

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2467

FISCAL
NOTE

BY DELEGATES HOWELL, HANNA, HOTT, STEELE,
LINVILLE, PACK, PHILLIPS, CADLE, WORRELL, HILL AND
WILSON

[INTRODUCED JANUARY 16, 2019; REFERRED
TO THE COMMITTEE ON THE JUDICIARY.]

1 A BILL to amend and reenact §61-7-4 of this Code of West Virginia, 1931, as amended, relating
 2 to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon;
 3 providing that concealed weapons licenses may only be issued for pistols and revolvers;
 4 establishing a fee; and providing how that fee is to be used.

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) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state
 2 license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the
 3 license, and pay to the sheriff, at the time of application, a fee of \$75, of which \$15 of that amount
 4 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this
 5 code. Concealed weapons license may only be issued for pistols and revolvers. A nonresident
 6 desiring to obtain a state license to carry a concealed deadly weapon shall apply to a sheriff of
 7 any county for the license, and pay to the sheriff, at the time of application, a fee of \$100, of which
 8 \$15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by
 9 §29-26-6 of this code, and \$25 of that amount shall be deposited into the State Treasury and
 10 credited to the account of the State Police for application the purchase of vehicles, equipment for
 11 vehicles, and maintenance of vehicles. Nonresident concealed weapons license may only be
 12 issued for pistols and revolvers. Each applicant shall file with the sheriff a complete application,
 13 as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which
 14 sets forth only the following licensing requirements:

15 (1) The applicant's full name, date of birth, Social Security number, a description of the
 16 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship
 17 and, if the applicant is not a United States citizen, any alien or admission number issued by the
 18 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for
 19 an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

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

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

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

28 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug
29 treatment; or

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

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

34 (6) That the applicant has not been convicted of a misdemeanor crime of violence other
35 than an offense set forth in §61-7-4(a)(7) of this code in the five years immediately preceding the
36 application;

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

44 (8) That the applicant is not under indictment for a felony offense or is not currently serving
45 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a

46 court of any jurisdiction or is the subject of an emergency or temporary domestic violence
47 protective order or is the subject of a final domestic violence protective order entered by a court
48 of any jurisdiction;

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

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

57 (11) That the applicant has qualified under the minimum requirements set forth in §61-7-
58 4(d) of this code for handling and firing the weapon: *Provided*, That this requirement shall be
59 waived in the case of a renewal applicant who has previously qualified; and

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

62 (b) For both initial and renewal applications, the sheriff shall conduct an investigation
63 including a nationwide criminal background check consisting of inquiries of the National Instant
64 Criminal Background Check System, the West Virginia criminal history record responses and the
65 National Interstate Identification Index and shall review the information received in order to verify
66 that the information required in §61-7-4(a) of this code is true and correct. A license may not be
67 issued unless the issuing sheriff has verified through the National Instant Criminal Background
68 Check System that the information available to him or her does not indicate that receipt or
69 possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this
70 code or federal law, including 18 U. S. C. §922(g) or (n).

71 (c) Sixty dollars of the application fee and any fees for replacement of lost or stolen

72 licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license
73 administration fund. The fund shall be administered by the sheriff and shall take the form of an
74 interest-bearing account with any interest earned to be compounded to the fund. Any funds
75 deposited in this concealed weapon license administration fund are to be expended by the sheriff
76 to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on
77 hand at the end of each fiscal year may be expended for other law-enforcement purposes or
78 operating needs of the sheriff's office, as the sheriff considers appropriate.

79 (d) All persons applying for a license must complete a training course in handling and firing
80 a handgun, which includes the actual live firing of ammunition by the applicant. The successful
81 completion of any of the following courses fulfills this training requirement: *Provided*, That the
82 completed course includes the actual live firing of ammunition by the applicant:

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

84 (2) Any handgun safety or training course or class available to the general public offered
85 by an official law-enforcement organization, community college, junior college, college or private
86 or public institution or organization or handgun training school utilizing instructors certified by the
87 institution;

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

90 (4) Any handgun training or safety course or class conducted by any branch of the United
91 States military, Reserve or National Guard or proof of other handgun qualification received while
92 serving in any branch of the United States military, Reserve or National Guard.

93 A photocopy of a certificate of completion of any of the courses or classes or an affidavit
94 from the instructor, school, club, organization or group that conducted or taught the course or
95 class attesting to the successful completion of the course or class by the applicant or a copy of
96 any document which shows successful completion of the course or class is evidence of
97 qualification under this section and shall include the instructor's name, signature and NRA or state

98 instructor identification number, if applicable.

99 (e) All concealed weapons license applications must be notarized by a notary public duly
100 licensed under §29-4-1 *et seq.* of this code. Falsification of any portion of the application
101 constitutes false swearing and is punishable under §61-5-2 of this code.

102 (f) The sheriff shall issue a license unless he or she determines that the application is
103 incomplete, that it contains statements that are materially false or incorrect or that applicant
104 otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue
105 or deny the license within 45 days after the application is filed if all required background checks
106 authorized by this section are completed.

107 (g) Before any approved license is issued or is effective, the applicant shall pay to the
108 sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West
109 Virginia State Police within 30 days of receipt. The license is valid for five years throughout the
110 state, unless sooner revoked.

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

118 (i) The Superintendent of the West Virginia State Police, in cooperation with the West
119 Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses
120 and license cards for resident and nonresident licensees showing that the license has been
121 granted and shall do any other act required to be done to protect the state and see to the
122 enforcement of this section.

123 (j) If an application is denied, the specific reasons for the denial shall be stated by the

124 sheriff denying the application. Any person denied a license may file, in the circuit court of the
125 county in which the application was made, a petition seeking review of the denial. The petition
126 shall be filed within 30 days of the denial. The court shall then determine whether the applicant is
127 entitled to the issuance of a license under the criteria set forth in this section. The applicant may
128 be represented by counsel, but in no case is the court required to appoint counsel for an applicant.
129 The final order of the court shall include the court's findings of fact and conclusions of law. If the
130 final order upholds the denial, the applicant may file an appeal in accordance with the Rules of
131 Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of
132 law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and
133 attorney's fees, payable by the sheriff's office which issued the denial.

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

137 (l) Whenever any person after applying for and receiving a concealed weapon license
138 moves from the address named in the application to another county within the state, the license
139 remains valid for the remainder of the five years unless the sheriff of the new county has
140 determined that the person is no longer eligible for a concealed weapon license under this article,
141 and the sheriff shall issue a new license bearing the person's new address and the original
142 expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter,
143 notifies the sheriff in the new county of residence in writing of the old and new addresses.

144 (m) Nonresident licensees shall notify the sheriff of the issuing county and provide the
145 licensee's new address. The license remains valid for the remainder of the five years unless the
146 sheriff has determined that the person is no longer eligible for a concealed weapon license under
147 this article, and the sheriff shall issue a new license bearing the person's new address and the
148 original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days
149 thereafter, notifies the sheriff who originally issued the license in writing of the old and new

150 addresses.

151 ~~(m)~~ (n) The sheriff shall, immediately after the license is granted as aforesaid, furnish the
152 Superintendent of the West Virginia State Police a certified copy of the approved application. The
153 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so
154 requested a certified list of all licenses issued in the county. The Superintendent of the West
155 Virginia State Police shall maintain a registry of all persons who have been issued concealed
156 weapons licenses.

157 ~~(n)~~ (o) The sheriff shall deny any application or revoke any existing license upon
158 determination that any of the licensing application requirements established in this section have
159 been violated by the licensee.

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

163 ~~(p)~~ (q) Notwithstanding §61-7-4(a) of this code, with respect to application by a former law-
164 enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-
165 14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an
166 honorably retired officer is exempt from payment of fees and costs as otherwise required by this
167 section. All other application and background check requirements set forth in this section are
168 applicable to these applicants.

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

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

180 ~~(s)~~ (t) Except as restricted or prohibited by the provisions of this article or as otherwise
181 prohibited by law, the issuance of a concealed weapon license issued in accordance with the
182 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver
183 on the lands or waters of this state.

NOTE: The purpose of this bill is to permit nonresidents to obtain state licenses to carry a concealed deadly weapon. The bill provides that concealed weapons licenses may only be issued for pistols and revolvers. The bill establishes a fee. The bill provides how that fee is to be used.

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