

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2793

BY DELEGATES HOWELL, HORST, HOTT, MARTIN, FAST,
KIMBLE, HAMRICK, REED, MAYNARD, STATLER, AND
STORCH

[Introduced March 01, 2021; Referred to the
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating
2 to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon;
3 providing that concealed weapons licenses may only be issued for pistols and revolvers;
4 establishing a fee; and providing how that fee is to be used.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

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

1 (a) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state
2 license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the
3 license, and pay to the sheriff, at the time of application, a fee of \$25. Concealed weapons license
4 may only be issued for pistols and revolvers. A nonresident desiring to obtain a state license to
5 carry a concealed deadly weapon shall apply to a sheriff of any county for the license, and pay to
6 the sheriff, at the time of application, a fee of \$100, of which \$15 of that amount shall be deposited
7 in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code, and \$25 of that
8 amount shall be deposited into the State Treasury and credited to the account of the State Police
9 for application the purchase of vehicles, equipment for vehicles, and maintenance of vehicles.
10 Nonresident concealed weapons license may only be issued for pistols and revolvers. Each
11 applicant shall file with the sheriff a complete application, as prepared by the Superintendent of
12 the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing
13 requirements:

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

19 (2) That, on the date the application is made, the applicant is a bona fide United States

20 citizen or legal resident thereof and resident of this state and of the county in which the application
21 is made or is a nonresident of this state for a nonresident license, and has a valid driver's license
22 or other state-issued photo identification showing the residence;

23 (3) That the applicant is 21 years of age or older;

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

27 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug
28 treatment; or

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

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

33 (6) That the applicant has not been convicted of a misdemeanor crime of violence other
34 than an offense set forth in subdivision (7) of this subsection in the five years immediately
35 preceding the application;

36 (7) That the applicant has not been convicted of a misdemeanor crime of domestic
37 violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery
38 either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim
39 was a current or former spouse, current or former sexual or intimate partner, person with whom
40 the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a
41 member of the defendant's household at the time of the offense, or a misdemeanor offense with
42 similar essential elements in a jurisdiction other than this state;

43 (8) That the applicant is not under indictment for a felony offense or is not currently serving
44 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a
45 court of any jurisdiction or is the subject of an emergency or temporary domestic violence

46 protective order or is the subject of a final domestic violence protective order entered by a court
47 of any jurisdiction;

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

53 (10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or
54 federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a
55 firearm;

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

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

61 (b) For both initial and renewal applications, the sheriff shall conduct an investigation
62 including a nationwide criminal background check consisting of inquiries of the National Instant
63 Criminal Background Check System, the West Virginia criminal history record responses and the
64 National Interstate Identification Index and shall review the information received in order to verify
65 that the information required in subsection (a) of this section is true and correct. A license may
66 not be issued unless the issuing sheriff has verified through the National Instant Criminal
67 Background Check System that the information available to him or her does not indicate that
68 receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-
69 7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

70 (c) Twenty-five dollars of the application fee and any fees for replacement of lost or stolen
71 licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license

72 administration fund. The fund shall be administered by the sheriff and shall take the form of an
73 interest-bearing account with any interest earned to be compounded to the fund. Any funds
74 deposited in this concealed weapon license administration fund are to be expended by the sheriff
75 to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on
76 hand at the end of each fiscal year may be expended for other law-enforcement purposes or
77 operating needs of the sheriff's office, as the sheriff considers appropriate.

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

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

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

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

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

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

98 (e) All concealed weapons license applications must be notarized by a notary public duly
99 licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application
100 constitutes false swearing and is punishable under §61-5-2 of this code.

101 (f) The sheriff shall issue a license unless he or she determines that the application is
102 incomplete, that it contains statements that are materially false or incorrect or that applicant
103 otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue,
104 or deny the license within 45 days after the application is filed if all required background checks
105 authorized by this section are completed.

106 (g) Before any approved license is issued or is effective, the applicant shall pay to the
107 sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West
108 Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the
109 amendments to this section enacted during the 2019 regular session of the Legislature shall,
110 subject to revocation for cause, be valid until the licensee's birthday during the fifth year from the
111 date of issuance or five years from the date of issuance, whichever is later in time. Renewals of
112 such licenses and licenses newly issued after the effective date of the amendments to this section
113 enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause,
114 be valid for a period of five years from the licensees' most recent birthday.

115 (h) Each license shall contain the full name and address of the licensee and a space upon
116 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign
117 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a
118 duplicate license card, in size similar to other state identification cards and licenses, suitable for
119 carrying in a wallet, and the license card is considered a license for the purposes of this section.
120 All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties
121 in size, appearance and information and shall feature a photograph of the licensee.

122 (i) The Superintendent of the West Virginia State Police, in cooperation with the West
123 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses

124 and license cards for resident and nonresident licensees showing that the license has been
125 granted and shall do any other act required to be done to protect the state and see to the
126 enforcement of this section.

127 (j) If an application is denied, the specific reasons for the denial shall be stated by the
128 sheriff denying the application. Any person denied a license may file, in the circuit court of the
129 county in which the application was made, a petition seeking review of the denial. The petition
130 shall be filed within 30 days of the denial. The court shall then determine whether the applicant is
131 entitled to the issuance of a license under the criteria set forth in this section. The applicant may
132 be represented by counsel, but in no case is the court required to appoint counsel for an applicant.
133 The final order of the court shall include the court's findings of fact and conclusions of law. If the
134 final order upholds the denial, the applicant may file an appeal in accordance with the Rules of
135 Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of
136 law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and
137 attorney's fees, payable by the sheriff's office which issued the denial.

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

141 (l) Whenever any person after applying for and receiving a concealed weapon license
142 moves from the address named in the application to another county within the state, the license
143 remains valid for the remainder of the five years unless the sheriff of the new county has
144 determined that the person is no longer eligible for a concealed weapon license under this article,
145 and the sheriff shall issue a new license bearing the person's new address and the original
146 expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter,
147 notifies the sheriff in the new county of residence in writing of the old and new addresses.

148 (m) Nonresident licensees shall notify the sheriff of the issuing county and provide the
149 licensee's new address. The license remains valid for the remainder of the five years unless the

150 sheriff has determined that the person is no longer eligible for a concealed weapon license under
151 this article, and the sheriff shall issue a new license bearing the person's new address and the
152 original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days
153 thereafter, notifies the sheriff who originally issued the license in writing of the old and new
154 addresses.

155 ~~(m)~~ (n) The sheriff shall, immediately after the license is granted as aforesaid, furnish the
156 Superintendent of the West Virginia State Police a certified copy of the approved application. The
157 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so
158 requested a certified list of all licenses issued in the county. The Superintendent of the West
159 Virginia State Police shall maintain a registry of all persons who have been issued concealed
160 weapons licenses.

161 ~~(n)~~ (o) The sheriff shall deny any application or revoke any existing license upon
162 determination that any of the licensing application requirements established in this section have
163 been violated by the licensee.

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

167 ~~(p)~~ (q) Notwithstanding subsection (a) of this section, with respect to application by an
168 honorably discharged veteran of the armed forces of the United States or a former law-
169 enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-
170 14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an
171 honorably retired officer or an honorably discharged veteran of the armed forces of the United
172 States is exempt from payment of fees and costs as otherwise required by this section. All other
173 application and background check requirements set forth in this section are applicable to these
174 applicants.

175 ~~(q)~~ (r) Information collected under this section, including applications, supporting

176 documents, permits, renewals or any other information that would identify an applicant for or
177 holder of a concealed weapon license, is confidential: *Provided*, That this information may be
178 disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to
179 assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes.
180 A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof,
181 shall be fined not less than \$50 or more than \$200 for each offense.

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

186 ~~(s)~~ (t) Except as restricted or prohibited by the provisions of this article or as otherwise
187 prohibited by law, the issuance of a concealed weapon license issued in accordance with the
188 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver
189 on the lands or waters of this state.

NOTE: The purpose of this bill is to permit nonresidents to obtain state licenses to carry a concealed deadly weapon. The bill provides that concealed weapons licenses may only be issued for pistols and revolvers. The bill establishes a fee. The bill provides how that fee is to be used.

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