

H. B. 2560

(By Delegates Overington, Kump, Faircloth, Butler, Cadle,
 Householder, Raines and Phillips, R.)

[Introduced February 20, 2013; referred to the
 Committee on Education then the Judiciary.]

A BILL to amend and reenact §61-7-11a of the Code of West Virginia,
 1931, as amended, relating to dangerous weapons; prohibiting
 the possession of deadly weapons on premises of educational
 facilities; and providing exceptions to this prohibition by
 certain persons licensed to carry a concealed weapon.

Be it enacted by the Legislature of West Virginia:

That §61-7-11a of the Code of West Virginia, 1931, as amended,
 be amended and reenacted to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

**§61-7-11a. Possessing deadly weapons on premises of educational
 facilities; reports by school principals;
 suspension of driver license; possessing deadly
 weapons on premises housing courts of law and in
 offices of family law master.**

(a) The Legislature hereby finds that the safety and welfare
 of the citizens of this state are inextricably dependent upon

1 assurances of safety for children attending, and the persons
2 employed by, schools in this state and for those persons employed
3 with the judicial department of this state. It is for the purpose
4 of providing such assurances of safety, therefore, that subsections
5 (b), (g) and (h) of this section are enacted as a reasonable
6 regulation of the manner in which citizens may exercise those
7 rights accorded to them pursuant to section twenty-two, article
8 three of the Constitution of the State of West Virginia.

9 (b) (1) It ~~shall be~~ is unlawful for any person to possess any
10 firearm or any other deadly weapon on any school bus as defined in
11 section one, article one, chapter seventeen-a of this code, or in
12 or on any public or private primary or secondary education
13 building, structure, facility or grounds thereof, including any
14 vocational education building, structure, facility or grounds
15 thereof where secondary vocational education programs are conducted
16 or at any school-sponsored function.

17 (2) This subsection ~~shall~~ does not apply to:

18 (A) A law-enforcement officer acting in his or her official
19 capacity;

20 (B) A person specifically authorized by the Board of Education
21 of the county or principal of the school where the property is
22 located to conduct programs with valid educational purposes;

23 (C) A person who, as otherwise permitted by the provisions of
24 this article, possesses an unloaded firearm or deadly weapon in a

1 motor vehicle, or leaves an unloaded firearm or deadly weapon in a
2 locked motor vehicle;

3 (D) Programs or raffles conducted with the approval of the
4 county board of education or school which include the display of
5 unloaded firearms; ~~or~~

6 (E) The official mascot of West Virginia University, commonly
7 known as "The Mountaineer", acting in his or her official capacity;

8 (F) A person licensed to carry a concealed weapon pursuant to
9 the provisions of section four of this chapter; or

10 (G) A holder of a valid permit or license from another state
11 who is authorized to carry a concealed handgun in this state
12 pursuant to the reciprocity provisions of section six-a of this
13 article and who is subject to the same laws and restrictions with
14 respect to carrying a concealed handgun as a resident of West
15 Virginia licensed to carry a concealed weapon pursuant to the
16 provisions of section four of this chapter.

17 (3) Any person violating this subsection shall be guilty of a
18 felony, and, upon conviction thereof, shall be imprisoned in ~~the~~
19 penitentiary a correctional facility of this state for a definite
20 term of years of not less than two years nor more than ten years,
21 or fined not more than \$5,000, or both and imprisoned.

22 (c) It shall be the duty of the principal of each school
23 subject to the authority of the State Board of Education to report
24 any violation of subsection (b) of this section discovered by such

1 principal to the State Superintendent of Schools within seventy-two
2 hours after such violation occurs. The State Board of Education
3 shall keep and maintain such reports and may prescribe rules
4 establishing policy and procedures for the making and delivery of
5 the same as required by this subsection. In addition, it shall be
6 the duty of the principal of each school subject to the authority
7 of the State Board of Education to report any violation of
8 subsection (b) of this section discovered by such principal to the
9 appropriate local office of the Division of Public Safety within
10 seventy-two hours after such violation occurs.

11 (d) In addition to the methods of disposition provided by
12 article five, chapter forty-nine of this code, any court which
13 adjudicates a person who is fourteen years of age or older as
14 delinquent for a violation of subsection (b) of this section may,
15 in its discretion, order the Division of Motor Vehicles to suspend
16 any driver's license or instruction permit issued to such person for
17 such period of time as the court may deem appropriate, such
18 suspension, however, not to extend beyond such person's nineteenth
19 birthday; or, where such person has not been issued a driver's
20 license or instruction permit by this state, order the Division of
21 Motor Vehicles to deny such person's application for the same for
22 such period of time as the court may deem appropriate, such denial,
23 however, not to extend beyond such person's nineteenth birthday.
24 Any suspension ordered by the court pursuant to this subsection

1 shall be effective upon the date of entry of such order. Where the
2 court orders the suspension of a driver's license or instruction
3 permit pursuant to this subsection, the court shall confiscate any
4 driver's license or instruction permit in the adjudicated person's
5 possession and forward the same to the Division of Motor Vehicles.

6 (e) (1) If a person eighteen years of age or older is convicted
7 of violating subsection (b) of this section, and if such person does
8 not act to appeal such conviction within the time periods described
9 in subdivision (2) of this subsection, such person's license or
10 privilege to operate a motor vehicle in this state shall be revoked
11 in accordance with the provisions of this section.

12 (2) The clerk of the court in which the person is convicted as
13 described in subdivision (1) of this subsection shall forward to the
14 commissioner a transcript of the judgment of conviction. If the
15 conviction is the judgment of a magistrate court, the magistrate
16 court clerk shall forward such transcript when the person convicted
17 has not requested an appeal within twenty days of the sentencing for
18 such conviction. If the conviction is the judgment of a circuit
19 court, the circuit clerk shall forward such transcript when the
20 person convicted has not filed a notice of intent to file a petition
21 for appeal or writ of error within thirty days after the judgment
22 was entered.

23 (3) If, upon examination of the transcript of the judgment of
24 conviction, the commissioner shall determine that the person was

1 convicted as described in subdivision (1) of this subsection, the
2 commissioner shall make and enter an order revoking such person's
3 license or privilege to operate a motor vehicle in this state for
4 a period of one year, or, in the event the person is a student
5 enrolled in a secondary school, for a period of one year or until
6 the person's twentieth birthday, whichever is the greater period.
7 The order shall contain the reasons for the revocation and the
8 revocation period. The order of suspension shall advise the person
9 that because of the receipt of the court's transcript, a presumption
10 exists that the person named in the order of suspension is the same
11 person named in the transcript. The commissioner may grant an
12 administrative hearing which substantially complies with the
13 requirements of the provisions of section two, article five-a,
14 chapter seventeen-c of this code upon a preliminary showing that a
15 possibility exists that the person named in the notice of conviction
16 is not the same person whose license is being suspended. Such
17 request for hearing shall be made within ten days after receipt of
18 a copy of the order of suspension. The sole purpose of this hearing
19 shall be for the person requesting the hearing to present evidence
20 that he or she is not the person named in the notice. In the event
21 the commissioner grants an administrative hearing, the commissioner
22 shall stay the license suspension pending the commissioner's order
23 resulting from the hearing.

24 (4) For the purposes of this subsection, a person is convicted

1 when such person enters a plea of guilty or is found guilty by a
2 court or jury.

3 (f) (1) It shall be unlawful for any parent(s), guardian(s) or
4 custodian(s) of a person less than eighteen years of age who knows
5 that said person is in violation of subsection (b) of this section,
6 or who has reasonable cause to believe that said person's violation
7 of said subsection is imminent, to fail to immediately report such
8 knowledge or belief to the appropriate school or law-enforcement
9 officials.

10 (2) Any person violating this subsection shall be guilty of a
11 misdemeanor, and, upon conviction thereof, shall be fined not more
12 than \$1,000, or shall be confined in jail not more than one year,
13 or both.

14 (g) (1) It shall be unlawful for any person to possess any
15 firearm or any other deadly weapon on any premises which houses a
16 court of law or in the offices of a family law master.

17 (2) This subsection shall not apply to:

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

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

23 (3) Any person violating this subsection shall be guilty of a
24 misdemeanor, and, upon conviction thereof, shall be fined not more

1 than \$1,000, or shall be confined in jail not more than one year,
2 or both.

3 (h) (1) It shall be unlawful for any person to possess any
4 firearm or any other deadly weapon on any premises which houses a
5 court of law or in the offices of a family law master with the
6 intent to commit a crime.

7 (2) Any person violating this subsection shall be guilty of a
8 felony, and, upon conviction thereof, shall be imprisoned in ~~the~~
9 ~~penitentiary~~ a correctional facility of this state for a definite
10 term of years of not less than two years nor more than ten years,
11 or fined not more than \$5,000, or both fined and imprisoned.

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

NOTE: The purpose of this bill is to provide exceptions to the prohibition of the possession of deadly weapons on premises of educational facilities by allowing certain persons licensed to carry a concealed weapon on those premises.

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