

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4492

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ELDRIDGE AND IRELAND

[Introduced February 11, 2016; referred to the
committee on Education then Finance.]

1 A BILL to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §61-7-8 and §61-7-11a of said code, all relating generally to
 3 establishing a mandatory course of instruction in firearm safety for high school students
 4 generally; requiring the State Board of Education to provide firearm safety instruction in
 5 public schools serving high school students; requiring all high school students to complete
 6 the class one time; creating an exception and an alternate qualification; permitting children
 7 under the age of eighteen to possess and carry a deadly weapon while participating in a
 8 firearm safety class; correcting a reference to court jurisdiction and proceedings involving
 9 violations by juveniles; and authorizing instructors, assistants and students to possess a
 10 deadly weapon on school grounds while participating in a school-administered firearm
 11 safety class.

Be it enacted by the Legislature of West Virginia:

1 That §18-2-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
 2 and that §61-7-8 and §61-7-11a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9. Required courses of instruction.

1 (a) In all public, private, parochial and denominational schools located within this state
 2 there shall be given prior to the completion of the eighth grade at least one year of instruction in
 3 the history of the State of West Virginia. The schools shall require regular courses of instruction
 4 by the completion of the twelfth grade in the history of the United States, in civics, in the
 5 Constitution of the United States and in the government of the State of West Virginia for the
 6 purpose of teaching, fostering and perpetuating the ideals, principles and spirit of political and
 7 economic democracy in America and increasing the knowledge of the organization and machinery
 8 of the government of the United States and of the State of West Virginia. The state board shall,

9 with the advice of the state superintendent, prescribe the courses of study covering these subjects
10 for the public schools. It shall be the duty of the officials or boards having authority over the
11 respective private, parochial and denominational schools to prescribe courses of study for the
12 schools under their control and supervision similar to those required for the public schools. To
13 further such study, every high school student eligible by age for voter registration shall be afforded
14 the opportunity to register to vote pursuant to section twenty-two, article two, chapter three of this
15 code.

16 (b) The state board shall cause to be taught in all of the public schools of this state the
17 subject of health education, including instruction in any of the grades six through twelve as
18 considered appropriate by the county board, on: (1) The prevention, transmission and spread of
19 acquired immune deficiency syndrome and other sexually transmitted diseases; (2) substance
20 abuse, including the nature of alcoholic drinks and narcotics, tobacco products and other
21 potentially harmful drugs, with special instruction as to their effect upon the human system and
22 upon society in general; (3) the importance of healthy eating and physical activity to maintaining
23 healthy weight; and (4) education concerning cardiopulmonary resuscitation and first aid,
24 including instruction in the care for conscious choking, and recognition of symptoms of drug or
25 alcohol overdose. The course curriculum requirements and materials for the instruction shall be
26 adopted by the state board by rule in consultation with the Department of Health and Human
27 Resources. The state board shall prescribe a standardized health education assessment to be
28 administered within health education classes to measure student health knowledge and program
29 effectiveness.

30 (c) An opportunity shall be afforded to the parent or guardian of a child subject to
31 instruction in the prevention, transmission and spread of acquired immune deficiency syndrome
32 and other sexually transmitted diseases to examine the course curriculum requirements and

33 materials to be used in the instruction. The parent or guardian may exempt the child from
34 participation in the instruction by giving notice to that effect in writing to the school principal.

35 (d) After July 1, 2015, the required instruction in cardiopulmonary resuscitation in
36 subsection (b) of this section shall include at least thirty minutes of instruction for each student
37 prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the
38 psychomotor skills necessary to perform cardiopulmonary resuscitation. The term “psychomotor
39 skills” means the use of hands-on practicing to support cognitive learning. Cognitive-only training
40 does not qualify as “psychomotor skills”. The CPR instruction must be based on an instructional
41 program established by the American Heart Association or the American Red Cross or another
42 program which is nationally recognized and uses the most current national evidence-based
43 Emergency Cardiovascular Care guidelines and incorporates psychomotor skills development
44 into the instruction. A licensed teacher is not required to be a certified trainer of cardiopulmonary
45 resuscitation to facilitate, provide or oversee such instruction. The instruction may be given by
46 community members, such as emergency medical technicians, paramedics, police officers,
47 firefighters, licensed nurses and representatives of the American Heart Association or the
48 American Red Cross. These community members are encouraged to provide necessary training
49 and instructional resources such as cardiopulmonary resuscitation kits and other material at no
50 cost to the schools. The requirements of this subsection are minimum requirements. A local
51 school district may offer CPR instruction for longer periods of time and may enhance the
52 curriculum and training components, including, but not limited to, incorporating into the instruction
53 the use of an automated external defibrillator (AED): *Provided, That, any instruction that results*
54 *in a certification being earned must be taught by an authorized CPR/AED instructor.*

55 (e) The State Board of Education shall provide that a class of instruction in safety and
56 proper handling of firearms be taught in the public schools of this state serving students in grades

57 nine, ten, eleven or twelve. All students must complete this class one time within the interval
 58 encompassed by grades nine through twelve; however, a student may be exempt from
 59 participating in, and completing, this class upon the written request of either parent, or the
 60 student's legal guardian, to the school principal. A student who completes a substantially similar
 61 program of instruction as part of a Junior Reserve Officer Training Corps program (JROTC) may
 62 be deemed by the local Board of Education to have completed this requirement in lieu of attending
 63 the school's designated safety class. The class shall be taught by a law enforcement officer who
 64 has been qualified by his or her agency to train the public in firearms safety and handling.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-8. Possession of deadly weapons by minors; prohibitions.

1 ~~Notwithstanding any other provision of this article to the contrary, a person under the age~~
 2 ~~of eighteen years who is not married or otherwise emancipated shall not possess or carry~~
 3 ~~concealed or openly any deadly weapon: *Provided*, That a minor may possess a firearm upon~~
 4 ~~premises owned by said minor or his or her family or on the premises of another with the~~
 5 ~~permission of his or her parent or guardian and in the case of property other than his or her own~~
 6 ~~or that of his or her family, with the permission of the owner or lessee of such property: *Provided*,~~
 7 ~~*however*, That nothing in this section shall prohibit a minor from possessing a firearm while~~
 8 ~~hunting in a lawful manner or while traveling from a place where he or she may lawfully possess~~
 9 ~~a deadly weapon, to a hunting site, and returning to a place where he or she may lawfully possess~~
 10 ~~such weapon.~~

11 A person under the age of eighteen years, who is not married or otherwise emancipated,
 12 shall not possess or carry concealed or openly any deadly weapon, except under the following
 13 circumstances:

14 (1) On premises owned by the minor's family with the permission of his or her parent or
15 legal guardian;

16 (2) On premises owned by another person with the permission of the owner or lessee of
17 the property and with the permission of the minor's parent or legal guardian;

18 (3) While hunting in an otherwise lawful manner;

19 (4) While traveling from a place where he or she may lawfully possess a deadly weapon,
20 to a hunting site, and returning to a place where he or she may lawfully possess such weapon;

21 (5) While participating in a class, training course or program of safety instruction in
22 handling and firing a handgun as provided in §18-2-9 or §61-7-4 of this code.

23 A violation of this section by a person under the age of eighteen years shall subject the
24 child to the jurisdiction of the circuit court under the provisions of part seven, article ~~five~~ four,
25 chapter forty-nine of this code, and such minor may be proceeded against in the same manner
26 as if he or she had committed an act which if committed by an adult would be a crime, and may
27 be adjudicated delinquent.

**§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by
school principals; suspension of drivers 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 are
5 enacted as a reasonable regulation of the manner in which citizens may exercise the rights
6 accorded to them pursuant to section twenty-two, article three of the Constitution of the State of
7 West Virginia.

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

13 (2) This subsection does not apply to:

14 (A) A law-enforcement officer employed by a federal, state, county or municipal law-
15 enforcement agency;

16 (B) A retired law-enforcement officer who:

17 (i) Is employed by a state, county or municipal law-enforcement agency;

18 (ii) Is covered for liability purposes by his or her employer;

19 (iii) Is authorized by a county board of education and the school principal to serve as
20 security for a school;

21 (iv) Meets all the requirements to carry a firearm as a qualified retired law-enforcement
22 officer under the Law Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C.
23 §926C(c); and

24 (v) Meets all of the requirements for handling and using a firearm established by his or her
25 employer, and has qualified with his or her firearm to those requirements;

26 (C) A person specifically authorized by the Board of Education of the county or principal
27 of the school where the property is located to conduct programs with valid educational purposes;

28 (D) A person who, as otherwise permitted by the provisions of this article, possesses an
29 unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly
30 weapon in a locked motor vehicle;

31 (E) Programs or raffles conducted with the approval of the county board of education or

32 school which include the display of unloaded firearms;

33 (F) The official mascot of West Virginia University, commonly known as the Mountaineer,
34 acting in his or her official capacity; ~~or~~

35 (G) The official mascot of Parkersburg South High School, commonly known as the
36 Patriot, acting in his or her official capacity; or

37 (H) A teacher or assistant to a teacher preparing for or conducting a class on firearm safety
38 within or on the grounds of a high school under the authority of the local Board of Education, and
39 a high school student during his or her attendance in the firearm safety class.

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

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

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

49 (2) The appropriate local office of the Division of Public Safety, county sheriff or municipal
50 police agency.

51 (d) In addition to the methods of disposition provided by article five, chapter forty-nine of
52 this code, a court which adjudicates a person who is fourteen years of age or older as delinquent
53 for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend
54 a driver's license or instruction permit issued to the person for a period of time as the court
55 considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has

56 not been issued a driver's license or instruction permit by this state, a court may order the Division
57 of Motor Vehicles to deny the person's application for a license or permit for a period of time as
58 the court considers appropriate, not to extend beyond the person's nineteenth birthday. A
59 suspension ordered by the court pursuant to this subsection is effective upon the date of entry of
60 the order. Where the court orders the suspension of a driver's license or instruction permit
61 pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in
62 the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

67 (2) The clerk of the court in which the person is convicted as described in subdivision (1)
68 of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If
69 the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the
70 transcript when the person convicted has not requested an appeal within twenty days of the
71 sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk
72 shall forward a transcript of the judgment of conviction when the person convicted has not filed a
73 notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was
74 entered.

75 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
76 determines that the person was convicted as described in subdivision (1) of this subsection, the
77 commissioner shall make and enter an order revoking the person's license or privilege to operate
78 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
79 in a secondary school, for a period of one year or until the person's twentieth birthday, whichever

80 is the greater period. The order shall contain the reasons for the revocation and the revocation
81 period. The order of suspension shall advise the person that because of the receipt of the court's
82 transcript, a presumption exists that the person named in the order of suspension is the same
83 person named in the transcript. The commissioner may grant an administrative hearing which
84 substantially complies with the requirements of the provisions of section two, article five-a, chapter
85 seventeen-c of this code upon a preliminary showing that a possibility exists that the person
86 named in the notice of conviction is not the same person whose license is being suspended. The
87 request for hearing shall be made within ten days after receipt of a copy of the order of
88 suspension. The sole purpose of this hearing is for the person requesting the hearing to present
89 evidence that he or she is not the person named in the notice. If the commissioner grants an
90 administrative hearing, the commissioner shall stay the license suspension pending the
91 commissioner's order resulting from the hearing.

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

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

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

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

103 (2) This subsection does not apply to:

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

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

107 (3) 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 (h)(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, with the intent to commit a crime.

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

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

NOTE: The purpose of this bill is to require and facilitate a firearm safety course for all secondary education students in public schools.

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