

1 **H. B. 3084**

2

3 (By Delegates Varner, Hunt, Moye, Hall, Kominar,
4 Cann, White, Perry, Shaver, Skaff and Hamilton)

5

6 [Introduced February 9, 2011; referred to the
7 Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact §61-7-4 of the Code of West Virginia,
11 1931, as amended, relating to concealed weapon permits; and
12 substituting the term firearm for handgun.

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

14 That §61-7-4 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 **ARTICLE 7. DANGEROUS WEAPONS.**

17 **§61-7-4. License to carry deadly weapons; how obtained.**

18 (a) Except as provided in subsection (h) of this section, any
19 person desiring to obtain a state license to carry a concealed
20 deadly weapon shall apply to the sheriff of his or her county for
21 the license, and shall pay to the sheriff, at the time of
22 application, a fee of \$75, of which \$15 of that amount shall be
23 deposited in the Courthouse Facilities Improvement Fund created by
24 section six, article twenty-six, chapter twenty-nine of this code.
25 Concealed weapons permits may only be issued for pistols or
26 revolvers. Each applicant shall file with the sheriff, a complete
27 application, as prepared by the Superintendent of the West Virginia
28 State Police, in writing, duly verified, which sets forth only the

1 following licensing requirements:

2 (1) The applicant's full name, date of birth, social security
3 number and a description of the applicant's physical features;

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

8 (3) That the applicant is twenty-one years of age or older:
9 *Provided*, That any individual who is less than twenty-one years of
10 age and possesses a properly issued concealed weapons license as
11 of the effective date of this article ~~shall~~ may be licensed to
12 maintain his or her concealed weapons license notwithstanding the
13 provisions of this section requiring new applicants to be at least
14 twenty-one years of age: *Provided, however*, That upon a showing
15 of any applicant who is eighteen years of age or older that he or
16 she is required to carry a concealed weapon as a condition for
17 employment, and presents satisfactory proof to the sheriff thereof,
18 then he or she shall be issued a license upon meeting all other
19 conditions of this section. Upon discontinuance of employment that
20 requires the concealed weapons license, if the individual issued
21 the license is not yet twenty-one years of age, then the individual
22 issued the license is no longer eligible and ~~must~~ shall return his
23 or her license to the issuing sheriff;

24 (4) That the applicant is not addicted to alcohol, a
25 controlled substance or a drug and is not an unlawful user thereof;

26 (5) That the applicant has not been convicted of a felony or
27 of an act of violence involving the misuse of a deadly weapon;

1 (6) That the applicant has not been convicted of a
2 misdemeanor offense of assault or battery either under the
3 provisions of section twenty-eight, article two of this chapter or
4 the provisions of subsection (b) or (c), section nine, article two
5 of this chapter in which the victim was a current or former spouse,
6 current or former sexual or intimate partner, person with whom the
7 defendant has a child in common, person with whom the defendant
8 cohabits or has cohabited, a parent or guardian, the defendant's
9 child or ward or a member of the defendant's household at the time
10 of the offense; or a misdemeanor offense with similar essential
11 elements in a jurisdiction other than this state;

12 (7) That the applicant is not under indictment for a felony
13 offense or is not currently serving a sentence of confinement,
14 parole, probation or other court-ordered supervision imposed by a
15 court of any jurisdiction or is the subject of an emergency or
16 temporary domestic violence protective order or is the subject of
17 a final domestic violence protective order entered by a court of
18 any jurisdiction;

19 (8) That the applicant is physically and mentally competent
20 to carry the weapon;

21 (9) That the applicant has not been adjudicated to be mentally
22 incompetent;

23 (10) That the applicant has qualified under the minimum
24 requirements set forth in subsection (d) of this section for
25 handling and firing the weapon: *Provided*, That this requirement
26 ~~shall be~~ is waived in the case of a renewal applicant who has
27 previously qualified; and

1 (11) That the applicant authorizes the sheriff of the county,
 2 or his or her designee, to conduct an investigation relative to the
 3 information contained in the application.

4 (b) The sheriff shall conduct an investigation including a
 5 nationwide criminal background check, in order to verify that the
 6 information required in subdivisions (1), (2), (3), (5), (6), (8)
 7 and (9), subsection (a) of this section is true and correct.

8 (c) Sixty dollars of the application fee and any fees for
 9 replacement of lost or stolen licenses received by the sheriff
 10 shall be deposited by the sheriff into a concealed weapons license
 11 administration fund. The fund shall be administered by the sheriff
 12 and shall take the form of an interest bearing account with any
 13 interest earned to be compounded to the fund. Any funds deposited
 14 in this concealed weapon license administration fund are to be
 15 expended by the sheriff to pay for the costs associated with
 16 issuing concealed weapons licenses. Any surplus in the fund on
 17 hand at the end of each fiscal year may be expended for other law-
 18 enforcement purposes or operating needs of the sheriff's office,
 19 as the sheriff may consider appropriate.

20 (d) All persons applying for a license ~~must~~ shall complete a
 21 training course. ~~in handling and firing a handgun~~ The successful
 22 completion of any of the following courses fulfills this training
 23 requirement:

24 (1) Any official National Rifle Association ~~handgun~~ firearm
 25 safety or firearm training course;

26 (2) Any ~~handgun~~ firearm safety or firearm training course or
 27 class available to the general public offered by an official law-

1 enforcement organization, community college, junior college,
2 college or private or public institution or organization or ~~handgun~~
3 firearm training school ~~utilizing~~ using instructors duly certified
4 by the institution;

5 (3) Any ~~handgun~~ firearm training or safety course or class
6 conducted by a ~~handgun~~ an instructor certified as such by the state
7 or by the National Rifle Association;

8 (4) Any ~~handgun~~ firearm training or firearm safety course or
9 class conducted by any branch of the United States Military,
10 Reserve or National Guard.

11 A photocopy of a certificate of completion of any of the
12 courses or classes or an affidavit from the instructor, school,
13 club, organization or group that conducted or taught said course
14 or class attesting to the successful completion of the course or
15 class by the applicant or a copy of any document which shows
16 successful completion of the course or class shall constitute
17 evidence of qualification under this section.

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

24 (f) If the information in the application is found to be true
25 and correct, the sheriff shall issue a license. The sheriff shall
26 issue, reissue or deny the license within forty-five days after the
27 application is filed if all required background checks authorized

1 by this section are completed.

2 (g) Before any approved license ~~shall be~~ is issued or ~~become~~
3 becomes effective, the applicant shall pay to the sheriff a fee in
4 the amount of \$15 which the sheriff shall forward to the
5 Superintendent of the West Virginia State Police within thirty days
6 of receipt. The license ~~shall be~~ is valid for five years throughout
7 the state, unless sooner revoked.

8 (h) All persons holding a current and valid concealed weapons
9 license as of December 16, 1995, shall continue to hold a valid
10 concealed weapons license until his or her license expires or is
11 revoked as provided in this article: *Provided*, That all
12 reapplication fees ~~shall be~~ are waived for applications received
13 by January 1, 1997, for any person holding a current and valid
14 concealed weapons license as of December 16, 1995, which contains
15 use restrictions placed upon the license as a condition of issuance
16 by the issuing circuit court. Any licenses reissued pursuant to
17 this subsection ~~will~~ shall be issued for the time period of the
18 original license.

19 (i) Each license shall contain the full name and address of
20 the licensee and a space upon which the signature of the licensee
21 shall be signed with pen and ink. The issuing sheriff shall sign
22 and attach his or her seal to all license cards. The sheriff shall
23 provide to each new licensee a duplicate license card, in size
24 similar to other state identification cards and licenses, suitable
25 for carrying in a wallet, and the license card is considered a
26 license for the purposes of this section.

27 (j) The Superintendent of the West Virginia State Police shall

1 prepare uniform applications for licenses and license cards showing
2 that the license has been granted and shall do any other act
3 required to be done to protect the state and see to the enforcement
4 of this section.

5 (k) If an application is denied, the specific reasons for the
6 denial shall be stated by the sheriff denying the application. Any
7 person denied a license may file, in the circuit court of the
8 county in which the application was made, a petition seeking review
9 of the denial. The petition shall be filed within thirty days of
10 the denial. The court shall then determine whether the applicant
11 is entitled to the issuance of a license under the criteria set
12 forth in this section. The applicant may be represented by
13 counsel, but in no case ~~may~~ is the court ~~be~~ required to appoint
14 counsel for an applicant. The final order of the court shall
15 include the court's findings of fact and conclusions of law. If
16 the final order upholds the denial, the applicant may file an
17 appeal in accordance with the Rules of Appellate Procedure of the
18 Supreme Court of Appeals.

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

23 (m) The sheriff shall, immediately after the license is
24 granted as aforesaid, furnish the Superintendent of the West
25 Virginia State Police a certified copy of the approved application.
26 The sheriff shall furnish to the Superintendent of the West
27 Virginia State Police at any time so requested a certified list of

1 all licenses issued in the county. The Superintendent of the West
2 Virginia State Police shall maintain a registry of all persons who
3 have been issued concealed weapons licenses.

4 (n) All licensees must carry with them a state-issued photo
5 identification card with the concealed weapons license whenever the
6 licensee is carrying a concealed weapon. Any licensee who fails
7 to have in his or her possession a state-issued photo
8 identification card and a current concealed weapons license while
9 carrying a concealed weapon is guilty of a misdemeanor and, upon
10 conviction thereof, shall be fined not less than \$50 or more than
11 \$200 for each offense.

12 (o) The sheriff shall deny any application or revoke any
13 existing license upon determination that any of the licensing
14 application requirements established in this section have been
15 violated by the licensee.

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

20 (q) Notwithstanding the provisions of subsection (a) of this
21 section, with respect to application by a former law-enforcement
22 officer honorably retired from agencies governed by article
23 fourteen, chapter seven of this code; article fourteen, chapter
24 eight of this code; article two, chapter fifteen of this code; and
25 article seven, chapter twenty of this code, an honorably retired
26 officer is exempt from payment of fees and costs as otherwise
27 required by this section, and the application of the honorably

1 retired officer shall be granted without proof or inquiry by the
2 sheriff as to those requirements set forth in subdivision (9),
3 subsection (a) of this section, if the officer meets the remainder
4 of the requirements of this section and has the approval of the
5 appropriate chief law-enforcement officer.

6 (r) Except as restricted or prohibited by the provisions of
7 this article or as otherwise prohibited by law, the issuance of a
8 concealed weapon permit issued in accordance with the provisions
9 of this section authorizes the holder of the permit to carry a
10 concealed pistol or revolver on the lands or waters of this state.

NOTE: The purpose of this bill is to substitute the term
firearm for handgun with regard to concealed weapon permits.

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