

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2922

BY DELEGATES BARRETT, PHILLIPS, BLAIR, MAYNARD,

OVERINGTON, PAYNTER AND HOUSEHOLDER

[Introduced March 10, 2017; Referred

to the Committee on Finance.]

1 A BILL to amend and reenact §61-7-4 and §61-7-4a of the Code of West Virginia, 1931, as
 2 amended, all relating to reducing the cost of the fee for a state license to carry a concealed
 3 weapon.

Be it enacted by the Legislature of West Virginia:

1 That §61-7-4 and §61-7-4a of the Code of West Virginia, 1931, as amended, be amended
 2 and reenacted, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§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~~ \$25, 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 license may only be
 6 issued for pistols and revolvers. Each applicant shall file with the sheriff a complete application,
 7 as 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;

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

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

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

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

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

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

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

44 (9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily

45 committed to a mental institution. If the applicant has been adjudicated mentally incompetent or
46 involuntarily committed the applicant must provide a court order reflecting that the applicant is no
47 longer under such disability and the applicant's right to possess or receive a firearm has been
48 restored;

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

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

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

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

66 (c) ~~Sixty dollars~~ Twenty-five dollars of the application fee and any fees for replacement of
67 lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed
68 weapons license administration fund. The fund shall be administered by the sheriff and shall take
69 the form of an interest-bearing account with any interest earned to be compounded to the fund.
70 Any funds deposited in this concealed weapon license administration fund are to be expended by

71 the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in
72 the fund on hand at the end of each fiscal year may be expended for other law-enforcement
73 purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

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

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

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

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

85 (4) Any handgun training or safety course or class conducted by any branch of the United
86 States military, Reserve or National Guard or proof of other handgun qualification received while
87 serving in any branch of the United States military, Reserve or National Guard.

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

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

97 sixty-one of this code.

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

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

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

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

118 (j) If an application is denied, the specific reasons for the denial shall be stated by the
119 sheriff denying the application. Any person denied a license may file, in the circuit court of the
120 county in which the application was made, a petition seeking review of the denial. The petition
121 shall be filed within thirty days of the denial. The court shall then determine whether the applicant
122 is entitled to the issuance of a license under the criteria set forth in this section. The applicant

123 may be represented by counsel, but in no case is the court required to appoint counsel for an
124 applicant. The final order of the court shall include the court's findings of fact and conclusions of
125 law. If the final order upholds the denial, the applicant may file an appeal in accordance with the
126 Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and
127 conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable
128 costs and attorney's fees, payable by the sheriff's office which issued the denial.

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

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

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

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

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

152 (p) Notwithstanding subsection (a) of this section, with respect to application by a former
153 law-enforcement officer honorably retired from agencies governed by article fourteen, chapter
154 seven of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this
155 code; and article seven, chapter twenty of this code, an honorably retired officer is exempt from
156 payment of fees and costs as otherwise required by this section. All other application and
157 background check requirements set forth in this section are applicable to these applicants.

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

165 (r) A person who pays fees for training or application pursuant to this article after the
166 effective date of this section is entitled to a tax credit equal to the amount actually paid for training
167 not to exceed \$50: *Provided,* That if such training was provided for free or for less than \$50, then
168 such tax credit may be applied to the fees associated with the initial application.

169 (s) Except as restricted or prohibited by the provisions of this article or as otherwise
170 prohibited by law, the issuance of a concealed weapon license issued in accordance with the
171 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver
172 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 at least eighteen years of age and less than twenty-one years of

2 age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the
3 sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application,
4 a fee of ~~\$25~~ \$15, of which ~~\$5~~ of that amount shall be deposited in the ~~Courthouse Facilities~~
5 ~~Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code~~
6 Provisional licenses may only be issued for pistols or revolvers. Each applicant shall file with the
7 sheriff a complete application, as prepared by the Superintendent of the West Virginia State
8 Police, in 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 at least eighteen years of age and less than twenty-one years of
18 age;

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

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

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

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

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

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

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

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

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

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

53 (12) That the applicant authorizes the sheriff of the county, or his or her designee, to

54 conduct an investigation relative to the information contained in the application.

55 (b) For provisional license applications, the sheriff shall conduct an investigation including
56 a nationwide criminal background check consisting of inquiries of the National Instant Criminal
57 Background Check System, the West Virginia criminal history record responses and the National
58 Interstate Identification Index, and shall review the information received in order to verify that the
59 information required in subsection (a) of this section is true and correct. A provisional license may
60 not be issued unless the issuing sheriff has verified through the National Instant Criminal
61 Background Check System that the information available does not indicate that receipt of or
62 possession of a firearm by the applicant would be in violation of the provisions of section seven
63 of this article or federal law, including 18 U. S. C. §922(g) or (n).

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

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

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

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

80 institution;

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

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

85 A photocopy of a certificate of completion of any of the courses or classes or an affidavit
86 from the instructor, school, club, organization or group that conducted or taught the course or
87 class attesting to the successful completion of the course or class by the applicant, or a copy of
88 any document which shows successful completion of the course or class, is evidence of
89 qualification under this section. Certificates, affidavits or other documents submitted to show
90 completion of a course or class shall include instructor information and proof of instructor
91 certification, including, if applicable, the instructor's NRA instructor certification number.

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

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 once all
99 required 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 provisional license cards. The sheriff shall provide
107 to each new licensee a duplicate license card, in size similar to other state identification cards
108 and licenses, suitable for carrying in a wallet, and the license card is considered a license for the
109 purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five
110 counties in size, appearance and information 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 section four, article seven, chapter sixty-one of this code, except that this
115 license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be
116 performed prior to purchase of a firearm from a federally licensed 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
120 perform any other act required to protect the state and to enforce of 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 provisional license may file, in the circuit
123 court of the county in which the application was made, a petition seeking review of the denial. The
124 petition shall be filed within thirty days of the denial. The court shall then determine whether the
125 applicant is entitled to the issuance of a provisional license under the criteria set forth in this
126 section. The applicant may be represented by counsel, but in no case is the court required to
127 appoint counsel for an applicant. The final order of the court shall include the court's findings of
128 fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal
129 in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the
130 findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be
131 entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the

132 denial.

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

136 (l) Whenever any person after applying for and receiving a provisional concealed weapon
137 license moves from the address named in the application to another county within the state, the
138 license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new
139 county has determined that the person is no longer eligible for a provisional concealed weapon
140 license under this article, and the sheriff shall issue a new provisional license bearing the person's
141 new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the
142 licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing
143 of the old and new addresses.

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

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

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

156 (p) Information collected under this section, including applications, supporting documents,
157 permits, renewals, or any other information that would identify an applicant for or holder of a

158 concealed weapon provisional license, is confidential: *Provided*, That this information may be
159 disclosed to a law-enforcement agency or officer: (i) To determine the validity of a provisional
160 license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-
161 enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and,
162 upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

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

NOTE: The purpose of this bill is to reduce the cost of the fee for a state license to carry a concealed weapon.

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