

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2613

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SPONAUGLE, MAYNARD, GEARHEART, MCGEEHAN,
OVERINGTON, PAYNTER AND BLAIR

[Introduced February 21, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating
 2 to allowing state, county or municipal employees with a license to carry a concealed
 3 weapon to possess a firearm at any time in this state.

Be it enacted by the Legislature of West Virginia:

1 That §61-7-11a of the Code of West Virginia, 1931, as amended, be amended and
 2 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
 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 firearm
 14 or other deadly weapon on or in a private primary or secondary education building, structure or
 15 facility when such institution has adopted written policies allowing for possession of firearms on
 16 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 of
33 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) Unless prohibited by another provision of this code, a municipal, county or state
119 employee possessing a valid concealed deadly weapon license issued under section four of this
120 article may possess a firearm at any time within this state.

121 ~~(i)~~ (j) Nothing in this section may be construed to be in conflict with the provisions of federal
122 law.

NOTE: The purpose of this bill is to allow state, county or municipal employees with a license to carry a concealed weapon to possess a firearm at any time in this state.

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