter sixty-one of this code, except that this  
115 license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be  
116 performed prior to purchase of a firearm from a federally licensed firearm dealer."

117 (i) The Superintendent of the West Virginia State Police, in coordination with the West  
118 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for  
119 provisional licenses and license cards showing that the license has been granted and shall  
120 perform any other act required to protect the state and to enforce of section.

121 (j) If an application is denied, the specific reasons for the denial shall be stated by the  
122 sheriff denying the application. Any person denied a provisional license may file, in the circuit  
123 court of the county in which the application was made, a petition seeking review of the denial. The  
124 petition shall be filed within thirty days of the denial. The court shall then determine whether the  
125 applicant is entitled to the issuance of a provisional license under the criteria set forth in this  
126 section. The applicant may be represented by counsel, but in no case is the court required to  
127 appoint counsel for an applicant. The final order of the court shall include the court's findings of  
128 fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal  
129 in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the  
130 findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be  
131 entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the  
132 denial.

133 (k) If a provisional license is lost or destroyed, the person to whom the license was issued  
134 may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the  
135 sheriff indicating that the license has been lost or destroyed.

136 (l) Whenever any person after applying for and receiving a provisional concealed weapon  
137 license moves from the address named in the application to another county within the state, the  
138 license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new  
139 county has determined that the person is no longer eligible for a provisional concealed weapon  
140 license under this article, and the sheriff shall issue a new provisional license bearing the person's  
141 new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the  
142 licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing  
143 of the old and new addresses.

144 (m) The sheriff shall, immediately after the provisional license is granted, furnish the  
145 Superintendent of the West Virginia State Police a certified copy of the approved application. The  
146 sheriff shall furnish to the Superintendent of the West Virginia State Police, at any time so  
147 requested, a certified list of all provisional licenses issued in the county. The Superintendent of  
148 the West Virginia State Police shall maintain a registry of all persons who have been issued  
149 provisional concealed weapon licenses.

150 (n) The sheriff shall deny any application or revoke any existing provisional license upon  
151 determination that any of the licensing application requirements established in this section have  
152 been violated by the licensee.

153 (o) A person who is engaged in the receipt, review or in the issuance or revocation of a  
154 concealed weapon provisional license does not incur any civil liability as the result of the lawful  
155 performance of his or her duties under this article.

156 (p) Information collected under this section, including applications, supporting documents,  
157 permits, renewals, or any other information that would identify an applicant for or holder of a  
158 concealed weapon provisional license, is confidential: *Provided*, That this information may be  
159 disclosed to a law enforcement agency or officer: (i) To determine the validity of a provisional  
160 license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-

161 enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and,  
162 upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

163 (q) Except as restricted or prohibited by the provisions of this article or as otherwise  
164 prohibited by law, the issuance of a provisional concealed weapon license issued in accordance  
165 with the provisions of this section authorizes the holder of the license to carry a concealed pistol  
166 or revolver on the lands or waters of this state.

**§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons  
at least eighteen years of age and fewer than twenty-one years of age;  
exemptions from licensing fees.**

1 (a) The provisions in section three of this article do not apply to any person at least  
2 eighteen years of age and fewer than twenty-one years of age who is:

3 (1) Carrying a deadly weapon upon his or her own premises;

4 (2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence  
5 or place of business or to a place of repair and back to his or her home, residence or place of  
6 business; or

7 (3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her  
8 home, residence or place of business to a hunting site and returning to his or her home, residence  
9 or place of business;

10 (4) A member of a properly organized target-shooting club authorized by law to obtain  
11 firearms by purchase or requisition from this state or from the United States for the purpose of  
12 target practice from carrying any pistol, as defined in this article, unloaded, from his or her home,  
13 residence or place of business to a place of target practice and from any place of target practice  
14 back to his or her home, residence or place of business, for using any such weapon at a place of  
15 target practice in training and improving his or her skill in the use of the weapons;

16 (5) A law-enforcement officer or law-enforcement official or chief executive as defined in  
17 section one, article twenty-nine, chapter thirty of this code;

18 (6) An employee of the West Virginia Division of Corrections duly appointed pursuant to  
19 section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

20 (7) A member of the United States armed forces, reserve or National Guard;

21 (8) A resident of another state who holds a valid permit or license to possess or carry a  
22 handgun issued by a state or a political subdivision subject to the provisions and limitations set  
23 forth in section six-a of this article;

24 (9) A federal law-enforcement officer or federal police officer authorized to carry a weapon  
25 in the performance of the officer's duty; and

26 (10) A parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-  
27 two of this code in the performance of his or her duties.

28 (b) The following judicial officers and prosecutors and staff are exempt from paying any  
29 application fees or licensure fees required under this article. However, they shall make application  
30 and satisfy all licensure and handgun safety and training requirements to obtain a license as set  
31 forth in section four of this article:

32 (1) Any justice of the Supreme Court of Appeals of West Virginia;

33 (2) Any circuit judge;

34 (3) Any retired justice or retired circuit judge designated senior status by the Supreme  
35 Court of Appeals of West Virginia;

36 (4) Any family court judge;

37 (5) Any magistrate;

38 (6) Any prosecuting attorney;

39 (7) Any assistant prosecuting attorney; or

40 (8) Any duly appointed investigator employed by a prosecuting attorney.

**§61-7-7. Persons prohibited from possessing firearms; classifications; right of  
nonprohibited persons over twenty-one years of age to carry concealed**

**deadly weapons; offenses and penalties; reinstatement of rights to possess;  
offenses; penalties.**

1 (a) Except as provided in this section, no person shall possess a firearm, as such is  
2 defined in section two of this article, who:

3 (1) Has been convicted in any court of a crime punishable by imprisonment for a term  
4 exceeding one year;

5 (2) Is habitually addicted to alcohol;

6 (3) Is an unlawful user of or habitually addicted to any controlled substance;

7 (4) Has been adjudicated to be mentally incompetent or who has been involuntarily  
8 committed to a mental institution pursuant to the provisions of chapter twenty-seven of this code  
9 or in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated  
10 as a mental defective or involuntarily committed to a mental institution, he or she shall be duly  
11 notified that they are to immediately surrender any firearms in their ownership or possession:  
12 *Provided, however*, That the mental hygiene commissioner or circuit judge shall first make a  
13 determination of the appropriate public or private individual or entity to act as conservator for the  
14 surrendered property;

15 (5) Is an alien illegally or unlawfully in the United States;

16 (6) Has been discharged from the armed forces under dishonorable conditions;

17 (7) Is subject to a domestic violence protective order that:

18 (A) Was issued after a hearing of which such person received actual notice and at which  
19 such person had an opportunity to participate;

20 (B) Restrains such person from harassing, stalking or threatening an intimate partner of  
21 such person or child of such intimate partner or person, or engaging in other conduct that would  
22 place an intimate partner in reasonable fear of bodily injury to the partner or child; and

23 (C)(i) Includes a finding that such person represents a credible threat to the physical safety  
24 of such intimate partner or child; or

25           (ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical  
26 force against such intimate partner or child that would reasonably be expected to cause bodily  
27 injury; or

28           (8) Has been convicted of a misdemeanor offense of assault or battery either under the  
29 provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or  
30 (c), section nine of said article or a federal or state statute with the same essential elements in  
31 which the victim was a current or former spouse, current or former sexual or intimate partner,  
32 person with whom the defendant has a child in common, person with whom the defendant  
33 cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the  
34 defendant's household at the time of the offense or has been convicted in any court of any  
35 jurisdiction of a comparable misdemeanor crime of domestic violence.

36           Any person who violates the provisions of this subsection shall be guilty of a misdemeanor  
37 and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined  
38 in the county jail for not less than ninety days nor more than one year, or both.

39           (b) Notwithstanding the provisions of subsection (a) of this section, any person:

40           (1) Who has been convicted in this state or any other jurisdiction of a felony crime of  
41 violence against the person of another or of a felony sexual offense; or

42           (2) Who has been convicted in this state or any other jurisdiction of a felony controlled  
43 substance offense involving a Schedule I controlled substance other than marijuana, a Schedule  
44 II or a Schedule III controlled substance as such are defined in sections two hundred four, two  
45 hundred five and two hundred six, article two, chapter sixty-a of this code and who possesses a  
46 firearm as such is defined in section two of this article shall be guilty of a felony and, upon  
47 conviction thereof, shall be confined in a state correctional facility for not more than five years or  
48 fined not more than \$5,000, or both. The provisions of subsection (f) of this section shall not apply  
49 to persons convicted of offenses referred to in this subsection or to persons convicted of a  
50 violation of this subsection.

51 (c) Any person may carry a concealed deadly weapon without a license therefor who is:

52 (1) At least twenty-one years of age;

53 (2) A United States citizen or legal resident thereof;

54 (3) Not prohibited from possessing a firearm under the provisions of this section; and

55 (4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. §922(g)

56 or (n).

57 (d) As a separate and additional offense to the offense provided for in subsection (a) of  
58 this section, and in addition to any other offenses outlined in this code, and except as provided  
59 by subsection (e) of this section, any person prohibited by subsection (a) of this section from  
60 possessing a firearm who carries a concealed firearm is guilty of a felony and, upon conviction  
61 thereof, shall be confined in a state correctional facility for not more than three years or fined not  
62 more than \$5,000, or both.

63 (e) As a separate and additional offense to the offense described in subsection (b) of this  
64 section, and in addition to any other offenses outlined in this code, any person prohibited by  
65 subsection (b) of this section from possessing a firearm who carries a concealed firearm is guilty  
66 of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not  
67 more than ten years or fined not more than \$10,000, or both.

68 (f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of  
69 this section may petition the circuit court of the county in which he or she resides to regain the  
70 ability to possess a firearm and if the court finds by clear and convincing evidence that the person  
71 is competent and capable of exercising the responsibility concomitant with the possession of a  
72 firearm, the court may enter an order allowing the person to possess a firearm if such possession  
73 would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm  
74 by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability  
75 to possess a firearm in accordance with the provisions of section five, article seven-a of this  
76 chapter.

77 (g) Any person who has been convicted of an offense which disqualifies him or her from  
78 possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set  
79 aside or who subsequent thereto receives an unconditional pardon for said offense shall not be  
80 prohibited from possessing a firearm by the provisions of the section.

**§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by  
school principals; suspension of driver's license; possessing deadly  
weapons on premises housing courts of law and family law courts.**

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

8 (b) (1) It is unlawful for a person to possess a firearm or other deadly weapon on a school  
9 bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public  
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, or in or on a private primary or secondary  
13 education building, structure or facility: *Provided*, That it shall not be unlawful to possess a  
14 firearm or other deadly weapon on or in a private primary or secondary education building,  
15 structure or facility when such institution has adopted written policies allowing for possession of  
16 firearms on or in the institution's buildings, structures or facilities.

17 (2) This subsection does not apply to:

18 (A) A law-enforcement officer employed by a federal, state, county or municipal law-  
19 enforcement agency;

20 (B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-  
21 two or chapter forty-nine of this code in the performance of his or her duties;

22 (C) A retired law-enforcement officer who:

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

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

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

27 (iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement  
28 officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U. S.  
29 C. §926C(c); and

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

32 (D) A person specifically authorized by the board of Education of the county or principal  
33 of the school where the property is located to conduct programs with valid educational purposes;

34 (E) A person who, as otherwise permitted by the provisions of this article, possesses an  
35 unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly  
36 weapon in a locked motor vehicle;

37 (F) Programs or raffles conducted with the approval of the county board of education or  
38 school which include the display of unloaded firearms;

39 (G) The official mascot of West Virginia University, commonly known as the Mountaineer,  
40 acting in his or her official capacity; or

41 (H) The official mascot of Parkersburg South High School, commonly known as the Patriot,  
42 acting in his or her official capacity.

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

46 (c) A school principal subject to the authority of the State Board of Education who  
47 discovers a violation of subsection (b) of this section shall report the violation as soon as possible  
48 to:

49 (1) The State Superintendent of Schools. The State Board of Education shall keep and  
50 maintain these reports and may prescribe rules establishing policy and procedures for making  
51 and delivering the reports as required by this subsection; and

52 (2) The appropriate local office of the State Police, county sheriff or municipal police  
53 agency.

54 (d) In addition to the methods of disposition provided by article five, chapter forty-nine of  
55 this code, a court which adjudicates a person who is fourteen years of age or older as delinquent  
56 for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend  
57 a driver's license or instruction permit issued to the person for a period of time as the court  
58 considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has  
59 not been issued a driver's license or instruction permit by this state, a court may order the Division  
60 of Motor Vehicles to deny the person's application for a license or permit for a period of time as  
61 the court considers appropriate, not to extend beyond the person's nineteenth birthday. A  
62 suspension ordered by the court pursuant to this subsection is effective upon the date of entry of  
63 the order. Where the court orders the suspension of a driver's license or instruction permit  
64 pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in  
65 the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

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

72 the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the  
73 transcript when the person convicted has not requested an appeal within twenty days of the  
74 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk  
75 shall forward a transcript of the judgment of conviction when the person convicted has not filed a  
76 notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was  
77 entered.

78 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner  
79 determines that the person was convicted as described in subdivision (1) of this subsection, the  
80 commissioner shall make and enter an order revoking the person's license or privilege to operate  
81 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled  
82 in a secondary school, for a period of one year or until the person's twentieth birthday, whichever  
83 is the greater period. The order shall contain the reasons for the revocation and the revocation  
84 period. The order of suspension shall advise the person that because of the receipt of the court's  
85 transcript, a presumption exists that the person named in the order of suspension is the same  
86 person named in the transcript. The commissioner may grant an administrative hearing which  
87 substantially complies with the requirements of the provisions of section two, article five-a, chapter  
88 seventeen-c of this code upon a preliminary showing that a possibility exists that the person  
89 named in the notice of conviction is not the same person whose license is being suspended. The  
90 request for hearing shall be made within ten days after receipt of a copy of the order of  
91 suspension. The sole purpose of this hearing is for the person requesting the hearing to present  
92 evidence that he or she is not the person named in the notice. If the commissioner grants an  
93 administrative hearing, the commissioner shall stay the license suspension pending the  
94 commissioner's order resulting from the hearing.

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

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

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

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

106 (2) This subsection does not apply to:

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

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

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

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

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

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

**§61-7-15a. Use or presentation of a firearm during commission of a felony; penalties.**

1 As a separate and distinct offense, and in addition to any and all other offenses provided  
2 for in this code, any person who, while engaged in the commission of a felony, uses or presents

3 a firearm shall be guilty of a felony and, upon conviction, shall be imprisoned in a state correctional  
4 facility for not more than ten years.

**§61-7-17. Construction of article.**

1 Nothing in this article should be construed to abrogate or modify statutory provisions and  
2 common law decisions related to defense of self or others.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within ..... this the.....  
day of ....., 2016.

.....  
*Governor*