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COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA
SECRETARY OF STATE

FOR

Senate Bill No. 284

(SENATORS NOHE, PLYMALE, SYPOLT, WALTERS, BLAIR,
WILLIAMS, PREZIOSO AND D. HALL, ORIGINAL SPONSORS)

[Passed March 12, 2015; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-7-16, relating to dangerous weapons generally; requiring certification of responsible persons seeking federal authorization to possess certain firearms by a chief law-enforcement officer when person is not legally proscribed therefrom; clarifying what criteria may be considered when certification is sought from law enforcement that applicant is not prohibited from securing or possessing firearms covered by the National Firearms Act; defining terms; and allowing circuit court appeals or adverse decisions.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-7-16, to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-16. Chief officer certification to transfer or make certain firearms; definitions; appeal.

1 (a) When certification of a chief law-enforcement officer
2 is required by federal law or regulation for the making,
3 transfer, receipt or possession of a firearm, the chief
4 law-enforcement officer shall, within thirty days of receipt of
5 such a request, provide such certification upon determining
6 that to his or her knowledge the applicant is not prohibited by
7 federal, state or local law from making, transferring,
8 receiving or possessing the firearm for which application is
9 being made and is not the subject of a proceeding that could
10 result in the applicant being prohibited by law from receiving
11 or possessing a firearm. If the chief law-enforcement officer
12 is unable to make a certification as contemplated by this
13 section, he or she shall provide the applicant written
14 notification of the action setting forth the reasons therefore.

15 (b) For purposes of this section:

16 (1) "Chief law-enforcement officer" means any official,
17 or his or her designee, that the Bureau of Alcohol, Tobacco,
18 Firearms and Explosives, or any successor agency, identifies
19 by regulation or otherwise as eligible to provide the required
20 law-enforcement certification for the making, transfer, receipt
21 or possession of a firearm.

22 (2) "Certification" means written confirmation by the
23 chief law-enforcement officer necessary under federal law
24 that the applicant seeking to make, transfer, receive or
25 possess a firearm is not to the chief law-enforcement officer's
26 knowledge prohibited by federal, state or local law from
27 making, transferring, receiving or possessing the designated
28 firearm.

29 (3) "Firearm" has the same meaning as provided in the
30 National Firearms Act, 26 U. S. C. § 5845 (a).

31 (c) Chief law-enforcement officers and their designees
32 who act in good faith are immune from liability arising from
33 any act or omission related to certifying a responsible person.

34 (d) An applicant whose request for certification is denied
35 may appeal the chief law-enforcement officer's decision to
36 the circuit court of the applicant's county of residence. If the
37 circuit court finds that the applicant is not prohibited by law
38 from making, transferring, receiving or possessing a firearm
39 and is not the subject of a proceeding that could result in
40 prohibition, the circuit court shall order the chief law-
41 enforcement officer to issue the certification and may award
42 costs and reasonable attorney's fees to the applicant.

43 (e) A generalized objection to persons or entities making,
44 transferring, receiving or possessing firearms or particular
45 types of firearms which may be lawfully made, transferred,
46 received or possessed does not constitute a valid basis for
47 refusing certification.

48 (f) In making the certification decision the chief law-
49 enforcement officer shall require of the applicant only such
50 information as is necessary to identify the applicant for
51 purposes of this section or to determine the disposition of an
52 arrest or proceeding relevant to the applicant's eligibility to
53 lawfully possess or receive a firearm.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul R. Shapiro
.....
Chairman Senate Committee

John B. McL
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark S. Barnes
.....
Clerk of the Senate

Stephane J. Herpin
.....
Clerk of the House of Delegates

Phillip P. White
.....
President of the Senate

Robert M. LaParo
.....
Speaker of the House of Delegates

The within *is approved* this the *3rd*
Day of *April*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 10:30 AM