

COMMITTEE SUBSTITUTE

for

**H. B. 2502**

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(BY DELEGATE(S) ESPINOSA, UPSON,  
GEARHEART, COOPER, AMBLER, O' NEAL, MILLER, SOBONYA,  
SHOTT, ARVON AND BLAIR)

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(Originating in the Committee on the Judiciary.)  
(February 25, 2015)

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A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to persons possessing deadly weapons on school buses or on the premises of educational facilities; authorizing active law-enforcement officers in certain circumstances to possess a firearm or deadly weapon on a school bus, on school property or at school sponsored functions; authorizing retired law-enforcement officers in certain circumstances to carry deadly weapons on a school bus, on school

property or at school sponsored functions when certain conditions are met; and establishing reporting requirements for the school principal.

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

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

**ARTICLE 7. DANGEROUS WEAPONS.**

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

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

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

19 (2) This subsection does not apply to:

20 (A) A law-enforcement officer ~~acting in his or her official~~  
21 capacity employed by a federal, state, county or municipal law  
22 enforcement agency;

23 (B) A retired law-enforcement officer who:

24 (i) Is employed by a state, county or municipal law  
25 enforcement agency;

26 (ii) Is covered for liability purposes by his or her employer;

27 (iii) Is authorized by a county board of education and the  
28 school principal to serve as security for a school;

29 (iv) Meets all the requirements to carry a firearm as a  
30 qualified retired law-enforcement officer under the Law

31 Enforcement Officer Safety Act of 2004, as amended, pursuant  
32 to 18 U.S.C. §926C(c); and

33 (v) Meets all of the requirements for handling and using a  
34 firearm established by his or her employer, and has qualified  
35 with his or her firearm to those requirements;

36 ~~(B)~~ (C) A person specifically authorized by the board of  
37 education of the county or principal of the school where the  
38 property is located to conduct programs with valid educational  
39 purposes;

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

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

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

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

53 (3) A person violating this subsection is guilty of a felony  
54 and, upon conviction thereof, shall be imprisoned in a state  
55 correctional facility for a definite term of years of not less than  
56 two years nor more than ten years, or fined not more than  
57 \$5,000, or both fined and imprisoned.

58 ~~(c) It is the duty of the principal of each school~~ A school  
59 principal subject to the authority of the State Board of Education  
60 ~~to report within~~ who discovers a violation of subsection (b) of  
61 this section ~~discovered by the principal~~ shall report the violation  
62 as soon as possible to:

63 (1) The State Superintendent of Schools. ~~within seventy-two~~  
64 ~~hours after the violation occurs~~ The State Board of Education  
65 shall keep and maintain these reports and may prescribe rules  
66 establishing policy and procedures for ~~the making and delivery~~  
67 ~~of delivering~~ the reports as required by this subsection; and in  
68 ~~addition, it is the duty of the principal of each school subject to~~

69 ~~the authority of the State Board of Education to report a violation~~  
70 ~~of subsection (b) of this section discovered by the principal to~~  
71 (2) The appropriate local office of the Division of Public  
72 ~~Safety, within seventy-two hours after the violation occurs~~  
73 county sheriff or municipal police agency.

74 (d) In addition to the methods of disposition provided by  
75 article five, chapter forty-nine of this code, a court which  
76 adjudicates a person who is fourteen years of age or older as  
77 delinquent for a violation of subsection (b) of this section may;  
78 ~~in its discretion,~~ order the Division of Motor Vehicles to suspend  
79 a driver's license or instruction permit issued to the person for a  
80 period of time as the court considers appropriate, not to extend  
81 beyond the person's nineteenth birthday. ~~Where~~ If the person has  
82 not been issued a driver's license or instruction permit by this  
83 state, a court may order the Division of Motor Vehicles to deny  
84 the person's application for a license or permit for a period of  
85 time as the court considers appropriate, not to extend beyond the  
86 person's nineteenth birthday. A suspension ordered by the court  
87 pursuant to this subsection is effective upon the date of entry of  
88 the order. Where the court orders the suspension of a driver's

89 license or instruction permit pursuant to this subsection, the  
90 court shall confiscate any driver's license or instruction permit  
91 in the adjudicated person's possession and forward to the  
92 Division of Motor Vehicles.

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

99 (2) The clerk of the court in which the person is convicted as  
100 described in subdivision (1) of this subsection shall forward to  
101 the commissioner a transcript of the judgment of conviction. If  
102 the conviction is the judgment of a magistrate court, the  
103 magistrate court clerk shall forward the transcript when the  
104 person convicted has not requested an appeal within twenty days  
105 of the sentencing for the conviction. If the conviction is the  
106 judgment of a circuit court, the circuit clerk shall forward a  
107 transcript of the judgment of conviction when the person  
108 convicted has not filed a notice of intent to file a petition for

109 appeal or writ of error within thirty days after the judgment was  
110 entered.

111 (3) If, upon examination of the transcript of the judgment of  
112 conviction, the commissioner determines that the person was  
113 convicted as described in subdivision (1) of this subsection, the  
114 commissioner shall make and enter an order revoking the  
115 person's license or privilege to operate a motor vehicle in this  
116 state for a period of one year or, in the event the person is a  
117 student enrolled in a secondary school, for a period of one year  
118 or until the person's twentieth birthday, whichever is the greater  
119 period. The order shall contain the reasons for the revocation and  
120 the revocation period. The order of suspension shall advise the  
121 person that because of the receipt of the court's transcript, a  
122 presumption exists that the person named in the order of  
123 suspension is the same person named in the transcript. The  
124 commissioner may grant an administrative hearing which  
125 substantially complies with the requirements of the provisions of  
126 section two, article five-a, chapter seventeen-c of this code upon  
127 a preliminary showing that a possibility exists that the person  
128 named in the notice of conviction is not the same person whose



129 license is being suspended. The request for hearing shall be  
130 made within ten days after receipt of a copy of the order of  
131 suspension. The sole purpose of this hearing is for the person  
132 requesting the hearing to present evidence that he or she is not  
133 the person named in the notice. If the commissioner grants an  
134 administrative hearing, the commissioner shall stay the license  
135 suspension pending the commissioner's order resulting from the  
136 hearing.

137 (4) For the purposes of this subsection, a person is convicted  
138 when ~~such person~~ he or she enters a plea of guilty or is found  
139 guilty by a court or jury.

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

146 (2) A person violating this subsection is guilty of a  
147 misdemeanor and, upon conviction thereof, shall be fined not

148 more than \$1,000, or shall be confined in jail not more than one  
149 year, or both fined and confined.

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

153 (2) This subsection does not apply to:

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

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

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

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

166 (2) A person violating this subsection is guilty of a felony  
167 and, upon conviction thereof, shall be imprisoned in a state

168 correctional facility for a definite term of years of not less than  
169 two years nor more than ten years, or fined not more than  
170 \$5,000, or both fined and imprisoned.

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

