

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 244

BY SENATORS AZINGER AND RUCKER

[Originating in the Committee on Education; Reported
on January 31, 2018]

1 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating
2 to specifying the conditions under which it is unlawful to possess a firearm or other deadly
3 weapon at school-sponsored functions; revising the conditions under which a retired law-
4 enforcement officer may possess a firearm or other deadly weapon on a school bus, in a
5 public primary or secondary education building, structure, facility or grounds, or at certain
6 school-sponsored functions; and revising conditions for which certain persons holding a
7 valid concealed handgun permit can possess a concealed handgun in a motor vehicle in
8 in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public
9 school.

Be it enacted by the Legislature of West Virginia:

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 §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h),
5 of this code and §61-7-11a(b)(2)(l) of this code are enacted as a reasonable regulation of the
6 manner in which citizens may exercise the rights accorded to them pursuant to section 22, article
7 III of the Constitution of the State of 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 §17A-1-1 of this code or in or on a public primary or secondary education
10 building, structure, facility, or grounds including a vocational education building, structure, facility,
11 or grounds where secondary vocational education programs are conducted or at a school-
12 sponsored function that is taking place in a specific area that is owned, rented, or leased by a

13 county school board or local public school for the actual period of time used by the school entity
14 and has clear signage to that effect, or in or on a private primary or secondary education building,
15 structure, or facility: *Provided*, That it shall not be unlawful to possess a firearm or other deadly
16 weapon on or in a private primary or secondary education building, structure, or facility when such
17 institution has adopted written policies allowing for possession of firearms on or in the institution's
18 buildings, structures, or facilities.

19 (2) This subsection does not apply to:

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

22 (B) Any probation officer appointed pursuant to §62-12-5 or chapter 49 of this code in the
23 performance of his or her duties;

24 ~~(C) A retired law-enforcement officer who:~~

25 ~~(i) Is employed by a state, county or municipal law-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 school principal to serve as~~
28 ~~security for a school;~~

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

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

34 (C) A retired law-enforcement officer who meets all the requirements to carry a firearm as
35 a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004,
36 as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and
37 has on their person official identification in accordance with that act;

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

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

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

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

47 (H) The official mascot of Parkersburg South High School, commonly known as the Patriot,
48 acting in his or her official capacity; or

49 (I) Any person, 21 years old or older, who has a valid concealed handgun permit may
50 possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas
51 of vehicular ingress or egress to a public school: *Provided, That:*

52 (i) When he or she is occupying the vehicle the person stores the handgun out of view
53 from persons outside the vehicle; or

54 (ii) When he or she is not occupying the vehicle the person stores the handgun out of view
55 from persons outside the vehicle, the vehicle is locked, and the handgun is in a ~~locked trunk, glove~~
56 ~~box or other interior compartment~~ glove box or other interior compartment, or in a locked trunk,
57 or in a locked container securely fixed to the vehicle.

58 (3) A person violating this subsection is guilty of a felony and, upon conviction thereof,
59 shall be imprisoned in a state correctional facility for a definite term of years of not less than two
60 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

61 (c) A school principal subject to the authority of the State Board of Education who
62 discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

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

66 (2) The appropriate local office of the State Police, county sheriff or municipal police
67 agency.

68 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
69 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
70 §61-7-11a(b) of this code may order the Division of Motor Vehicles to suspend a driver's license
71 or instruction permit issued to the person for a period of time as the court considers appropriate,
72 not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's
73 license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny
74 the person's application for a license or permit for a period of time as the court considers
75 appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the
76 court pursuant to this subsection is effective upon the date of entry of the order. Where the court
77 orders the suspension of a driver's license or instruction permit pursuant to this subsection, the
78 court shall confiscate any driver's license or instruction permit in the adjudicated person's
79 possession and forward to the Division of Motor Vehicles.

80 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this
81 code and if the person does not act to appeal the conviction within the time periods described in
82 §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this
83 state shall be revoked in accordance with the provisions of this section.

84 (2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1)
85 of this code shall forward to the commissioner a transcript of the judgment of conviction. If the
86 conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
87 transcript when the person convicted has not requested an appeal within 20 days of the
88 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk

89 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
90 notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was
91 entered.

92 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
93 determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the
94 commissioner shall make and enter an order revoking the person's license or privilege to operate
95 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
96 in a secondary school, for a period of one year or until the person's twentieth birthday, whichever
97 is the greater period. The order shall contain the reasons for the revocation and the revocation
98 period. The order of suspension shall advise the person that because of the receipt of the court's
99 transcript, a presumption exists that the person named in the order of suspension is the same
100 person named in the transcript. The commissioner may grant an administrative hearing which
101 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a
102 preliminary showing that a possibility exists that the person named in the notice of conviction is
103 not the same person whose license is being suspended. The request for hearing shall be made
104 within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing
105 is for the person requesting the hearing to present evidence that he or she is not the person
106 named in the notice. If the commissioner grants an administrative hearing, the commissioner shall
107 stay the license suspension pending the commissioner's order resulting from the hearing.

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

110 (f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of
111 age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable
112 cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to
113 immediately report his or her knowledge or belief to the appropriate school or law-enforcement
114 officials.

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

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

120 (2) This subsection does not apply to:

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

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

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

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

129 (2) A person violating this subsection is guilty of a felony and, upon conviction thereof,
130 shall be imprisoned in a state correctional facility for a definite term of years of not less than two
131 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

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