

Senate Bill No. 347

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(By Senators Sypolt, Beach, Blair, Gaunch, D. Hall, Karnes, Leonhardt, Maynard, Williams and
Ferns)

[Introduced January 28, 2015; referred to the Committee on the Judiciary.]

9 A BILL to repeal §61-7-6 of the Code of West Virginia, 1931, as amended; to amend and reenact
10 §20-2-5 and §20-2-6a of said code; and to amend and reenact §61-7-3, §61-7-4 and §61-7-14
11 of said code, all relating to creating the West Virginia Firearms Act of 2015; repealing
12 exceptions section of said code to prohibitions against carrying concealed handguns and
13 exemptions from licensing fees; authorizing carrying a handgun for purposes of self defense
14 while in the woods of this state whether concealed or not; providing that if findings of fact
15 and conclusions of law of the court fail to uphold denial of a license, the applicant is entitled
16 to reasonable costs and attorney's fees, payable by the sheriff's office which issued denial;
17 who is prohibited from possessing firearms under section seven of this article and retaining
18 criminal penalties; procedure for sheriff in determining eligibility for license when license
19 holder changes home county; and right of certain persons to limit possession of firearms on
20 premises and private real property.

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

22 That §61-7-6 of the Code of West Virginia, 1931, as amended, be repealed; that §20-2-5 and

1 §20-2-6a of said code be amended and reenacted; and that §61-7-3, §61-7-4 and §61-7-14 of said
2 code be amended and reenacted, all to read as follows:

3 **CHAPTER 20. NATURAL RESOURCES.**

4 **ARTICLE 2. WILDLIFE RESOURCES.**

5 **§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.**

6 Except as authorized by the director, it is unlawful at any time for any person to:

7 (1) Shoot at or to shoot any wild bird or animal unless it is plainly visible to him or her;

8 (2) Dig out, cut out or smoke out, or in any manner take or attempt to take, any live wild
9 animal or wild bird out of its den or place of refuge except as may be authorized by rules
10 promulgated by the director or by law;

11 (3) Make use of, or take advantage of, any artificial light in hunting, locating, attracting,
12 taking, trapping or killing any wild bird or wild animal, or to attempt to do so, while having in his
13 or her possession or subject to his or her control, or for any person accompanying him or her to have
14 in his or her possession or subject to his or her control, any firearm, whether cased or uncased, bow,
15 arrow, or both, or other implement or device suitable for taking, killing or trapping a wild bird or
16 animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the
17 use of artificial light subject to the restrictions set forth in this subdivision. No person is guilty of
18 a violation of this subdivision merely because he or she looks for, looks at, attracts or makes
19 motionless a wild bird or wild animal with or by the use of an artificial light, unless at the time he
20 or she has in his or her possession a firearm, whether cased or uncased, bow, arrow, or both, or other
21 implement or device suitable for taking, killing or trapping a wild bird or wild animal, or unless the
22 artificial light (other than the head lamps of an automobile or other land conveyance) is attached to,

1 a part of or used from within or upon an automobile or other land conveyance.

2 Any person violating the provisions of this subdivision is guilty of a misdemeanor and, upon
3 conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500 and shall
4 be confined in jail for not less than ten days nor more than one hundred days;

5 (4) Hunt for, take, kill, wound or shoot at wild animals or wild birds from an airplane, or
6 other airborne conveyance, an automobile, or other land conveyance, or from a motor-driven water
7 conveyance, except as authorized by rules promulgated by the director;

8 (5) Take any beaver or muskrat by any means other than by trap;

9 (6) Catch, capture, take or kill by seine, net, bait, trap or snare or like device of any kind any
10 wild turkey, ruffed grouse, pheasant or quail;

11 (7) Destroy or attempt to destroy needlessly or willfully the nest or eggs of any wild bird or
12 have in his or her possession the nest or eggs unless authorized to do so under rules promulgated by
13 or under a permit issued by the director;

14 (8) Except as provided in section six of this article, carry an uncased or loaded gun in any of
15 the woods of this state except during the open firearms hunting season for wild animals and
16 nonmigratory wild birds within any county of the state unless he or she has in his or her possession
17 a permit in writing issued to him or her by the director: *Provided*, That this section does not prohibit
18 hunting or taking of unprotected species of wild animals and wild birds and migratory wild birds,
19 during the open season, in the open fields, open water and open marshes of the state nor does it
20 prohibit a person who is not prohibited from possessing firearms by section four, article seven,
21 chapter sixty-one of this code from carrying a deadly weapon for purposes of self-defense while in
22 the woods of this state;

1 (9) Have in his or her possession a crossbow with a nocked bolt, ~~a loaded firearm or a firearm~~
2 rifle or shotgun from ~~the magazine~~ of which all ~~shells and~~ cartridges have not been removed, in or
3 on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be
4 provided by law or regulation. For the purposes of this section, a rifle or shotgun whose magazine
5 readily detaches is considered unloaded if the magazine is detached, and no cartridges remain in the
6 rifle or shotgun itself. Except as hereinafter provided, between five o'clock postmeridian of one day
7 and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm
8 or crossbow, being lawfully carried in accordance with the foregoing provisions, may be so carried
9 only when in a case or taken apart and securely wrapped. During the period from July 1 to
10 September 30, inclusive, of each year, the foregoing requirements relative to carrying certain
11 unloaded firearms are permissible only from eight-thirty o'clock postmeridian to five o'clock
12 antemeridian, eastern standard time: *Provided*, That the time periods for carrying unloaded and
13 uncased firearms are extended for one hour after the postmeridian times and one hour before the
14 antemeridian times established above if a hunter is preparing to or in the process of transporting or
15 transferring the firearms to or from a hunting site, campsite, home or other place of abode;

16 (10) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which
17 wildlife may be taken after the hour of five o'clock antemeridian on Sunday on private land without
18 the written consent of the landowner any wild animals or wild birds except when a big game season
19 opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild
20 animals or birds after five o'clock antemeridian on that Sunday: *Provided*, That traps previously and
21 legally set may be tended after the hour of five o'clock antemeridian on Sunday and the person so
22 doing may carry only a twenty-two caliber firearm for the purpose of humanely dispatching trapped

1 animals. Any person violating the provisions of this subdivision is guilty of a misdemeanor and,
2 upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this
3 code, is subject to a \$100 fine;

4 (11) Hunt, catch, take, kill, injure or pursue a wild animal or bird with the use of a ferret;

5 (12) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

6 (13) Catch, take, kill or attempt to catch, take or kill any fish at any time by any means other
7 than by rod, line and hooks with natural or artificial lures unless otherwise authorized by law or rules
8 issued by the Director: *Provided*, That snaring of any species of suckers, carp, fallfish and creek
9 chubs shall at all times be lawful;

10 (14) Employ or hire, or induce or persuade, by the use of money or other things of value, or
11 by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those
12 species on which there is no closed season, or to fish for, catch, take or kill any fish, amphibian or
13 aquatic life which is protected by the provisions of this chapter or rules of the director or the sale of
14 which is prohibited;

15 (15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or
16 nongame birds included in the terms of conventions between the United States and Great Britain and
17 between the United States and United Mexican States for the protection of migratory birds and wild
18 mammals concluded, respectively, August 16, 1916, and February 7, 1936, except during the time
19 and in the manner and numbers prescribed by the federal Migratory Bird Treaty Act, 16 U.S.C.
20 §U.S.C. §703, et seq., and regulations made thereunder;

21 (16) Kill, take, catch or have in his or her possession, living or dead, any wild bird other than
22 a game bird; or expose for sale or transport within or without the state any bird except as aforesaid.

1 No part of the plumage, skin or body of any protected bird may be sold or had in possession for sale
2 except mounted or stuffed plumage, skin, bodies or heads of the birds legally taken and stuffed or
3 mounted, irrespective of whether the bird was captured within or without this state, except the
4 English or European sparrow (*passer domesticus*), starling (*sturnus vulgaris*) and cowbird (*molothrus*
5 *ater*), which may not be protected and the killing thereof at any time is lawful;

6 (17) Use dynamite or any like explosive or poisonous mixture placed in any waters of the
7 state for the purpose of killing or taking fish. Any person violating the provisions of this subdivision
8 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or imprisoned
9 for not less than six months nor more than three years, or both fined and imprisoned;

10 (18) Have a bow and gun, or have a gun and any arrow or arrows, in the fields or woods at
11 the same time;

12 (19) Have a crossbow in the woods or fields or use a crossbow to hunt for, take or attempt
13 to take any wildlife except as otherwise provided in section 42w of this article;

14 (20) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is
15 equipped with a point having at least two sharp cutting edges measuring in excess of three fourths
16 of an inch wide;

17 (21) Take or attempt to take any wildlife with an arrow having an explosive head or shaft,
18 a poisoned arrow or an arrow which would affect wildlife by any chemical action;

19 (22) Shoot an arrow across any public highway or from aircraft, motor-driven watercraft,
20 motor vehicle or other land conveyance;

21 (23) Permit any dog owned by him or her or under his or her control to chase, pursue or
22 follow upon the track of any wild animal or wild bird, either day or night, between May 1 and the

1 August 15 next following: *Provided*, That dogs may be trained on wild animals and wild birds,
2 except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of
3 the owner or by his or her bona fide tenant or tenants or upon the grounds or lands of another person
4 with his or her written permission or on public lands at any time: *Provided, however*, That
5 nonresidents may not train dogs in this state at any time except during the legal small game hunting
6 season: *Provided further*, That the person training said dogs does not have firearms or other
7 implements in his or her possession during the closed season on wild animals and wild birds,
8 whereby wild animals or wild birds could be taken or killed;

9 (24) Conduct or participate in a field trial, shoot-to-retrieve field trial, water race or wild hunt
10 hereafter referred to as trial: *Provided*, That any person, group of persons, club or organization may
11 hold the trial at any time of the year upon obtaining a permit as is provided in section fifty-six of this
12 article. The person responsible for obtaining the permit shall prepare and keep an accurate record
13 of the names and addresses of all persons participating in said trial and make same readily available
14 for inspection by any natural resources police officer upon request;

15 (25) Except as provided in section four of this article, hunt, catch, take, kill or attempt to
16 hunt, catch, take or kill any wild animal, wild bird or wild fowl except during the open season
17 established by rule of the director as authorized by subdivision (6), section seven, article one of this
18 chapter;

19 (26) Hunting on public lands on Sunday after five o'clock antemeridian is prohibited;

20 (27) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which
21 wildlife can be taken, on private lands on Sunday after the hour of five o'clock antemeridian:
22 *Provided*, That the provisions of this subdivision do not apply in any county until the county

1 commission of the county holds an election on the question of whether the provisions of this
2 subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the
3 allowance of hunting on Sunday in the county. The election is determined by a vote of the resident
4 voters of the county in which the hunting on Sunday is proposed to be authorized. The county
5 commission of the county in which Sunday hunting is proposed shall give notice to the public of the
6 election by publication of the notice as a Class II-0 legal advertisement in compliance with the
7 provisions of article three, chapter fifty-nine of this code and the publication area for the publication
8 is the county in which the election is to be held. The date of the last publication of the notice shall
9 fall on a date within the period of the fourteen consecutive days next preceding the election.

10 On the local option election ballot shall be printed the following:

11 Shall hunting on Sunday be authorized in _____ County?

12 Yes No

13 (Place a cross mark in the square opposite your choice.)

14 Any local option election to approve or disapprove of the proposed authorization of Sunday
15 hunting within a county shall be in accordance with procedures adopted by the commission. The
16 local option election may be held in conjunction with a primary or general election or at a special
17 election. Approval shall be by a majority of the voters casting votes on the question of approval or
18 disapproval of Sunday hunting at the election.

19 If a majority votes against allowing Sunday hunting, no election on the issue may be held for
20 a period of one hundred four weeks. If a majority votes "yes," no election reconsidering the action
21 may be held for a period of five years. A local option election may thereafter be held if a written
22 petition of qualified voters residing within the county equal to at least five percent of the number of

1 persons who were registered to vote in the next preceding general election is received by the county
 2 commission of the county in which Sunday hunting is authorized. The petition may be in any
 3 number of counterparts. The election shall take place at the next primary or general election
 4 scheduled more than ninety days following receipt by the county commission of the petition required
 5 by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice
 6 requirements have been met. No local law or regulation providing any penalty, disability, restriction,
 7 regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt
 8 all regulations, rules, ordinances and laws of any county or municipality in conflict with this
 9 subdivision; and

10 (28) Hunt or conduct hunts for a fee where the hunter is not physically present in the same
 11 location as the wildlife being hunted within West Virginia.

12 **§20-2-6a. Carrying a ~~concealed~~ handgun while afield.**

13 (a) Notwithstanding any provision of this code to the contrary, a person ~~licensed to carry a~~
 14 ~~concealed weapon pursuant to the provisions of section four, article seven, chapter sixty-one of this~~
 15 ~~code~~ who is not prohibited at the time from possessing a firearm pursuant to the provisions of section
 16 seven, article seven, chapter sixty-one of this code or by any applicable federal law may carry a
 17 handgun ~~in a concealed manner~~ for self defense purposes while afield hunting, hiking, camping or
 18 in or on a motor vehicle.

19 (b) The provisions of this section shall not exempt any person from obtaining any hunting
 20 or fishing license or stamp required by the Division of Natural Resources.

21 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

22 **ARTICLE 7. DANGEROUS WEAPONS.**

1 **§61-7-3. Carrying deadly weapon without license or other authorization; penalties.**

2 (a) Any person who carries a concealed deadly weapon ~~without a state license or other lawful~~
3 ~~authorization established under the provisions of this code; who is prohibited from possessing~~
4 ~~firearms under section seven of this article~~ shall be is guilty of a misdemeanor and, upon conviction
5 thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in ~~the county~~
6 jail for not more than twelve months for the first offense; but upon conviction of a second or
7 subsequent offense, he or she ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be
8 imprisoned in ~~the penitentiary~~ a state correctional facility not less than one nor more than five years
9 and fined not less than \$1,000 nor more than \$5,000.

10 (b) ~~It shall be the duty of~~ The prosecuting attorney in all cases ~~to~~ shall ascertain whether or
11 not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if
12 it shall be a second or subsequent offense, it shall be so stated in the indictment returned, and the
13 prosecuting attorney shall introduce the record evidence before the trial court of ~~such~~ the second or
14 subsequent offense and shall not be permitted to use discretion in introducing evidence to prove the
15 same on the trial.

16 **§61-7-4. License to carry deadly weapons; how obtained.**

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

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

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

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

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

22 (4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not

1 an unlawful user thereof as evidenced by either of the following within the three years immediately
2 prior to the application:

3 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug
4 treatment; or

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

6 (5) That the applicant has not been convicted of a felony unless the conviction has been
7 expunged or set aside or the applicant's civil rights have been restored or the applicant has been
8 unconditionally pardoned for the offense;

9 (6) That the applicant has not been convicted of a misdemeanor crime of violence other than
10 an offense set forth in subsection (7) of this section in the five years immediately preceding the
11 application;

12 (7) That the applicant has not been convicted of a misdemeanor crime of domestic violence
13 as defined in 18 U. S. C. § 921(a)(33), or a misdemeanor offense of assault or battery either under
14 the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b)
15 or (c), section nine, article two of this chapter in which the victim was a current or former spouse,
16 current or former sexual or intimate partner, person with whom the defendant cohabits or has
17 cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's
18 household at the time of the offense, or a misdemeanor offense with similar essential elements in a
19 jurisdiction other than this state;

20 (8) That the applicant is not under indictment for a felony offense or is not currently serving
21 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court
22 of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order

1 or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

2 (9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily
3 committed to a mental institution. If the applicant has been adjudicated mentally incompetent or
4 involuntarily committed the applicant must provide a court order reflecting that the applicant is no
5 longer under such disability and the applicant's right to possess or receive a firearm has been
6 restored;

7 (10) That the applicant is not prohibited under the provisions of section seven of this article
8 or federal law, including 18 U.S.C. § 922(q) or (n), from receiving, possessing or transporting a
9 firearm;

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

13 (12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct
14 an investigation relative to the information contained in the application.

15 (b) For both initial and renewal applications, the sheriff shall conduct an investigation
16 including a nationwide criminal background check consisting of inquiries of the National Instant
17 Criminal Background Check System, the West Virginia criminal history record responses and the
18 National Interstate Identification Index and shall review the information received in order to verify
19 that the information required in subsection (a) of this section is true and correct. A license may not
20 be issued unless the issuing sheriff has verified through the National Instant Criminal Background
21 Check System that the information available to him or her does not indicate that receipt or
22 possession of a firearm by the applicant would be in violation of the provisions of section seven of

1 this article or federal law, including 18 U.S.C. § 922(g) or (n).

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

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

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

14 (2) Any handgun safety or training course or class available to the general public offered by
15 an official law-enforcement organization, community college, junior college, college or private or
16 public institution or organization or handgun training school utilizing instructors certified by the
17 institution;

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

20 (4) Any handgun training or safety course or class conducted by any branch of the United
21 States Military, Reserve or National Guard or proof of other handgun qualification received while
22 serving in any branch of the United States Military, Reserve or National Guard.

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

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

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

15 (g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff
16 a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia
17 State Police within thirty days of receipt. The license is valid for five years throughout the state,
18 unless sooner revoked.

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

1 carrying in a wallet, and the license card is considered a license for the purposes of this section.

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

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

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

19 (l) Whenever any person after applying for and receiving a concealed handgun license moves
20 from the address named in the application to another county within the state, the license remains
21 valid for the remainder of the five years unless the sheriff of the new county has determined that the
22 person is no longer eligible for a concealed deadly weapon license under this article, and the sheriff

1 shall issue a new license bearing the person's new address and the original expiration date for a fee
2 not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the
3 new county of residence in writing of the old and new addresses.

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

9 ~~(n) Except when subject to an exception under section six, article seven of this chapter, all~~
10 ~~licensees shall carry with them a state-issued photo identification card with the concealed weapons~~
11 ~~license whenever the licensee is carrying a concealed weapon. Any licensee who, in violation of this~~
12 ~~subsection, fails to have in his or her possession a state-issued photo identification card and a current~~
13 ~~concealed weapons license while carrying a concealed weapon is guilty of a misdemeanor and, upon~~
14 ~~conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.~~

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

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

21 ~~(q)~~ (p) Notwithstanding the provisions of subsection (a) of this section, with respect to
22 application by a former law-enforcement officer honorably retired from agencies governed by article

1 fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two, chapter
2 fifteen of this code; and article seven, chapter twenty of this code, an honorably retired officer is
3 exempt from payment of fees and costs as otherwise required by this section. All other application
4 and background check requirements set forth in this shall be applicable to these applicants.

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

9 **§61-7-14. Right of certain persons to limit possession of firearms on premises.**

10 Notwithstanding the provisions of this article, any owner, lessee or other person charged with
11 the care, custody and control of private real property may prohibit the carrying openly or concealed
12 of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes
13 of this section "person" means an individual or any entity which may acquire title to real property.

14 Any person carrying or possessing a firearm or other deadly weapon on the property of
15 another who refuses to temporarily relinquish possession of such firearm or other deadly weapon,
16 upon being requested to do so, or to leave such premises, while in possession of such firearm or
17 other deadly weapon, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined
18 not more than \$1,000 or confined in ~~the county~~ jail not more than six months, or both: *Provided*,
19 That the provisions of this section shall not apply to those persons set forth in subsections (3)
20 through (6) of section six of this code while such persons are acting in an official capacity:
21 *Provided, however*, That under no circumstances may any person possess or carry or cause the
22 possession or carrying of any firearm or other deadly weapon on the premises of any primary or

- 1 secondary educational facility in this state unless such person is a law-enforcement officer or he or
- 2 she has the express written permission of the county school superintendent.

NOTE: The purpose of this bill is to create the West Virginia Firearms Act of 2015. The bill repeals the exceptions section of the code to prohibitions against carrying concealed handguns and exemptions from licensing fees. It authorizes carrying a handgun for purposes of self-defense while in the woods of this state whether the handgun is concealed or not. The bill provides that if the findings of fact and conclusions of law of the court fail to uphold a denial of a license, the applicant is entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial. The bill amends the provision relation to who is prohibited from possessing firearms under section seven of this article, maintains the penalty provisions. It sets out the procedure for the sheriff in determining eligibility for license when license holder changes home county. The bill amends the language relating to the right of certain persons to limit possession of firearms on premises and private real property.

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