

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 249

BY SENATORS KARNES, TRUMP AND LEONHARDT

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating
 2 to providing chief administrator or administrative head of private primary or secondary
 3 education provider the authority to specifically designate individuals that may possess a
 4 deadly weapon on that private education provider’s premises.

Be it enacted by the Legislature of West Virginia:

1 That §61-7-11a of the Code of West Virginia, 1931, as amended, be amended and
 2 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 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.

13 (2) This subsection does not apply to:

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

- 16 (B) A retired law-enforcement officer who:
- 17 (i) Is employed by a state, county or municipal law enforcement agency;
- 18 (ii) Is covered for liability purposes by his or her employer;
- 19 (iii) Is authorized by a county board of education and the school principal to serve as
- 20 security for a school;
- 21 (iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement
- 22 officer under the Law Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C.
- 23 §926C(c); and
- 24 (v) Meets all of the requirements for handling and using a firearm established by his or her
- 25 employer, and has qualified with his or her firearm to those requirements;
- 26 (C) A person specifically authorized by the board of education of the county or principal of
- 27 the school where the property is located to conduct programs with valid educational purposes;
- 28 (D) A person specifically authorized by the chief administrator or administrative head of a
- 29 private primary or secondary education provider to possess a firearm or other deadly weapon on
- 30 its premises;
- 31 ~~(D)~~ (E) A person who, as otherwise permitted by the provisions of this article, possesses
- 32 an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly
- 33 weapon in a locked motor vehicle;
- 34 ~~(E)~~ (F) Programs or raffles conducted with the approval of the county board of education
- 35 or school which include the display of unloaded firearms;
- 36 ~~(F)~~ (G) The official mascot of West Virginia University, commonly known as the
- 37 Mountaineer, acting in his or her official capacity; or
- 38 ~~(G)~~ (H) The official mascot of Parkersburg South High School, commonly known as the
- 39 Patriot, acting in his or her official capacity.
- 40 (3) A person violating this subsection is guilty of a felony and, upon conviction thereof,
- 41 shall be imprisoned in a state correctional facility for a definite term of years of not less than two

42 years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

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

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

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

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

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

67 (2) The clerk of the court in which the person is convicted as described in subdivision (1)

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

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

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

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

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

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

103 (2) This subsection does not apply to:

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

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

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

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

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

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

NOTE: The purpose of this bill is to provide an exception to the prohibition to possess a deadly weapon on the premises of a private primary or secondary education provider by permitting the chief administrator or administrative head to designate individuals that may possess a deadly weapon on the provider's premises.

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