

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **Senate Bill 482**

BY SENATORS MAYNARD (BY REQUEST), CLINE,

ROBERTS, AND AZINGER

[Introduced January 15, 2020; 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 removing the condition requiring any person over 21 years of age must possess a valid  
3 permit to possess a concealed handgun in a motor vehicle in a parking lot, traffic circle, or  
4 other areas of vehicular ingress and egress to a public 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 subsections (b), (g), and (h) of this section and  
5 paragraph (l), subdivision (2), subsection (b) of this section are enacted as a reasonable  
6 regulation of the manner in which citizens may exercise the rights accorded to them pursuant to  
7 section 22, article III of the Constitution of the State of West Virginia.

8 (b) (1) It is unlawful to possess a firearm or other deadly weapon:

9 (A) On a school bus, as defined in §17A-1-1 of this code;

10 (B) In or on the grounds of any primary or secondary educational facility of any type:

11 *Provided*, That it ~~shall~~ is not be unlawful to possess a firearm or other deadly weapon in or on the  
12 grounds of any private primary or secondary school, if ~~such~~ the institution has adopted a written  
13 policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds  
14 thereof; or

15 (C) At a school-sponsored function that is taking place in a specific area that is owned,  
16 rented, or leased by the West Virginia Department of Education, the West Virginia Secondary

17 School Activities Commission, a county school board, or local public school for the actual period  
18 of time the function is occurring.

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

28 (D) A person, other than a student of a primary and secondary facility, specifically  
29 authorized by the board of education of the county or principal of the school where the property  
30 is located to conduct programs with valid educational purposes;

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

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

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

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

40 (I) Any person, 21 years old or older, ~~who has a valid concealed handgun permit~~ who may  
41 lawfully possess a firearm, may possess a concealed handgun while in a motor vehicle in a

42 parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided,*  
43 That:

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

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

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

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

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

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

60 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a  
61 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of  
62 subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's  
63 license or instruction permit issued to the person for a period of time as the court considers  
64 appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued  
65 a driver's license or instruction permit by this state, a court may order the Division of Motor  
66 Vehicles to deny the person's application for a license or permit for a period of time as the court  
67 considers appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by

68 the court pursuant to this subsection is effective upon the date of entry of the order. Where the  
69 court orders the suspension of a driver's license or instruction permit pursuant to this subsection,  
70 the court shall confiscate any driver's license or instruction permit in the adjudicated person's  
71 possession and forward to the Division of Motor Vehicles.

72 (e)(1) If a person 18 years of age or older is convicted of violating subsection (b) of this  
73 section and if the person does not act to appeal the conviction within the time periods described  
74 in subdivision (2) of this subsection, the person's license or privilege to operate a motor vehicle  
75 in this state shall be revoked in accordance with the provisions of this section.

76 (2) The clerk of the court in which the person is convicted as described in subdivision (1)  
77 of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If  
78 the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the  
79 transcript when the person convicted has not requested an appeal within 20 days of the  
80 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk  
81 shall forward a transcript of the judgment of conviction when the person convicted has not filed a  
82 notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was  
83 entered.

84 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner  
85 determines that the person was convicted as described in subdivision (1) of this subsection, the  
86 commissioner shall make and enter an order revoking the person's license or privilege to operate  
87 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled  
88 in a secondary school, for a period of one year or until the person's 20th birthday, whichever is  
89 the greater period. The order shall contain the reasons for the revocation and the revocation  
90 period. The order of suspension shall advise the person that because of the receipt of the court's  
91 transcript, a presumption exists that the person named in the order of suspension is the same  
92 person named in the transcript. The commissioner may grant an administrative hearing which  
93 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a

94 preliminary showing that a possibility exists that the person named in the notice of conviction is  
95 not the same person whose license is being suspended. The request for hearing shall be made  
96 within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing  
97 is for the person requesting the hearing to present evidence that he or she is not the person  
98 named in the notice. If the commissioner grants an administrative hearing, the commissioner shall  
99 stay the license suspension pending the commissioner's order resulting from the hearing.

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

102 (f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of  
103 age who knows that the person is in violation of subsection (b) of this section or has reasonable  
104 cause to believe that the person's violation of subsection (b) of this section is imminent to fail to  
105 immediately report his or her knowledge or belief to the appropriate school or law-enforcement  
106 officials.

107 (2) 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 (g)(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.

112 (2) This subsection does not apply to:

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

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

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

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

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

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

NOTE: The purpose of this bill is to eliminate the permit requirement for storing of a  
concealed handgun in a vehicle on school property for persons over 21.

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