

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4145

(BY DELEGATES BLAIR, AZINGER, BUTLER, CADLE,
ELDRIDGE, HOUSEHOLDER, MARCUM, OVERINGTON,
R. PHILLIPS, SOBONYA AND UPSON)

[Originating in the Committee on the Judiciary.]

1 A BILL to repeal §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact
2 §61-7-3, §61-7-4, §61-7-6 and §61-7-11a of said code; and to amend said code by adding
3 thereto two new sections, designated §61-7-4a and §61-7-15a, all relating to carry or use
4 of a handgun or deadly weapon; establishing that criminal penalties for carrying a
5 concealed deadly weapon without state license or other lawful authorization applies only
6 to persons under twenty-one years of age and prohibited persons; requiring an applicant
7 for a concealed weapon permit be a United States citizen or legal resident thereof, a
8 resident of this state and of the county in which application is made; permitting persons
9 eighteen years and older to obtain a concealed carry permit; requiring actual live firing of
10 ammunition in training; requiring an applicant for a concealed carry permit to provide a
11 copy of instructor's certification; requiring that on or after January 1, 2017, all duplicate
12 license cards issued by county sheriffs be uniform across all fifty-five counties and feature
13 a photograph of the licensee; requiring State Police, in cooperation with the Sheriffs'
14 Bureau of Professional Standards, prepare uniform applications for licenses and license
15 cards; entitling a person who is granted a license and pays fees under Chapter 61, Article
16 7 after the effective date of §61-7-4 to a tax credit equal to the amount actually paid not to
17 exceed \$100; creating a provisional license to carry concealed deadly weapons for
18 persons between eighteen and twenty-one years of age; establishing provisional license
19 application requirements and procedures; exempting members of the United States
20 Armed Forces, Reserve or National Guard from permit requirements; permitting
21 prosecuting attorneys, assistant prosecuting attorneys or investigators employed by a
22 prosecuting attorney to elect to carry a concealed firearm pursuant to the federal Law
23 Enforcement Officers Safety Act; eliminating the requirement for persons twenty-one
24 years of age and older to possess a permit to carry a concealed deadly weapon provided
25 that certain conditions are met, including being a United States citizen or legal resident,
26 being twenty-one years of age or older and not prohibited from possessing firearms;

27 providing that a person who displays a valid photo identification or concealed weapon
 28 permit may not be unreasonably detained for purposes of verifying whether that person is
 29 a prohibited person; requiring a school principal to report certain violations to the State
 30 Police; and permitting private schools written policies to govern whether a person may
 31 possess a firearm or other deadly weapon in or on a private primary or secondary
 32 education building, structure or facility; providing enhanced penalties for use of a firearm
 33 during the planning or commission of a felony; and excepting enhanced penalties in
 34 certain circumstances when a firearm is used in defense of self or others.

Be it enacted by the Legislature of West Virginia:

35 That §20-2-6a of the Code of West Virginia, 1931, as amended, be repealed; that §61-7-
 36 3, §61-7-4, §61-7-6 and §61-7-11a of said code be amended and reenacted; and that said code
 37 be amended by adding thereto two new sections, designated §61-7-4a and §61-7-15a, all to read
 38 as follows:

CHAPTER 20. CRIMES AND THEIR PUNISHMENT.

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

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

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

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-3. Carrying a deadly weapon without license or other authorization by persons under twenty-one years of age or persons that are prohibited from possessing firearms under section seven of this article; penalties.

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

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

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

1 (a) Except as provided in subsection (h) of this section, any person desiring to obtain a
 2 state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for
 3 the license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that
 4 amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six,
 5 article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be
 6 issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as
 7 prepared by the superintendent of the West Virginia State Police, in writing, duly verified, which
 8 sets forth only the following licensing requirements:

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

14 (2) That, on the date the application is made, the applicant is a bona fide United States
15 citizen or legal resident thereof and resident of this state and of the county in which the application
16 is made and has a valid driver's license or other state-issued photo identification showing the
17 residence;

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

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

32 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug
33 treatment; or

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

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

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

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

49 (8) That the applicant is not under indictment for a felony offense or is not currently serving
50 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a
51 court of any jurisdiction or is the subject of an emergency or temporary domestic violence
52 protective order or is the subject of a final domestic violence protective order entered by a court
53 of any jurisdiction;

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

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

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

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

67 (b) For both initial and renewal applications, the sheriff shall conduct an investigation
68 including a nationwide criminal background check consisting of inquiries of the National Instant
69 Criminal Background Check System, the West Virginia criminal history record responses and the
70 National Interstate Identification Index and shall review the information received in order to verify
71 that the information required in subsection (a) of this section is true and correct. A license may
72 not be issued unless the issuing sheriff has verified through the National Instant Criminal
73 Background Check System that the information available to him or her does not indicate that
74 receipt or possession of a firearm by the applicant would be in violation of the provisions of section
75 seven of this article or federal law, including 18 U.S.C. § 922(g) or (n).

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

84 (d) All persons applying for a license must complete a training course in handling and firing
85 a handgun, which includes the actual live firing of ammunition by the applicant. The successful
86 completion of any of the following courses fulfills this training requirement: *Provided*, That the
87 completed course included the actual live firing of ammunition by the applicant:

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

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

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

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

98 A photocopy of a certificate of completion of any of the courses or classes or an affidavit
99 from the instructor, school, club, organization or group that conducted or taught the course or
100 class attesting to the successful completion of the course or class by the applicant or a copy of
101 any document which shows successful completion of the course or class is evidence of
102 qualification under this section and shall include the instructor's name, signature, and NRA or
103 state instructor identification number, if applicable.

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

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

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

117 (h) Each license shall contain the full name and address of the licensee and a space upon
118 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign
119 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a
120 duplicate license card, in size similar to other state identification cards and licenses, suitable for
121 carrying in a wallet, and the license card is considered a license for the purposes of this section.
122 All duplicate license cards issued on or after July 1, 2017, shall be uniform in size, appearance
123 and information across all fifty-five counties and must feature a photograph of the licensee.

124 (i) The Superintendent of the West Virginia State Police, in cooperation with the West
125 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses
126 and license cards showing that the license has been granted and shall do any other act required
127 to be done to protect the state and see to the enforcement of this section.

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

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

142 (l) Whenever any person after applying for and receiving a concealed handgun license
143 moves from the address named in the application to another county within the state, the license
144 remains valid for the remainder of the five years unless the sheriff of the new county has
145 determined that the person is no longer eligible for a concealed deadly weapon license under this
146 article, and the sheriff shall issue a new license bearing the person's new address and the original
147 expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days
148 thereafter notifies the sheriff in the new county of residence in writing of the old and new
149 addresses.

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

156 (n) The sheriff shall deny any application or revoke any existing license upon
157 determination that any of the licensing application requirements established in this section have
158 been violated by the licensee.

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

162 (p) Notwithstanding ~~the provisions of~~ subsection (a) of this section, with respect to
163 application by a former law-enforcement officer honorably retired from agencies governed by
164 article fourteen, chapter seven of this code; article fourteen, chapter eight of this code; article two,

165 chapter fifteen of this code; and article seven, chapter twenty of this code, an honorably retired
166 officer is exempt from payment of fees and costs as otherwise required by this section. All other
167 application and background check requirements set forth in this ~~shall be~~ section are applicable to
168 these applicants.

169 (q) Information collected under this section, including applications, supporting documents,
170 permits, renewals, or any other information that would identify an applicant for or holder of a
171 concealed weapon permit, is confidential: *Provided*, That ~~such~~ this information may be disclosed
172 to a law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a
173 criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person
174 who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be
175 fined not less than \$50 or more than \$200 for each offense.

176 (r) A person who is granted a license and pays fees under this article after the effective
177 date of this section is entitled to a tax credit equal to the amount actually paid not to exceed \$100.

178 ~~(s)~~ (s) Except as restricted or prohibited by the provisions of this article or as otherwise
179 prohibited by law, the issuance of a concealed weapon permit issued in accordance with the
180 provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver
181 on the lands or waters of this state.

§61-7-4a. Provisional license to carry deadly weapons; how obtained.

1 (a) Any person who is between eighteen and twenty-one years of age and who desires to
2 obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her
3 county for a provisional license, and pay to the sheriff, at the time of application, a fee of \$25, of
4 which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund
5 created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons
6 permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a
7 complete application, as prepared by the superintendent of the West Virginia State Police, in
8 writing, duly verified, which sets forth only the following licensing requirements:

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

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

17 (3) That the applicant is eighteen years of age or older;

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

21 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug
22 treatment; or

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

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

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

30 (7) That the applicant has not been convicted of a misdemeanor crime of domestic
31 violence as defined in 18 U. S. C. § 921(a)(33), or a misdemeanor offense of assault or battery
32 under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine,
33 article two of this chapter in which the victim was a current or former spouse, current or former
34 sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent

35 or guardian, the defendant's child or ward or a member of the defendant's household at the time
36 of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other
37 than this state;

38 (8) That the applicant is not under indictment for a felony offense or is not currently serving
39 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a
40 court of any jurisdiction or is the subject of an emergency or temporary domestic violence
41 protective order or is the subject of a final domestic violence protective order entered by a court
42 of any jurisdiction;

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

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

50 (11) That the applicant has qualified under the minimum requirements set forth in
51 subsection (d) of this section for handling and firing the weapon;

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

54 (b) For provisional license applications, the sheriff shall conduct an investigation including
55 a nationwide criminal background check consisting of inquiries of the National Instant Criminal
56 Background Check System, the West Virginia criminal history record responses and the National
57 Interstate Identification Index and shall review the information received in order to verify that the
58 information required in subsection (a) of this section is true and correct. A license may not be
59 issued unless the issuing sheriff has verified through the National Instant Criminal Background
60 Check System that the information available to him or her does not indicate that receipt or

61 possession of a firearm by the applicant would be in violation of the provisions of section seven
62 of this article or federal law, including 18 U.S.C. § 922(g) or (n).

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

71 (d) All persons applying for a provisional license must complete a training course in
72 handling and firing a handgun, which includes the actual live firing of ammunition by the applicant.
73 The successful completion of any of the following courses fulfills this training requirement:
74 Provided, That the completed course included the actual live firing of ammunition by the applicant:

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

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

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

82 (4) Any proof of current service in the United States Armed Forces, Armed Forces
83 Reserves, or National Guard.

84 A photocopy of a certificate of completion of any of the courses or classes or an affidavit
85 from the instructor, school, club, organization or group that conducted or taught the course or
86 class attesting to the successful completion of the course or class by the applicant or a copy of

87 any document which shows successful completion of the course or class is evidence of
88 qualification under this section. Certificates, affidavits or other documents submitted to show
89 completion of a course or class shall include instructor information and proof of instructor
90 certification, including, if applicable, the instructor's NRA instructor certification number.

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

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

100 (g) Before any approved license is issued or is effective, the applicant shall pay to the
101 sheriff a fee in the amount of \$15 which the sheriff shall forward to the superintendent of the West
102 Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee
103 turns twenty-one years of age, unless sooner revoked.

104 (h) Each provisional license shall contain the full name and address of the licensee and a
105 space upon which the signature of the licensee shall be signed with pen and ink. The issuing
106 sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each
107 new licensee a duplicate license card, in size similar to other state identification cards and
108 licenses, suitable for carrying in a wallet, and the license card is considered a license for the
109 purposes of this section. All duplicate license cards issued shall be uniform in size, appearance
110 and information across all fifty-five counties and must feature a photograph of the licensee. The
111 provisional license shall be readily distinguishable from a license issued pursuant to section four
112 of this article and shall state: "NOT NICS EXEMPT. This license confers the same rights and

113 privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license
114 issued pursuant to §61-7-4. Except this license does not satisfy the requirements of 18 U.S.C. §
115 922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed
116 firearm dealer.”

117 (i) The Superintendent of the West Virginia State Police, in coordination with the West
118 Virginia Sheriffs’ Bureau of Professional Standards, shall prepare uniform applications for
119 provisional licenses and license cards showing that the license has been granted and shall do
120 any other act required to be done to protect the state and see to the enforcement of this section.

121 (j) If an application is denied, the specific reasons for the denial shall be stated by the
122 sheriff denying the application. Any person denied a license may file, in the circuit court of the
123 county in which the application was made, a petition seeking review of the denial. The petition
124 shall be filed within thirty days of the denial. The court shall then determine whether the applicant
125 is entitled to the issuance of a license under the criteria set forth in this section. The applicant
126 may be represented by counsel, but in no case is the court required to appoint counsel for an
127 applicant. The final order of the court shall include the court’s findings of fact and conclusions of
128 law. If the final order upholds the denial, the applicant may file an appeal in accordance with the
129 Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and
130 conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable
131 costs and attorney’s fees, payable by the sheriff’s office which issued the denial.

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

135 (l) Whenever any person after applying for and receiving a provisional concealed handgun
136 license moves from the address named in the application to another county within the state, the
137 license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new
138 county has determined that the person is no longer eligible for a provisional concealed deadly

139 weapon license under this article, and the sheriff shall issue a new license bearing the person's
140 new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the
141 licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing
142 of the old and new addresses.

143 (m) The sheriff shall, immediately after the provisional license is granted, furnish the
144 Superintendent of the West Virginia State Police a certified copy of the approved application. The
145 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so
146 requested a certified list of all licenses issued in the county. The Superintendent of the West
147 Virginia State Police shall maintain a registry of all persons who have been issued concealed
148 weapons licenses.

149 (n) The sheriff shall deny any application or revoke any existing license upon
150 determination that any of the licensing application requirements established in this section have
151 been violated by the licensee.

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

155 (p) Information collected under this section, including applications, supporting documents,
156 permits, renewals, or any other information that would identify an applicant for or holder of a
157 concealed weapon permit, is confidential: *Provided*, That this information may be disclosed to a
158 law-enforcement agency or officer: (i) To determine the validity of a permit; (ii) to assist in a
159 criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person
160 who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be
161 fined not less than \$50 or more than \$200 for each offense.

162 (q) Except as restricted or prohibited by the provisions of this article or as otherwise
163 prohibited by law, the issuance of a provisional concealed weapon permit issued in accordance
164 with the provisions of this section authorizes the holder of the permit to carry a concealed pistol
165 or revolver on the lands or waters of this state.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns for persons between the ages of 18-20; exemptions from licensing fees.

1 (a) The ~~licensure~~ provisions ~~set forth~~ in section three of this article do not apply to:

2 (1) Any person between the ages of 18-20:

3 (A) Carrying a deadly weapon upon his or her own premises;

4 (B) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence
5 or place of business or to a place of repair and back to his or her home, residence or place of
6 business; or

7 (C) Possessing a firearm while hunting in a lawful manner or while traveling from his or
8 her home, residence or place of business to a hunting site and returning to his or her home,
9 residence or place of business;

10 (2) Any person who is a member of a properly organized target-shooting club authorized
11 by law to obtain firearms by purchase or requisition from this state or from the United States for
12 the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from
13 his or her home, residence or place of business to a place of target practice and from any place
14 of target practice back to his or her home, residence or place of business, for using any such
15 weapon at a place of target practice in training and improving his or her skill in the use of the
16 weapons;

17 (3) Any law-enforcement officer or law-enforcement official or chief executive as defined
18 in section one, article twenty-nine, chapter thirty of this code;

19 (4) Any employee of the West Virginia Division of Corrections duly appointed pursuant to
20 ~~the provisions of~~ section eleven-c, article one, chapter twenty-five of this code while the employee
21 is on duty;

22 (5) Any member of the ~~Armed Forces of the United States or the militia of this state while~~
23 ~~the member is on duty~~ Armed Forces, Reserve or National Guard;

24 (6) Any resident of another state who holds a valid permit or license to possess or carry a
25 handgun issued by a state or a political subdivision subject to the provisions and limitations set
26 forth in section six-a of this article;

27 (7) Any federal law-enforcement officer or federal police officer authorized to carry a
28 weapon in the performance of the officer's duty; and

29 (8) Any parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-
30 two of this code in the performance of their duties.

31 (b) ~~On and after July 1, 2013,~~ The following judicial officers and prosecutors and staff ~~shall~~
32 ~~be exempted~~ are exempt from paying any application fees or licensure fees required under this
33 article. However, ~~on and after that same date,~~ they shall ~~be required to~~ make application and
34 satisfy all licensure and handgun safety and training requirements to obtain a license as set forth
35 in section four of this article: ~~before carrying a concealed handgun in this state~~

36 (1) Any justice of the Supreme Court of Appeals of West Virginia;

37 (2) Any circuit judge;

38 (3) Any retired justice or retired circuit judge designated senior status by the Supreme
39 Court of Appeals of West Virginia;

40 (4) Any family court judge;

41 (5) Any magistrate;

42 (6) Any prosecuting attorney;

43 (7) Any assistant prosecuting attorney; or

44 (8) Any duly appointed investigator employed by a prosecuting attorney.

45 (c) Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed
46 investigator employed by a prosecuting attorney who elects to carry a concealed firearm, may do
47 so pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. §926B, upon
48 completion of training and certification pursuant to section four of this article, and annual firearms
49 training and certification established by the sheriff's department of his or her county, similar to

50 that which is provided to members of the sheriff's department eligible for training and certification
51 under 18 U.S.C §926B, and which shall reasonably accommodate any physical disability of the
52 trainee. Any prosecuting attorney, assistant prosecuting attorney, or any duly appointed
53 investigator employed by a prosecuting attorney who elects to undergo training and certification
54 pursuant to this subsection shall provide, at his or her own expense, a suitable firearm and any
55 ammunition actually expended in training and certification pursuant to this subsection. Upon
56 completion of training and certification pursuant to this subsection, each such prosecuting
57 attorney, assistant prosecuting attorney, or duly appointed investigator employed by a prosecuting
58 attorney shall be issued a photographic identification and certification card, suitable to be carried
59 in a wallet, valid for one year, which shall contain the name, title, official address, full-face color
60 photograph of said prosecuting attorney or assistant prosecuting attorney, the sheriff's signature,
61 the expiration date, the word "qualified law-enforcement officer under 18 U.S.C. §926B" in
62 conspicuous type and shall indicate completion of periodic training consistent with this subsection
63 and the requirements of 18 U.S.C. §926B. Prosecuting attorneys, assistant prosecuting attorneys,
64 or duly appointed investigators employed by a prosecuting attorney who have successfully
65 completed such training and certification shall have all the rights and authorities necessary in
66 order to comply with 18 U.S.C. §926B. This subsection is supplemental and additional to existing
67 rights to bear arms, and nothing in this subsection shall impair or diminish such rights.

68 (d) Any person twenty-one years of age or older may carry a concealed deadly weapon,
69 without permit, in this state provided that the following conditions are met:

70 (1) The person is a United States citizen or legal resident thereof; and

71 (2) The person is not prohibited under the provisions of section seven of this article or
72 federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing or transporting a
73 firearm.

74 (e) Any person who displays a valid photo identification or concealed weapon permit may
75 not be unreasonably detained for purposes of verifying whether that person is a prohibited person.

§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 family law courts.

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

8 (b)(1) It is unlawful for a person to possess a firearm or other deadly weapon on a school
9 bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public
10 ~~or private~~ primary or secondary education building, structure, facility or grounds including a
11 vocational education building, structure, facility or grounds where secondary vocational education
12 programs are conducted or at a school-sponsored function or in or on a private primary or
13 secondary education building, structure, facility where such is not allowed by the written policies
14 of the private educational institution.

15 (2) This subsection does not apply to:

16 (A) A law-enforcement officer employed by a federal, state, county or municipal law-
17 enforcement agency;

18 (B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-
19 two of this code in the performance of his or her duties;

20 (C) A retired law-enforcement officer who:

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

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

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

25 (iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement
26 officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C.
27 §926C(c); and

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

30 (D) A person specifically authorized by the Board of Education of the county or principal
31 of the school where the property is located to conduct programs with valid educational purposes;

32 (E) A person who, as otherwise permitted by the provisions of this article, possesses an
33 unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly
34 weapon in a locked motor vehicle;

35 (F) Programs or raffles conducted with the approval of the county board of education or
36 school which include the display of unloaded firearms;

37 (G) The official mascot of West Virginia University, commonly known as the Mountaineer,
38 acting in his or her official capacity; or

39 (H) The official mascot of Parkersburg South High School, commonly known as the Patriot,
40 acting in his or her official capacity.

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

44 (c) A school principal subject to the authority of the State Board of Education who
45 discovers a violation of subsection (b) of this section shall report the violation as soon as possible
46 to:

47 (1) The State Superintendent of Schools. The State Board of Education shall keep and
48 maintain these reports and may prescribe rules establishing policy and procedures for making
49 and delivering the reports as required by this subsection; and

50 (2) The appropriate local office of the ~~Division of Public Safety~~ State Police, county sheriff
51 or municipal police agency.

52 (d) In addition to the methods of disposition provided by article five, chapter forty-nine of
53 this code, a court which adjudicates a person who is fourteen years of age or older as delinquent
54 for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend
55 a driver's license or instruction permit issued to the person for a period of time as the court
56 considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has
57 not been issued a driver's license or instruction permit by this state, a court may order the Division
58 of Motor Vehicles to deny the person's application for a license or permit for a period of time as
59 the court considers appropriate, not to extend beyond the person's nineteenth birthday. A
60 suspension ordered by the court pursuant to this subsection is effective upon the date of entry of
61 the order. Where the court orders the suspension of a driver's license or instruction permit
62 pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in
63 the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

68 (2) The clerk of the court in which the person is convicted as described in subdivision (1)
69 of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If
70 the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
71 transcript when the person convicted has not requested an appeal within twenty days of the
72 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
73 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
74 notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was
75 entered.

76 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
77 determines that the person was convicted as described in subdivision (1) of this subsection, the
78 commissioner shall make and enter an order revoking the person's license or privilege to operate
79 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
80 in a secondary school, for a period of one year or until the person's twentieth birthday, whichever
81 is the greater period. The order shall contain the reasons for the revocation and the revocation
82 period. The order of suspension shall advise the person that because of the receipt of the court's
83 transcript, a presumption exists that the person named in the order of suspension is the same
84 person named in the transcript. The commissioner may grant an administrative hearing which
85 substantially complies with the requirements of the provisions of section two, article five-a, chapter
86 seventeen-c of this code upon a preliminary showing that a possibility exists that the person
87 named in the notice of conviction is not the same person whose license is being suspended. The
88 request for hearing shall be made within ten days after receipt of a copy of the order of
89 suspension. The sole purpose of this hearing is for the person requesting the hearing to present
90 evidence that he or she is not the person named in the notice. If the commissioner grants an
91 administrative hearing, the commissioner shall stay the license suspension pending the
92 commissioner's order resulting from the hearing.

93 (4) For the purposes of this subsection, a person is convicted when he or she enters a
94 plea of guilty or is found guilty by a court or jury.

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

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

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

104 (2) This subsection does not apply to:

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

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

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

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

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

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

§61-7-15a. Enhanced penalty for use of firearm during commission of felony.

1 (a) Except to the extent that a greater minimum sentence is otherwise provided by any
2 other provision of law, any person who uses or displays a firearm during the planning or
3 commission of any felony shall, in addition to the punishment provided for such felony, be
4 sentenced to an additional term of imprisonment in a state correctional facility of five years, which
5 sentence may not be reduced or suspended.

6 (b) Except to the extent that a greater minimum sentence is otherwise provided by any
7 other provision of law, any convicted felon who uses or displays a firearm during the planning or
8 commission of any felony shall, in addition to the punishment provided for such felony, be
9 sentenced to an additional term of imprisonment in a state correctional facility of ten years, to run
10 consecutively, not concurrently, which sentence may not be reduced or suspended.

- 11 (c) Unless otherwise provided in this code, the provisions of this article do not apply to a
12 person who in good faith employs the use of a firearm, in self-defense or the defense of others,
13 against another person who is perpetuating violence or the threat of violence.

NOTE: Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.