

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 327**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Finance, October 12,

2021]



1 A BILL to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating  
2 to clarifying the manner in which an application fee is to be paid for a West Virginia resident  
3 to a obtain state license to carry a concealed deadly weapon; raising the fee to \$50;  
4 requiring half of the application fee collected be deposited into the State Treasury and  
5 credited to the account of the State Police; eliminating \$25 processing fee; and excluding  
6 honorably discharged, resident veterans of the reserve and National Guard from payment  
7 of the application fee.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 7. DANGEROUS WEAPONS.**

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

1 (a) (1) Except as provided in §61-7-4(q) of this code, a legal resident or citizen of West  
2 Virginia desiring to obtain a state resident license to carry a concealed deadly weapon shall apply  
3 to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application,  
4 a fee of ~~\$25~~ \$50. A concealed weapons license may only be issued for pistols and revolvers.

5 (2) A legal resident or citizen of another state of the United States desiring to obtain a  
6 nonresident state license to carry a concealed deadly weapon shall apply to a sheriff of any county  
7 in this state for the license, and pay to the sheriff, at the time of application, a fee of \$100. A  
8 concealed weapons licenses may only be issued for pistols and revolvers.

9 (b) Each applicant for a state resident license or nonresident license to carry a concealed  
10 deadly weapon shall file with the sheriff a complete application, as prepared by the  
11 Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the  
12 following licensing requirements:

13 (1) The applicant's full name, date of birth, social security number, a description of the  
14 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship,  
15 and, if the applicant is not a United States citizen, any alien or admission number issued by the

16 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for  
17 an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

18 (2) That, on the date the application is made, the applicant is a bona fide United States  
19 citizen or legal resident thereof and either a resident of this state and of the county in which the  
20 application is made or a resident of another state in the United States and has a valid driver's  
21 license or other state-issued or federally issued photo identification showing the residence;

22 (3) That the applicant is 21 years of age or older;

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

26 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug  
27 treatment; or

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

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

32 (6) That the applicant has not been convicted of a misdemeanor crime of violence other  
33 than an offense set forth in subdivision (7) of this subsection in the five years immediately  
34 preceding the application;

35 (7) That the applicant has not been convicted of a misdemeanor crime of domestic  
36 violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery  
37 either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim  
38 was a current or former spouse, current or former sexual or intimate partner, person with whom  
39 the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a  
40 member of the defendant's household at the time of the offense, or a misdemeanor offense with  
41 similar essential elements in a jurisdiction other than this state;

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

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

52           (10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or  
53 federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a  
54 firearm;

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

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

60           (c) For both initial and renewal applications, the sheriff shall conduct an investigation  
61 including a nationwide criminal background check consisting of inquiries of the National Instant  
62 Criminal Background Check System, the West Virginia criminal history record responses, and the  
63 National Interstate Identification Index, and shall review the information received in order to verify  
64 that the information required in subsection (b) of this section is true and correct. A license may  
65 not be issued unless the issuing sheriff has verified through the National Instant Criminal  
66 Background Check System that the information available to him or her does not indicate that

67 receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-  
68 7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

69 (d)(1) Twenty-five dollars of the resident license application fee shall be deposited into the  
70 State Treasury and credited to the account of the State Police, and \$25 of the application fee and  
71 any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by  
72 the sheriff into a concealed weapons license administration fund. The fund shall be administered  
73 by the sheriff and shall take the form of an interest-bearing account with any interest earned to be  
74 compounded to the fund. Any funds deposited in this concealed weapon license administration  
75 fund are to be expended by the sheriff to pay the costs associated with issuing concealed  
76 weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be  
77 expended for other law-enforcement purposes or operating needs of the sheriff's office, as the  
78 sheriff considers appropriate.

79 (2) Fifteen dollars of the nonresident license application fee shall be deposited in the  
80 Courthouse Facilities Improvement Fund created by §29-26-6 of this code; \$25 of the application  
81 fee shall be deposited into the State Treasury and credited to the account of the State Police for  
82 the purchase of vehicles, equipment for vehicles, and maintenance of vehicles; and \$60 of the  
83 application fee shall be deposited in the concealed weapons license administration fund to be  
84 administered as provided in subsection (d) of this section.

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

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

90 (2) Any handgun safety or training course or class available to the general public offered  
91 by an official law-enforcement organization, community college, junior college, college, or private

92 or public institution or organization, or handgun training school using instructors certified by the  
93 institution;

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

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

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

105 (f) All concealed weapons license applications must be notarized by a notary public duly  
106 licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application  
107 constitutes false swearing and is punishable under §61-5-2 of this code.

108 (g) 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 45 days after the application is filed if all required background checks  
112 authorized by this section are completed.

113 (h) ~~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 30 days of receipt~~ A license in effect as of the effective date of the  
116 amendments to this section enacted during the 2019 regular session of the Legislature shall,  
117 subject to revocation for cause, is valid until the licensee's birthday during the fifth year from the

118 date of issuance or five years from the date of issuance, whichever is later in time. Renewals of  
119 such licenses and licenses newly issued after the effective date of the amendments to this section  
120 enacted during the 2019 regular session of the Legislature, subject to revocation for cause, are  
121 valid for a period of five years from the licensees' most recent birthday.

122 (i) Each license shall contain the full name and address of the licensee and a space upon  
123 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign  
124 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a  
125 duplicate license card, in size similar to other state identification cards and licenses, suitable for  
126 carrying in a wallet, and the license card is considered a license for the purposes of this section.  
127 All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties  
128 in size, appearance, and information and shall feature a photograph of the licensee.

129 (j) The Superintendent of the West Virginia State Police, in cooperation with the West  
130 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for both  
131 resident and nonresident licenses and license cards showing that the license has been granted  
132 and shall do any other act required to be done to protect the state and see to the enforcement of  
133 this section.

134 (k) If an application is denied, the specific reasons for the denial shall be stated by the  
135 sheriff denying the application. Any person denied a license may file, in the circuit court of the  
136 county in which the application was made, a petition seeking review of the denial. The petition  
137 shall be filed within 30 days of the denial. The court shall then determine whether the applicant is  
138 entitled to the issuance of a license under the criteria set forth in this section. The applicant may  
139 be represented by counsel, but in no case is the court required to appoint counsel for an applicant.  
140 The final order of the court shall include the court's findings of fact and conclusions of law. If the  
141 final order upholds the denial, the applicant may file an appeal in accordance with the Rules of  
142 Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of



143 law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and  
144 attorney's fees, payable by the sheriff's office which issued the denial.

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

148 (m) Whenever an applicant or licensee relocates from the address provided in his or her  
149 application to another address, he or she shall comply with the following notification requirements:

150 (1) Within 20 days of a resident licensee relocating from the address provided in his or her  
151 application to another county in the state, he or she shall provide written notification of the  
152 relocation to the sheriff of the county to which he or she moved and provide his or her new  
153 address. The sheriff shall then issue a new resident license bearing the licensee's new address  
154 and the original expiration date, for a fee not to exceed \$5. The license remains valid for the  
155 remainder of the original five year term, unless the sheriff has determined that the person is no  
156 longer eligible for a concealed weapon license under the provisions of this article.

157 (2) Within 20 days of a resident licensee relocating from the address provided in his or her  
158 application to an address outside the state, he or she shall provide written notification to the sheriff  
159 of the issuing county of the relocation and provide his or her new address. The sheriff shall then  
160 issue a new nonresident license bearing the licensee's new address and the original expiration  
161 date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five-  
162 year term unless the sheriff has determined that the person is no longer eligible for a concealed  
163 weapon license under the provisions of this article: *Provided*, That any renewal of the license in  
164 the new jurisdiction after expiration requires the payment of a nonresident license fee.

165 (3) Within 20 days of a nonresident licensee relocating from the address provided in his  
166 or her application to another address outside of the state, he or she shall provide written  
167 notification of the relocation to the sheriff of the issuing county and provide his or her new address.  
168 The sheriff shall then issue a new nonresident license bearing the licensee's new address and

169 original expiration date, for a fee not to exceed \$5. This license remains valid for the remainder  
170 of the original five-year term, unless the sheriff has determined that the person is no longer eligible  
171 for a concealed weapon license under the provisions of this article.

172 (4) Within 20 days of a nonresident licensee relocating to West Virginia from the address  
173 provided in his or her application, he or she shall provide written notification of the relocation to  
174 the sheriff of the county to which he or she has moved and provide his or her new address. The  
175 sheriff shall then issue a new resident license bearing the licensee's new address and the original  
176 expiration date, for a fee not to exceed \$5. This license remains valid for the remainder of the  
177 original five-year term, unless the sheriff has determined that the person is no longer eligible for  
178 a concealed weapon license under the provisions of this article.

179 (n) The sheriff shall, immediately after the license is granted under this section furnish the  
180 Superintendent of the West Virginia State Police a certified copy of the approved application. The  
181 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so  
182 requested a certified list of all licenses issued in the county. The Superintendent of the West  
183 Virginia State Police shall maintain a registry of all persons who have been issued concealed  
184 weapons licenses.

185 (o) The sheriff shall deny any application or revoke any existing license upon  
186 determination that any of the licensing application requirements established in this section have  
187 been violated by the licensee.

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

191 (q) Notwithstanding subsection (a) of this section, with respect to application for a resident  
192 license by an honorably discharged veteran of the armed forces of the United States, reserve, or  
193 National Guard, or a former law-enforcement officer honorably retired from agencies governed by  
194 §7-14-1 *et seq.* of this code, §8-14-1 *et seq.* of this code, §15-2-1 *et seq.* of this code, and §20-

195 7-1 *et seq.* of this code, an honorably retired officer or an honorably discharged veteran of the  
196 armed forces of the United States, reserve, or National Guard is exempt from payment of fees  
197 and costs as otherwise required by this section. All other application and background check  
198 requirements set forth in this section are applicable to these applicants.

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

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

210 (t) Except as restricted or prohibited by the provisions of this article or as otherwise  
211 prohibited by law, the issuance of a concealed weapon license issued in accordance with the  
212 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver  
213 on the lands or waters of this state.

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