

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2793**

BY DELEGATES HOWELL, HORST, HOTT, MARTIN, FAST,

KIMBLE, HAMRICK, REED, MAYNARD, STATLER, AND

STORCH

[Originating in the Committee on Finance; March 23, 2021]



1 A BILL to amend and reenact §61-7-4 of the 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~~ subsection (p) of this section, any person  
2 legal resident in, or citizen of, the state of West Virginia desiring to obtain a state resident license  
3 to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license,  
4 and pay to the sheriff, at the time of application, a fee of \$25. ~~Concealed weapons license may~~  
5 ~~only be issued for pistols and revolvers.~~ A legal resident in, or citizen of, another state of the  
6 United States, desiring to obtain a West Virginia issued state nonresident license to carry a  
7 concealed deadly weapon shall apply to a sheriff of any county of this state for the license, and  
8 pay to the sheriff, at the time of application, a fee of \$100. Fifteen dollars of the application fee  
9 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this  
10 code, \$25 of the application fee shall be deposited into the State Treasury and credited to the  
11 account of the State Police for the purchase of vehicles, equipment for vehicles, and maintenance  
12 of vehicles, and \$60 of the application fee shall be deposited by the sheriff in the concealed  
13 weapons license administration fund to be administered as provided in subsection (c) of this  
14 section. Concealed weapons licenses may only be issued for pistols and revolvers. Each  
15 applicant shall file with the sheriff a complete application, as prepared by the Superintendent of  
16 the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing  
17 requirements:

18 (1) The applicant's full name, date of birth, Social Security number, a description of the  
19 applicant's physical features, the applicant's place of birth, the applicant's country of citizenship

20 and, if the applicant is not a United States citizen, any alien or admission number issued by the  
21 United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for  
22 an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

23 (2) That, on the date the application is made, the applicant is a bona fide United States  
24 citizen or legal resident thereof and resident of this state and of the county in which the application  
25 is made, or for a nonresident license, is a legal resident in, or citizen of, another state of the United  
26 States, and has a valid driver's license or other state-issued or federally-issued photo  
27 identification showing ~~the~~ his or her residence;

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

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

32 (A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug  
33 treatment; or

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

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

38 (6) That the applicant has not been convicted of a misdemeanor crime of violence other  
39 than an offense set forth in subdivision (7) of this subsection in the five years immediately  
40 preceding the application;

41 (7) That the applicant has not been convicted of a misdemeanor crime of domestic  
42 violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery  
43 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  
44 was a current or former spouse, current or former sexual or intimate partner, person with whom  
45 the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a

46 member of the defendant's household at the time of the offense, or a misdemeanor offense with  
47 similar essential elements in a jurisdiction other than this state;

48 (8) That the applicant is not under indictment for a felony offense or is not currently serving  
49 a sentence of confinement, parole, probation or other court-ordered supervision imposed by a  
50 court of any jurisdiction or is the subject of an emergency or temporary domestic violence  
51 protective order or is the subject of a final domestic violence protective order entered by a court  
52 of any jurisdiction;

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

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

61 (11) That the applicant has qualified under the minimum requirements set forth in  
62 subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement  
63 shall be waived in the case of a renewal applicant who has previously qualified; and

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

66 (b) For both initial and renewal applications, the sheriff shall conduct an investigation  
67 including a nationwide criminal background check consisting of inquiries of the National Instant  
68 Criminal Background Check System, the West Virginia criminal history record responses and the  
69 National Interstate Identification Index and shall review the information received ~~in order~~ to verify  
70 that the information required in subsection (a) of this section is true and correct. A license may  
71 not be issued unless the issuing sheriff has verified through the National Instant Criminal

72 Background Check System that the information available to him or her does not indicate that  
73 receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-  
74 7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

75 (c) Twenty-five dollars of the application fee and any fees for replacement of lost or stolen  
76 licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license  
77 administration fund. The fund shall be administered by the sheriff and shall take the form of an  
78 interest-bearing account with any interest earned to be compounded to the fund. Any funds  
79 deposited in this concealed weapon license administration fund are to be expended by the sheriff  
80 to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on  
81 hand at the end of each fiscal year may be expended for other law-enforcement purposes or  
82 operating needs of the sheriff's office, as the sheriff considers appropriate.

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

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

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

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

94 (4) Any handgun training or safety course or class conducted by any branch of the United  
95 States military, reserve or National Guard or proof of other handgun qualification received while  
96 serving in any branch of the United States military, reserve or National Guard.

97           A photocopy of a certificate of completion of any of the courses or classes or an affidavit  
98 from the instructor, school, club, organization or group that conducted or taught the course or  
99 class attesting to the successful completion of the course or class by the applicant or a copy of  
100 any document which shows successful completion of the course or class is evidence of  
101 qualification under this section and shall include the instructor's name, signature and NRA or state  
102 instructor identification number, if applicable.

103           (e) All concealed weapons license applications must be notarized by a notary public duly  
104 licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application  
105 constitutes false swearing and is punishable under §61-5-2 of this code.

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

111           (g) Before any approved license is issued or is effective, the applicant shall pay to the  
112 sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West  
113 Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the  
114 amendments to this section enacted during the 2019 regular session of the Legislature shall,  
115 subject to revocation for cause, be valid until the licensee's birthday during the fifth year from the  
116 date of issuance or five years from the date of issuance, whichever is later in time. Renewals of  
117 such licenses and licenses newly issued after the effective date of the amendments to this section  
118 enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause,  
119 be valid for a period of five years from the licensees' most recent birthday.

120           (h) Each license shall contain the full name and address of the licensee and a space upon  
121 which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign  
122 and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a

123 duplicate license card, in size similar to other state identification cards and licenses, suitable for  
124 carrying in a wallet, and the license card is considered a license for the purposes of this section.  
125 All duplicate resident or nonresident license cards issued on or after July 1, 2017, shall be uniform  
126 across all 55 counties in size, appearance and information and shall feature a photograph of the  
127 licensee.

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

133 (j) If an application is denied, the specific reasons for the denial shall be stated by the  
134 sheriff denying the application. Any person denied a license may file, in the circuit court of the  
135 county in which the application was made, a petition seeking review of the denial. The petition  
136 shall be filed within 30 days of the denial. The court shall then determine whether the applicant is  
137 entitled to the issuance of a license under the criteria set forth in this section. The applicant may  
138 be represented by counsel, but in no case is the court required to appoint counsel for an applicant.  
139 The final order of the court shall include the court's findings of fact and conclusions of law. If the  
140 final order upholds the denial, the applicant may file an appeal in accordance with the Rules of  
141 Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of  
142 law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and  
143 attorney's fees, payable by the sheriff's office which issued the denial.

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

147 (l) ~~(1) Whenever any person after applying for and receiving a concealed weapon license~~  
148 ~~moves from the address named in the application to another county within the state, the license~~

149 ~~remains valid for the remainder of the five years unless the sheriff of the new county has~~  
150 ~~determined that the person is no longer eligible for a concealed weapon license under this article,~~  
151 ~~and the sheriff shall issue a new license bearing the person's new address and the original~~  
152 ~~expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter,~~  
153 ~~notifies the sheriff in the new county of residence in writing of the old and new addresses. Within~~  
154 20 days of a resident licensee relocating from the address provided in his or her application to  
155 another county in the state, he or she shall provide written notification to the sheriff of the county  
156 to which he or she moved of the relocation and provide his or her new address. The sheriff shall  
157 then issue a new resident license bearing the licensee's new address and the original expiration  
158 date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five  
159 year term, unless the sheriff has determined that the person is no longer eligible for a concealed  
160 weapon license under the provisions of this article.

161 (2) Within 20 days of a resident licensee relocating from the address provided in his or her  
162 application to an address outside the state, he or she shall provide written notification to the sheriff  
163 of the issuing county of the relocation and provide his or her new address. The sheriff shall then  
164 issue a new nonresident license bearing the licensee's new address and the original expiration  
165 date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five  
166 year term unless the sheriff has determined that the person is no longer eligible for a concealed  
167 weapon license under the provisions of this article: *Provided*, That any renewal of the license in  
168 the new jurisdiction after expiration shall require the payment of a nonresident license fee.

169 (3) Within 20 days of a nonresident licensee relocating from the address provided in his  
170 or her application to another address outside of the state, he or she shall provide written  
171 notification to the sheriff of the issuing county of the relocation and provide his or her new address.  
172 The sheriff shall then issue a new nonresident license bearing the licensee's new address and  
173 original expiration date, for a fee not to exceed \$5. This license shall remain valid for the remainder

174 of the original five year term, unless the sheriff has determined that the person is no longer eligible  
175 for a concealed weapon license under the provisions of this article.

176 (4) Within 20 days of a nonresident licensee relocating to West Virginia from the address  
177 provided in his or her application, he or she shall provide written notification to the sheriff of the  
178 county to which he or she has moved of the relocation and provide his or her new address. The  
179 sheriff shall then issue a new resident license bearing the licensee's new address and the original  
180 expiration date, for a fee not to exceed \$5. This license shall remain valid for the remainder of  
181 the original five year term, unless the sheriff has determined that the person is no longer eligible  
182 for a concealed weapon license under the provisions of this article.

183 (m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the  
184 Superintendent of the West Virginia State Police a certified copy of the approved application. The  
185 sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so  
186 requested a certified list of all licenses issued in the county. The Superintendent of the West  
187 Virginia State Police shall maintain a registry of all persons who have been issued concealed  
188 weapons licenses.

189 (n) The sheriff shall deny any application or revoke any existing license upon  
190 determination that any of the licensing application requirements established in this section have  
191 been violated by the licensee.

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

195 (p) Notwithstanding subsection (a) of this section, with respect to application by an  
196 honorably discharged veteran of the armed forces of the United States or a former law-  
197 enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-  
198 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  
199 honorably retired officer or an honorably discharged veteran of the armed forces of the United

200 States is exempt from payment of fees and costs as otherwise required by this section. All other  
201 application and background check requirements set forth in this section are applicable to these  
202 applicants.

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

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

214 (s) Except as restricted or prohibited by the provisions of this article or as otherwise  
215 prohibited by law, the issuance of a concealed weapon license issued in accordance with the  
216 provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver  
217 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.