

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4076

BY DELEGATES D. JEFFRIES, J. JEFFRIES, PHILLIPS,
SUMMERS, WILSON, GRAVES, HANNA, FOSTER, HARDY,
PACK AND WAXMAN

[Introduced January 09, 2020; 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 removing the condition requiring any person over 21 years of age possess a valid permit
 3 to possess a concealed handgun in a motor vehicle in a parking lot, traffic circle, or other
 4 areas of vehicular ingress and egress to a public school provided certain conditions are
 5 met.

Be it enacted by the Legislature of West Virginia:

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 ~~and~~
 5 ~~§61-7-11a(b)(2)(i) of this code~~ are enacted as a reasonable regulation of the manner in which
 6 citizens may exercise the rights accorded to them pursuant to section 22, article III of the
 7 Constitution of the State of West Virginia.

8 (b) (1) It is unlawful to possess a firearm or other deadly weapon:

9 (A) On a school bus as defined in §17A-1-1 of this code;

10 (B) In or on the grounds of any primary or secondary educational facility of any type:
 11 *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the
 12 grounds of any private primary or secondary school, if such institution has adopted a written policy
 13 allowing for possession of firearms or other deadly weapons in the facility or on the grounds
 14 thereof;

15 (C) At a school-sponsored function that is taking place in a specific area that is owned,
 16 rented, or leased by the West Virginia Department of Education, the West Virginia Secondary

17 Schools Activities Commission, a county school board, or local public school for the actual period
18 of time the function is occurring.

19 (2) This subsection does not apply to:

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

22 (B) Any probation officer appointed pursuant to §62-12-5 or chapter 49 of this code in the
23 performance of his or her duties;

24 (C) A retired law-enforcement officer who meets all the requirements to carry a firearm as
25 a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004,
26 as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and
27 has on their person official identification in accordance with that act;

28 (D) A person, other than a student of a primary and secondary facility, specifically
29 authorized by the board of education of the county or principal of the school where the property
30 is located to conduct programs with valid educational purposes;

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

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

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

38 (H) The official mascot of Parkersburg South High School, commonly known as the Patriot,
39 acting in his or her official capacity; or

40 (I) Any person, 21 years old or older, ~~who has a valid concealed handgun permit~~ who may
41 lawfully possess a firearm, may possess a concealed handgun while in a motor vehicle in a

42 parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided,*
43 That:

44 (i) When he or she is occupying the vehicle the person stores the handgun out of view
45 from persons outside the vehicle; or

46 (ii) When he or she is not occupying the vehicle the person stores the handgun out of view
47 from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other
48 interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

49 (3) A person violating this subsection is guilty of a felony and, upon conviction thereof,
50 shall be imprisoned in a state correctional facility for a definite term of years of not less than two
51 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

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

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

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

60 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
61 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
62 subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's
63 license or instruction permit issued to the person for a period of time as the court considers
64 appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued a
65 driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles
66 to deny the person's application for a license or permit for a period of time as the court considers
67 appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court

68 pursuant to this subsection is effective upon the date of entry of the order. Where the court orders
69 the suspension of a driver's license or instruction permit pursuant to this subsection, the court
70 shall confiscate any driver's license or instruction permit in the adjudicated person's possession
71 and forward to the Division of Motor Vehicles.

72 (e)(1) If a person 18 years of age or older is convicted of violating subsection (b) of this
73 section and if the person does not act to appeal the conviction within the time periods described
74 subdivision (2), subsection (a) of this section, the person's license or privilege to operate a motor
75 vehicle in this state shall be revoked in accordance with the provisions of this section.

76 (2) The clerk of the court in which the person is convicted as described in subdivision (1)
77 subsection (e) of this section shall forward to the commissioner a transcript of the judgment of
78 conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall
79 forward the transcript when the person convicted has not requested an appeal within 20 days of
80 the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit
81 clerk shall forward a transcript of the judgment of conviction when the person convicted has not
82 filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment
83 was entered.

84 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
85 determines that the person was convicted as described in subdivision (1) subsection (e) of this
86 section, the commissioner shall make and enter an order revoking the person's license or privilege
87 to operate a motor vehicle in this state for a period of one year or, in the event the person is a
88 student enrolled in a secondary school, for a period of one year or until the person's twentieth
89 birthday, whichever is the greater period. The order shall contain the reasons for the revocation
90 and the revocation period. The order of suspension shall advise the person that because of the
91 receipt of the court's transcript, a presumption exists that the person named in the order of
92 suspension is the same person named in the transcript. The commissioner may grant an
93 administrative hearing which substantially complies with the requirements of the provisions of

94 §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named
95 in the notice of conviction is not the same person whose license is being suspended. The request
96 for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The
97 sole purpose of this hearing is for the person requesting the hearing to present evidence that he
98 or she is not the person named in the notice. If the commissioner grants an administrative hearing,
99 the commissioner shall stay the license suspension pending the commissioner's order resulting
100 from the hearing.

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

103 (f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of
104 age who knows that the person is in violation of subsection (b) of this section or has reasonable
105 cause to believe that the person's violation of that subsection is imminent to fail to immediately
106 report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

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

112 (2) This subsection does not apply to:

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

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

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

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

121 (2) A person violating this subsection is guilty of a felony and, upon conviction thereof,
122 shall be imprisoned in a state correctional facility for a definite term of years of not less than two
123 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

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

NOTE: The purpose of this bill is to eliminate the permit requirement for storing of a concealed handgun in a vehicle on school property for persons over 21.

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