

**H. B. 3237**

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(By Delegates Michael, Crosier, Ashley, Craig,  
Cann, Azinger, Varner, Williams and Hartman)  
[Introduced February 21, 2011; referred to the  
Committee on the Judiciary.]

10 A BILL to amend and reenact §61-7-4 of the Code of West Virginia,  
11 1931, as amended, relating to allowing an honorable military  
12 discharge to be an acceptable form of training for a West  
13 Virginia concealed handgun permit.

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

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

17 **ARTICLE 7. DANGEROUS WEAPONS.**

18 **§61-7-4. License to carry deadly weapons; how obtained.**

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

1 State Police, in writing, duly verified, which sets forth only the  
2 following licensing requirements:

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

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

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

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

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

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

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

21 (8) That the applicant is physically and mentally competent to  
22 carry the weapon;

23 (9) That the applicant has not been adjudicated to be mentally  
24 incompetent;

25 (10) That the applicant has qualified under the minimum  
26 requirements set forth in subsection (d) of this section for

1 handling and firing the weapon: *Provided*, That this requirement  
2 shall be waived in the case of a renewal applicant who has  
3 previously qualified;

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

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

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

23 (d) All persons applying for a license must complete a  
24 training course in handling and firing a handgun or meet another  
25 criteria under this subsection. The successful completion of any  
26 of the following courses or criteria fulfills this training

1 requirement:

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

4 (2) Any handgun safety or training course or class available  
5 to the general public offered by an official law-enforcement  
6 organization, community college, junior college, college or private  
7 or public institution or organization or handgun training school  
8 utilizing instructors duly certified by the institution;

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

12 (4) ~~Any handgun training or safety course or class conducted~~  
13 ~~by any branch of the United States Military, Reserve or National~~  
14 ~~Guard~~ A honorable discharge from any branch of the United States  
15 Military, Reserve or National Guard.

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

23 (e) All concealed weapons license applications must be  
24 notarized by a notary public duly licensed under article four,  
25 chapter twenty-nine of this code. Falsification of any portion of  
26 the application constitutes false swearing and is punishable under

1 the provisions of section two, article five, chapter sixty-one of  
2 this code.

3 (f) If the information in the application is found to be true  
4 and correct, the sheriff shall issue a license. The sheriff shall  
5 issue, reissue or deny the license within forty-five days after the  
6 application is filed if all required background checks authorized  
7 by this section are completed.

8 (g) Before any approved license shall be issued or become  
9 effective, the applicant shall pay to the sheriff a fee in the  
10 amount of \$15 which the sheriff shall forward to the Superintendent  
11 of the West Virginia State Police within thirty days of receipt.  
12 The license shall be valid for five years throughout the state,  
13 unless sooner revoked.

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

25 (i) Each license shall contain the full name and address of  
26 the licensee and a space upon which the signature of the licensee

1 shall be signed with pen and ink. The issuing sheriff shall sign  
2 and attach his or her seal to all license cards. The sheriff shall  
3 provide to each new licensee a duplicate license card, in size  
4 similar to other state identification cards and licenses, suitable  
5 for carrying in a wallet, and the license card is considered a  
6 license for the purposes of this section.

7 (j) The Superintendent of the West Virginia State Police shall  
8 prepare uniform applications for licenses and license cards showing  
9 that the license has been granted and shall do any other act  
10 required to be done to protect the state and see to the enforcement  
11 of this section.

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

26 (l) If a license is lost or destroyed, the person to whom the

1 license was issued may obtain a duplicate or substitute license for  
2 a fee of \$5 by filing a notarized statement with the sheriff  
3 indicating that the license has been lost or destroyed.

4 (m) The sheriff shall, immediately after the license is  
5 granted as aforesaid, furnish the Superintendent of the West  
6 Virginia State Police a certified copy of the approved application.  
7 The sheriff shall furnish to the Superintendent of the West  
8 Virginia State Police at any time so requested a certified list of  
9 all licenses issued in the county. The Superintendent of the West  
10 Virginia State Police shall maintain a registry of all persons who  
11 have been issued concealed weapons licenses.

12 (n) All licensees must carry with them a state-issued photo  
13 identification card with the concealed weapons license whenever the  
14 licensee is carrying a concealed weapon. Any licensee who fails to  
15 have in his or her possession a state-issued photo identification  
16 card and a current concealed weapons license while carrying a  
17 concealed weapon is guilty of a misdemeanor and, upon conviction  
18 thereof, shall be fined not less than \$50 or more than \$200 for  
19 each offense.

20 (o) The sheriff shall deny any application or revoke any  
21 existing license upon determination that any of the licensing  
22 application requirements established in this section have been  
23 violated by the licensee.

24 (p) A person who is engaged in the receipt, review or in the  
25 issuance or revocation of a concealed weapon license does not incur  
26 any civil liability as the result of the lawful performance of his



1 or her duties under this article.

2 (q) Notwithstanding the provisions of subsection (a) of this  
3 section, with respect to application by a former law-enforcement  
4 officer honorably retired from agencies governed by article  
5 fourteen, chapter seven of this code; article fourteen, chapter  
6 eight of this code; article two, chapter fifteen of this code; and  
7 article seven, chapter twenty of this code, an honorably retired  
8 officer is exempt from payment of fees and costs as otherwise  
9 required by this section, and the application of the honorably  
10 retired officer shall be granted without proof or inquiry by the  
11 sheriff as to those requirements set forth in subdivision (9),  
12 subsection (a) of this section, if the officer meets the remainder  
13 of the requirements of this section and has the approval of the  
14 appropriate chief law-enforcement officer.

15 (r) Except as restricted or prohibited by the provisions of  
16 this article or as otherwise prohibited by law, the issuance of a  
17 concealed weapon permit issued in accordance with the provisions of  
18 this section authorizes the holder of the permit to carry a  
19 concealed pistol or revolver on the lands or waters of this state.

NOTE: The purpose of this bill is to allow members of the United States Military, reserve or guard that received a honorable discharge to carry a concealed handgun without taking an additional training course.

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