

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 421**

5 (SENATORS NOHE, BOLEY, CARMICHAEL AND WALTERS, *original sponsors*)

6 \_\_\_\_\_  
7 [Passed April 5, 2013; in effect ninety days from passage.]  
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11 AN ACT to amend and reenact §61-7-11a of the Code of West Virginia,  
12 1931, as amended, relating to providing an exemption for the  
13 official mascot of Parkersburg South High School, commonly  
14 known as the Patriot, which would allow the mascot to carry a  
15 musket on school grounds when the mascot is acting in his or  
16 her official capacity.

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

18 That §61-7-11a of the Code of West Virginia, 1931, as amended,  
19 be amended and reenacted to read as follows:

20 **ARTICLE 7. DANGEROUS WEAPONS.**

21 **§61-7-11a. Possessing deadly weapons on premises of educational**  
22 **facilities; reports by school principals; suspension**  
23 **of driver's license; possessing deadly weapons on**  
24 **premises housing courts of law and in offices of**

1                                   **family law master.**

2           (a) The Legislature hereby finds that the safety and welfare  
3 of the citizens of this state are inextricably dependent upon  
4 assurances of safety for children attending and persons employed by  
5 schools in this state and for persons employed by the judicial  
6 department of this state. It is for the purpose of providing  
7 assurances of safety that subsections (b), (g) and (h) of this  
8 section are enacted as a reasonable regulation of the manner in  
9 which citizens may exercise the rights accorded to them pursuant to  
10 section twenty-two, article three of the Constitution of the State  
11 of West Virginia.

12           (b) (1) It is unlawful for a person to possess a firearm or  
13 other deadly weapon on a school bus as defined in section one,  
14 article one, chapter seventeen-a of this code, or in or on a public  
15 or private primary or secondary education building, structure,  
16 facility or grounds including a vocational education building,  
17 structure, facility or grounds where secondary vocational education  
18 programs are conducted or at a school-sponsored function.

19           (2) This subsection does not apply to:

20           (A) A law-enforcement officer acting in his or her official  
21 capacity;

22           (B) A person specifically authorized by the board of education  
23 of the county or principal of the school where the property is  
24 located to conduct programs with valid educational purposes;

1 (C) A person who, as otherwise permitted by the provisions of  
2 this article, possesses an unloaded firearm or deadly weapon in a  
3 motor vehicle or leaves an unloaded firearm or deadly weapon in a  
4 locked motor vehicle;

5 (D) Programs or raffles conducted with the approval of the  
6 county board of education or school which include the display of  
7 unloaded firearms;

8 (E) The official mascot of West Virginia University, commonly  
9 known as the Mountaineer, acting in his or her official capacity;  
10 or

11 (F) The official mascot of Parkersburg South High School,  
12 commonly known as the Patriot, acting in his or her official  
13 capacity.

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

19 (c) It is the duty of the principal of each school subject to  
20 the authority of the State Board of Education to report a violation  
21 of subsection (b) of this section discovered by the principal to  
22 the State Superintendent of Schools within seventy-two hours after  
23 the violation occurs. The State Board of Education shall keep and  
24 maintain these reports and may prescribe rules establishing policy

1 and procedures for the making and delivery of the reports as  
2 required by this subsection. In addition, it is the duty of the  
3 principal of each school subject to the authority of the State  
4 Board of Education to report a violation of subsection (b) of this  
5 section discovered by the principal to the appropriate local office  
6 of the Division of Public Safety within seventy-two hours after the  
7 violation occurs.

8 (d) In addition to the methods of disposition provided by  
9 article five, chapter forty-nine of this code, a court which  
10 adjudicates a person who is fourteen years of age or older as  
11 delinquent for a violation of subsection (b) of this section may,  
12 in its discretion, order the Division of Motor Vehicles to suspend  
13 a driver's license or instruction permit issued to the person for  
14 a period of time as the court considers appropriate, not to extend  
15 beyond the person's nineteenth birthday. Where the person has not  
16 been issued a driver's license or instruction permit by this state,  
17 a court may order the Division of Motor Vehicles to deny the  
18 person's application for a license or permit for a period of time  
19 as the court considers appropriate, not to extend beyond the  
20 person's nineteenth birthday. A suspension ordered by the court  
21 pursuant to this subsection is effective upon the date of entry of  
22 the order. Where the court orders the suspension of a driver's  
23 license or instruction permit pursuant to this subsection, the  
24 court shall confiscate any driver's license or instruction permit

1 in the adjudicated person's possession and forward to the Division  
2 of Motor Vehicles.

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

10 (2) The clerk of the court in which the person is convicted as  
11 described in subdivision (1) of this subsection shall forward to  
12 the commissioner a transcript of the judgment of conviction. If  
13 the conviction is the judgment of a magistrate court, the  
14 magistrate court clerk shall forward the transcript when the person  
15 convicted has not requested an appeal within twenty days of the  
16 sentencing for the conviction. If the conviction is the judgment  
17 of a circuit court, the circuit clerk shall forward a transcript of  
18 the judgment of conviction when the person convicted has not filed  
19 a notice of intent to file a petition for appeal or writ of error  
20 within thirty days after the judgment was entered.

21 (3) If, upon examination of the transcript of the judgment of  
22 conviction, the commissioner determines that the person was  
23 convicted as described in subdivision (1) of this subsection, the  
24 commissioner shall make and enter an order revoking the person's

1 license or privilege to operate a motor vehicle in this state for  
2 a period of one year or, in the event the person is a student  
3 enrolled in a secondary school, for a period of one year or until  
4 the person's twentieth birthday, whichever is the greater period.  
5 The order shall contain the reasons for the revocation and the  
6 revocation period. The order of suspension shall advise the person  
7 that because of the receipt of the court's transcript, a  
8 presumption exists that the person named in the order of suspension  
9 is the same person named in the transcript. The commissioner may  
10 grant an administrative hearing which substantially complies with  
11 the requirements of the provisions of section two, article five-a,  
12 chapter seventeen-c of this code upon a preliminary showing that a  
13 possibility exists that the person named in the notice of  
14 conviction is not the same person whose license is being suspended.  
15 The request for hearing shall be made within ten days after receipt  
16 of a copy of the order of suspension. The sole purpose of this  
17 hearing is for the person requesting the hearing to present  
18 evidence that he or she is not the person named in the notice. If  
19 the commissioner grants an administrative hearing, the commissioner  
20 shall stay the license suspension pending the commissioner's order  
21 resulting from the hearing.

22       (4) For the purposes of this subsection, a person is convicted  
23 when such person enters a plea of guilty or is found guilty by a  
24 court or jury.

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

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

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

14 (2) This subsection does not apply to:

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

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

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

24 (h) (1) It is unlawful for a person to possess a firearm or

1 other deadly weapon on the premises of a court of law, including  
2 family courts, with the intent to commit a crime.

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

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