

1 **H. B. 2561**

2  
3 (By Delegates Eldridge, Nelson, J., Lynch, Fragale,  
4 Reynolds, Stowers, Marcum, Border, Campbell, Ferns and White)

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6 [Introduced February 20, 2013; referred to the  
7 Committee on Veterans' Affairs and Homeland Security then  
8 the Judiciary.]  
9

10 A BILL to amend and reenact §61-7-4 of the Code of West Virginia,  
11 1931, as amended, relating to dangerous weapons; how license  
12 to carry deadly weapons obtained; accepting documentation of  
13 current military service or an honorable discharge from any  
14 branch of the United States Military, Reserve or National  
15 Guard as equivalent experience toward the training requirement  
16 for a concealed weapons license; and exempting these persons  
17 from payment of fees.

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

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

21 **ARTICLE 7. DANGEROUS WEAPONS.**

22 **§61-7-4. License to carry deadly weapons; how obtained.**

23 (a) Except as provided in subsection (h) of this section, any  
24 person desiring to obtain a state license to carry a concealed  
25 deadly weapon shall apply to the sheriff of his or her county for

1 the license, and shall pay to the sheriff, at the time of  
2 application, a fee of \$75, of which \$15 of that amount shall be  
3 deposited in the Courthouse Facilities Improvement Fund created by  
4 section six, article twenty-six, chapter twenty-nine of this code.  
5 Concealed weapons permits may only be issued for pistols or  
6 revolvers. Each applicant shall file with the sheriff a complete  
7 application, as prepared by the Superintendent of the West Virginia  
8 State Police, in writing, duly verified, which sets forth only the  
9 following licensing requirements:

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

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

21 (3) That the applicant is twenty-one years of age or older:  
22 *Provided*, That any individual who is less than twenty-one years of  
23 age and possesses a properly issued concealed weapons license as of  
24 the effective date of this article shall be licensed to maintain

1 his or her concealed weapons license notwithstanding the provisions  
2 of this section requiring new applicants to be at least twenty-one  
3 years of age: *Provided, however,* That upon a showing of any  
4 applicant who is eighteen years of age or older that he or she is  
5 required to carry a concealed weapon as a condition for employment,  
6 and presents satisfactory proof to the sheriff thereof, then he or  
7 she shall be issued a license upon meeting all other conditions of  
8 this section. Upon discontinuance of employment that requires the  
9 concealed weapons license, if the individual issued the license is  
10 not yet twenty-one years of age, then the individual issued the  
11 license is no longer eligible and must return his or her license to  
12 the issuing sheriff;

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

17 (A) Residential or court-ordered treatment for alcoholism or  
18 alcohol detoxification or drug treatment; or

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

21 (5) That the applicant has not been convicted of a felony or  
22 of an act of a misdemeanor crime of violence involving the misuse  
23 of a deadly weapon within the five years immediately preceding the  
24 application;

1           (6) That the applicant has not been convicted of a misdemeanor  
2 crime of domestic violence as defined in 18 U. S. C. §921(a)(33),  
3 or a misdemeanor offense of assault or battery either under the  
4 provisions of section twenty-eight, article two of this chapter or  
5 the provisions of subsection (b) or (c), section nine, article two  
6 of this chapter in which the victim was a current or former spouse,  
7 current or former sexual or intimate partner, person with whom the  
8 defendant cohabits or has cohabited, a parent or guardian, the  
9 defendant's child or ward or a member of the defendant's household  
10 at the time of the offense, or a misdemeanor offense with similar  
11 essential 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 has not been adjudicated to be mentally  
20 incompetent. If the applicant has been adjudicated mentally  
21 incompetent the applicant must provide a court order reflecting  
22 that the applicant is no longer under such disability;

23           (9) That the applicant has qualified under the minimum  
24 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; and

4 (10) 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) For both initial and renewal applications, the sheriff  
8 shall conduct an investigation including a nationwide criminal  
9 background check consisting of checking the National Instant  
10 Criminal Background Check System and the West Virginia criminal  
11 history record responses in order to verify that the information  
12 required in subsection (a) of this section is true and correct.

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

1 (d) All persons applying for a license must complete a  
2 training course in handling and firing a handgun. The successful  
3 completion of any of the following courses fulfills this training  
4 requirement:

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

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

12 (3) Any handgun training, or safety course or class conducted  
13 by a handgun instructor certified as such by the state or by the  
14 National Rifle Association;

15 (4) Any handgun training, ~~or~~ safety course, ~~or~~ class conducted  
16 by any branch of the United States Military, Reserve or National  
17 Guard or proof of current military service in any branch of the  
18 United States Military, Reserve or National Guard or proof of  
19 honorable discharge from any branch of the United States Military:  
20 Provided, That current members of the United States Military,  
21 Reserve or National Guard or persons with an honorable discharge  
22 from any branch of the United States Military who apply for a  
23 license under this section are exempt from the payment of any fees  
24 required by this section.

1       A photocopy of a certificate of completion of any of the  
2 courses or classes or an affidavit from the instructor, school,  
3 club, organization or group that conducted or taught said course or  
4 class attesting to the successful completion of the course or class  
5 by the applicant or a copy of any document which shows successful  
6 completion of the course or class shall constitute evidence of  
7 qualification under this section.

8       (e) All concealed weapons license applications must be  
9 notarized by a notary public duly licensed under article four,  
10 chapter twenty-nine of this code. Falsification of any portion of  
11 the application constitutes false swearing and is punishable under  
12 the provisions of section two, article five, chapter sixty-one of  
13 this code.

14       (f) The sheriff shall issue a license unless he or she  
15 determines that the application is incomplete, that it contains  
16 statements that are materially false or incorrect or that applicant  
17 otherwise does not meet the requirements set forth in this section.  
18 The sheriff shall issue, reissue or deny the license within  
19 forty-five days after the application is filed if all required  
20 background checks authorized by this section are completed.

21       (g) Before any approved license shall be issued or become  
22 effective, the applicant shall pay to the sheriff a fee in the  
23 amount of \$25 which the sheriff shall forward to the Superintendent  
24 of the West Virginia State Police within thirty days of receipt.

1 The license shall be valid for five years throughout the state,  
2 unless sooner revoked.

3 (h) Each license shall contain the full name and address of  
4 the licensee and a space upon which the signature of the licensee  
5 shall be signed with pen and ink. The issuing sheriff shall sign  
6 and attach his or her seal to all license cards. The sheriff shall  
7 provide to each new licensee a duplicate license card, in size  
8 similar to other state identification cards and licenses, suitable  
9 for carrying in a wallet, and the license card is considered a  
10 license for the purposes of this section.

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

16 (j) If an application is denied, the specific reasons for the  
17 denial shall be stated by the sheriff denying the application. Any  
18 person denied a license may file, in the circuit court of the  
19 county in which the application was made, a petition seeking review  
20 of the denial. The petition shall be filed within thirty days of  
21 the denial. The court shall then determine whether the applicant  
22 is entitled to the issuance of a license under the criteria set  
23 forth in this section. The applicant may be represented by  
24 counsel, but in no case may the court be required to appoint



1 counsel for an applicant. The final order of the court shall  
2 include the court's findings of fact and conclusions of law. If  
3 the final order upholds the denial, the applicant may file an  
4 appeal in accordance with the Rules of Appellate Procedure of the  
5 Supreme Court of Appeals.

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

10 (l) Whenever any person after applying for and receiving a  
11 concealed handgun license moves from the address named in the  
12 application to another county within the state, the license remains  
13 valid for the remainder of the five years: *Provided*, That the  
14 licensee within twenty days thereafter notifies the sheriff in the  
15 new county of residence in writing of the old and new addresses.

16 (m) The sheriff shall, immediately after the license is  
17 granted as aforesaid, furnish the Superintendent of the West  
18 Virginia State Police a certified copy of the approved application.  
19 The sheriff shall furnish to the Superintendent of the West  
20 Virginia State Police at any time so requested a certified list of  
21 all licenses issued in the county. The Superintendent of the West  
22 Virginia State Police shall maintain a registry of all persons who  
23 have been issued concealed weapons licenses.

24 (n) Except when subject to an exception under section six,

1 article seven of this chapter, all licensees must carry with them  
2 a state-issued photo identification card with the concealed weapons  
3 license whenever the licensee is carrying a concealed weapon. Any  
4 licensee who, in violation of this subsection, fails to have in his  
5 or her possession a state-issued photo identification card and a  
6 current concealed weapons license while carrying a concealed weapon  
7 is guilty of a misdemeanor and, upon conviction thereof, shall be  
8 fined not less than \$50 or more than \$200 for each offense.

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

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

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

1           (r) Except as restricted or prohibited by the provisions of  
2 this article or as otherwise prohibited by law, the issuance of a  
3 concealed weapon permit issued in accordance with the provisions of  
4 this section authorizes the holder of the permit to carry a  
5 concealed pistol or revolver on the lands or waters of this state.

NOTE: The purpose of this bill is to allow for proof of current military service or honorable discharge by any branch of the United States Military, Reserve, or National Guard as equivalent experience towards completion of the training requirement for a concealed weapons license. The bill also provides for an exemption from payment of fees for these persons.

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