

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2714**

BY DELEGATES WILSON, PAYNTER, MAYNARD, CRISS,

HIGGINBOTHAM, DEAN AND FOLK

[Introduced February 27, 2017; Referred  
to the Committee on Education then the Judiciary.]

1 A BILL amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating  
 2 to permitting persons who have been issued state licenses to carry concealed deadly  
 3 weapons pursuant to section four, article seven, chapter sixty-one of this code to  
 4 possesses a firearm or other deadly weapon on or in a private primary or secondary  
 5 education building, structure or facility.

*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 possesses 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);

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) A person who has been issued state licenses to carry concealed deadly weapons  
38 pursuant to section four of this article;

39 ~~(F)~~ G Programs or raffles conducted with the approval of the county board of education  
40 or school which include the display of unloaded firearms;

41           ~~(G)~~ (H) The official mascot of West Virginia University, commonly known as the  
42 Mountaineer, acting in his or her official capacity; or

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

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

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

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

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

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

67 the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

72 (2) The clerk of the court in which the person is convicted as described in subdivision (1)  
73 of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If  
74 the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the  
75 transcript when the person convicted has not requested an appeal within twenty days of the  
76 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk  
77 shall forward a transcript of the judgment of conviction when the person convicted has not filed a  
78 notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was  
79 entered.

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

93 suspension. The sole purpose of this hearing is for the person requesting the hearing to present  
94 evidence that he or she is not the person named in the notice. If the commissioner grants an  
95 administrative hearing, the commissioner shall stay the license suspension pending the  
96 commissioner's order resulting from the hearing.

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

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

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

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

108 (2) This subsection does not apply to:

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

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

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

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

117 (2) A person violating this subsection is guilty of a felony and, upon conviction thereof,  
118 shall be imprisoned in a state correctional facility for a definite term of years of not less than two

- 119 years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.
- 120 (i) Nothing in this section may be construed to be in conflict with the provisions of federal
- 121 law.

NOTE: The purpose of this bill is to permit persons who have been issued state licenses to carry concealed deadly weapons pursuant to Code, 61-7-4 to possess a firearm or other deadly weapon on or in a private primary or secondary education building, structure or facility.

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