

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 204

BY DELEGATE JEFFERIES, D., MARTIN, C., MARTIN, P.,

GRAVES, PHILLIPS, WILSON, STEELE AND BIBBY

[Introduced June 18, 2019; Referred
to the Select Committee on Education A]

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 possess a valid permit
3 to possess a concealed handgun in a motor vehicle in a parking lot, traffic circle, or other
4 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 §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h),
5 of 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
14 thereof;

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 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 §61-7-11a(b) of this code shall report the violation as soon as possible to:

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

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

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

70 and forward to the Division of Motor Vehicles.

71 (e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this
72 code and if the person does not act to appeal the conviction within the time periods described in
73 §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this
74 state shall be revoked in accordance with the provisions of this section.

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

83 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner
84 determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the
85 commissioner shall make and enter an order revoking the person's license or privilege to operate
86 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled
87 in a secondary school, for a period of one year or until the person's 20th birthday, whichever is
88 the greater period. The order shall contain the reasons for the revocation and the revocation
89 period. The order of suspension shall advise the person that because of the receipt of the court's
90 transcript, a presumption exists that the person named in the order of suspension is the same
91 person named in the transcript. The commissioner may grant an administrative hearing which
92 substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a
93 preliminary showing that a possibility exists that the person named in the notice of conviction is
94 not the same person whose license is being suspended. The request for hearing shall be made
95 within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing

96 is for the person requesting the hearing to present evidence that he or she is not the person
97 named in the notice. If the commissioner grants an administrative hearing, the commissioner shall
98 stay the license suspension pending the commissioner's order resulting from the hearing.

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

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

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

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

111 (2) This subsection does not apply to:

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

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

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

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

120 (2) A person violating this subsection is guilty of a felony and, upon conviction thereof,
121 shall be imprisoned in a state correctional facility for a definite term of years of not less than two

122 years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

123 (i) Nothing in this section may be construed to be in conflict with the provisions of federal

124 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.