

1
2
3
4
5
6
7
8
9

H. B. 2502

(By Delegates Espinosa, Upson, Gearheart, Cooper, Ambler,
O' Neal, Miller, Sobonya, Shott, Arvon and Blair)

[Introduced January 29, 2015; referred to the
Committee on Education then the Judiciary.]

10 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating
11 to persons possessing deadly weapons on school buses or on the premises of educational
12 facilities; authorizing active law-enforcement officers and retired law-enforcement officers
13 acting as security for schools to carry deadly weapons on a school bus, on school property
14 or at school sponsored functions when certain conditions are met.

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

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

18 **ARTICLE 7. DANGEROUS WEAPONS.**

19 **§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school**
20 **principals; suspension of driver's license; possessing deadly weapons on**
21 **premises housing courts of law and in ~~offices of family law~~ master courts.**

22 (a) The Legislature hereby finds that the safety and welfare of the citizens of this state are
23 inextricably dependent upon assurances of safety for children attending and persons employed by

1 schools in this state and for persons employed by the judicial department of this state. It is for the
 2 purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted
 3 as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them
 4 pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

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

10 (2) This subsection does not apply to:

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

12 A law-enforcement officer who is specifically authorized by a county board and the school
 13 principal to act as security for the school, who meets all the requirements set forth by the applicable
 14 law-enforcement agency regulating the handling and who has qualified with that firearm to the
 15 standards set by that law-enforcement agency;

16 (B) A retired law-enforcement officer who is specifically authorized by a county board and
 17 the school principal to act as security for a school, who meets all the requirements to carry a firearm
 18 as a qualified retired law-enforcement officer under the Law Enforcement Officer Safety Act of
 19 2004, as amended, as set forth in 18 U.S.C. §926C(c), and who meets all of the requirements set
 20 forth by the applicable law-enforcement agency regulating the handling and use of a firearm, and
 21 who has qualified with that firearm to the standards set by that law-enforcement agency;

22 ~~(B)~~ (C) A person specifically authorized by the board of education of the county or principal

1 of the school where the property is located to conduct programs with valid educational purposes;

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

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

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

9 ~~(F)~~ (G) The official mascot of Parkersburg South High School, commonly known as the
10 Patriot, acting in his or her official capacity.

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

14 ~~(c) It is the duty of~~ The principal of each school subject to the authority of the State Board
15 of Education ~~to~~ shall report a violation of subsection (b) of this section discovered by the principal
16 to the State Superintendent of Schools within seventy-two hours after the violation occurs. The State
17 Board of Education shall keep and maintain these reports and may prescribe rules establishing policy
18 and procedures for the making and delivery of the reports as required by this subsection. In addition,
19 ~~it is the duty of~~ the principal of each school subject to the authority of the State Board of Education
20 ~~to~~ shall report a violation of subsection (b) of this section discovered by the principal to the
21 appropriate local office of the Division of Public Safety within seventy-two hours after the violation
22 occurs.

1 (d) In addition to the methods of disposition provided by article five, chapter forty-nine of
2 this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for
3 a violation of subsection (b) of this section may, ~~in its discretion,~~ order the Division of Motor
4 Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time
5 as the court considers appropriate, not to extend beyond the person's nineteenth birthday. Where the
6 person has not been issued a driver's license or instruction permit by this state, a court may order the
7 Division of Motor Vehicles to deny the person's application for a license or permit for a period of
8 time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A
9 suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the
10 order. Where the court orders the suspension of a driver's license or instruction permit pursuant to
11 this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated
12 person's possession and forward to the Division of Motor Vehicles.

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

17 (2) The clerk of the court in which the person is convicted as described in subdivision (1) of
18 this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the
19 conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
20 transcript when the person convicted has not requested an appeal within twenty days of the
21 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
22 shall forward a transcript of the judgment of conviction when the person convicted has not filed a

1 notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was
2 entered.

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

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

21 (f) (1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years
22 of age who knows that the person is in violation of subsection (b) of this section or has reasonable

1 cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately
2 report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

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

8 (2) This subsection does not apply to:

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

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

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

15 (h) (1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises
16 of a court of law, including family courts, with the intent to commit a crime.

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

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

NOTE: The purpose of this bill is to authorize active law-enforcement officers and retired law-enforcement officers acting as security for schools to carry deadly weapons on a school bus, on school property or at school sponsored functions when certain conditions are met.

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