

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5527

By Delegates Horst, Dean, Crouse, Longanacre,
Foster, Bridges, Coop-Gonzalez, Mallow, Hott and
Kump

[Introduced February 08, 2024; Referred to the
Committee on Education then the Judiciary]

1 A BILL to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended relating
 2 to allowing persons who have a concealed carry license to carry a concealed handgun in or
 3 on the grounds of any primary or secondary educational facility.

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 by
 3 schools in this state and for persons employed by the judicial department of this state. It is for the
 4 purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of
 5 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 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 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 institution has adopted a written policy
 13 allowing for possession of firearms or other deadly weapons in the facility or on the grounds of the
 14 facility; 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 Schools 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 of this code or state juvenile
23 probation officer appointed pursuant to §49-4-719 of this code, in the performance of his or her
24 duties;

25 (C) Any home confinement supervisor employed by a county commission pursuant to §61-
26 11B-7a of this code in the performance of his or her duties;

27 (D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in
28 performance of his or her official duties;

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

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

36 (G) A person who, as otherwise permitted by the provisions of this article, possesses an
37 unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly
38 weapon in a locked motor vehicle;

39 (H) Programs or raffles conducted with the approval of the county board of education or
40 school which include the display of unloaded firearms;

41 (I) The official mascot of West Virginia University, commonly known as the Mountaineer,
42 acting in his or her official capacity;

43 (J) The official mascot of Parkersburg South High School, commonly known as the Patriot,
44 acting in his or her official capacity; or

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

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

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

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

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

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

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

63 (d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a
64 court which adjudicates a person who is 14 years of age or older as delinquent for a violation of
65 §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or
66 instruction permit issued to the person for a period of time as the court considers appropriate, not
67 to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or
68 instruction permit by this state, a court may order the Division of Motor Vehicles to deny the
69 person's application for a license or permit for a period of time as the court considers appropriate,
70 not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to

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

75 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code,
76 and if the person does not act to appeal the conviction within the time periods described in §61-7-
77 11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall
78 be revoked in accordance with the provisions of this section.

79 (2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1)
80 of this code shall forward to the commissioner a transcript of the judgment of conviction. If the
81 conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
82 transcript when the person convicted has not requested an appeal within 20 days of the
83 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
84 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
85 notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was
86 entered.

87 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
88 determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the
89 commissioner shall make and enter an order revoking the person's license or privilege to operate a
90 motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in
91 a secondary school, for a period of one year or until the person's 20th birthday, whichever is the
92 greater period. The order shall contain the reasons for the revocation and the revocation period.
93 The order of suspension shall advise the person that because of the receipt of the court's
94 transcript, a presumption exists that the person named in the order of suspension is the same
95 person named in the transcript. The commissioner may grant an administrative hearing which
96 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a

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

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

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

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

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

114 (2) This subsection does not apply to:

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

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

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

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

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

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

NOTE: The purpose of this bill is to allow persons who have a concealed carry license to carry a concealed handgun in or on the grounds of any primary or secondary educational facility.

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