

bill to reduce concealed handgun license fees

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[Effective July 1]

11 A BILL to amend and reenact §61-7-4 and §61-7-5 of the code of
12 West Virginia, 1931, as amended, all relating to licenses
13 to carry concealed pistols and revolvers; reducing license
14 fees; and clarifying the uniform application of rules
15 concerning the requirement to carry and exhibit license
16 when carrying a concealed pistol or revolver for both West
17 Virginia licensees and licensees of reciprocal states.

18 *Be it enacted by the Legislature of West Virginia:*

19 That 61-7-4 and §61-7-5 of the code of West Virginia, 1931,
20 as amended, be amended and reenacted, all to read as follows:

21 **ARTICLE 7. DANGEROUS WEAPONS.**

22 **§61-7-4. Licenses to carry concealed pistols and revolvers.**

23 (a) ~~Except as provided in subsection (h) of this section,~~
24 Any person desiring to obtain a state license to carry a

1 ~~concealed deadly weapon~~ pistols and revolvers shall apply to the
2 sheriff of his or her county for such license, and shall pay to
3 the sheriff, at the time of application, a fee of ~~seventy-five~~
4 fifty dollars, ~~of which fifteen dollars of that amount shall be~~
5 ~~deposited in the courthouse facilities improvement fund created~~
6 ~~by section six, article twenty six, chapter twenty nine of this~~
7 ~~code. Concealed weapons permits may only be issued for pistols~~
8 ~~or revolvers.~~ Each applicant shall file with the sheriff, a
9 complete application, as prepared by the superintendent of the
10 West Virginia state police, in writing, duly verified, which
11 sets forth only the following licensing requirements:

12 (1) The applicant's full name, date of birth, social
13 security number and a description of the applicant's physical
14 features;

15 (2) That, on the date the application is made, the
16 applicant is a bona fide resident of this state and of the
17 county in which the application is made and has a valid driver's
18 license or other state-issued photo identification showing such
19 residence;

20 (3) That the applicant is twenty-one years of age or older:
21 ~~Provided, That any individual who is less than twenty-one years~~
22 ~~of age and possesses a properly issued concealed weapons license~~
23 ~~as of the effective date of this article shall be licensed to~~
24 ~~maintain his or her concealed weapons license notwithstanding~~

1 ~~the provisions of this section requiring new applicants to be at~~
2 ~~least twenty one years of age: *Provided, however,* That upon a~~
3 showing of any applicant who is eighteen years of age or older
4 that he or she is required to carry a concealed ~~weapon~~ pistol or
5 revolver as a condition for employment, and ~~presents~~
6 satisfactory proof ~~to the sheriff~~ thereof is presented to the
7 sheriff, ~~then he or she~~ the applicant shall be issued a license
8 upon meeting all other conditions of this section: *Provided*
9 *further,* That upon discontinuance of employment that requires
10 the concealed ~~weapons~~ pistol/revolver license, if the ~~individual~~
11 ~~issued the license~~ licensee is ~~not yet~~ less than twenty-one
12 years of age, ~~then the individual issued the license~~ licensee is
13 no longer eligible and must ~~return his or her~~ surrender the
14 license to the issuing sheriff;

15 (4) That the applicant is not addicted to alcohol, a
16 controlled substance or a drug and is not an unlawful user
17 thereof;

18 (5) That the applicant has not been convicted of a felony
19 or of an act of violence involving the misuse of a deadly
20 weapon;

21 (6) That the applicant has not been convicted of a
22 misdemeanor offense of assault or battery either under the
23 provisions of section twenty-eight, article two of this chapter
24 or the provisions of subsection (b) or (c), section nine,

1 article two of this chapter in which the victim was a current or
2 former spouse, current or former sexual or intimate partner,
3 person with whom the defendant has a child in common, person
4 with whom the defendant cohabits or has cohabited, a parent or
5 guardian, the defendant's child or ward or a member of the
6 defendant's household at the time of the offense; or a
7 misdemeanor offense with similar essential elements in a
8 jurisdiction other than this state;

9 (7) That the applicant is not under indictment for a felony
10 offense or is not currently serving a sentence of confinement,
11 parole, probation or other court-ordered supervision imposed by
12 a court of any jurisdiction or is the subject of an emergency or
13 temporary domestic violence protective order or is the subject
14 of a final domestic violence protective order entered by a court
15 of any jurisdiction;

16 (8) That the applicant is physically and mentally competent
17 to carry ~~such weapon~~ a concealed pistol or revolver;

18 (9) That the applicant has not been adjudicated to be
19 mentally incompetent;

20 (10) That the applicant has qualified under the minimum
21 requirements set forth in subsection (d) of this section for
22 handling and firing ~~such weapon~~ a pistol or revolver: *Provided,*
23 That this requirement shall be waived in the case of a renewal
24 applicant who has previously qualified;

1 (11) That the applicant authorizes the sheriff of the
2 county, or his or her designee, to conduct an investigation
3 relative to the information contained in the application.

4 (b) The sheriff shall conduct an investigation which shall
5 verify that the information required in subdivisions (1), (2),
6 (3), (5), (6), (8) and (9), subsection (a) of this section are
7 true and correct.

8 (c) Twenty percent of the application fee shall be
9 forwarded by the sheriff to the superintendent of the state
10 police not later than the tenth day of the month following the
11 month in which the sheriff collected the fee. ~~Sixty dollars of~~
12 ~~the application fee and any fees for replacement of lost or~~
13 ~~stolen licenses~~ The remaining eighty percent of each application
14 fee and the whole amount of all other fees received by the
15 sheriff under this section shall be deposited by the sheriff
16 into a concealed ~~weapons~~ pistol/revolver license administration
17 fund. ~~Such~~ The concealed pistol/revolver license administration
18 fund shall be administered by the sheriff and shall take the
19 form of an interest bearing account with any interest earned to
20 be compounded to the fund. Any funds deposited in this concealed
21 ~~weapon~~ pistol/revolver license administration fund are to be
22 expended by the sheriff to pay for the costs associated with
23 issuing concealed ~~weapons~~ pistol/revolver licenses. Any surplus
24 in the fund on hand at the end of each fiscal year may be

1 expended for other law-enforcement purposes or operating needs
2 of the sheriff's office, as the sheriff may consider
3 appropriate.

4 (d) All persons applying for a license must complete a
5 training course in handling and firing a handgun. The successful
6 completion of any of the following courses fulfills this
7 training requirement:

8 (1) Any official national rifle association handgun safety
9 or training course;

10 (2) Any handgun safety or training course or class
11 available to the general public offered by an official law-
12 enforcement organization, community college, junior college,
13 college or private or public institution or organization or
14 handgun training school utilizing instructors duly certified by
15 such institution;

16 (3) Any handgun training or safety course or class
17 conducted by a handgun instructor certified as such by the state
18 or by the national rifle association;

19 (4) Any handgun training or safety course or class
20 conducted by any branch of the United States military, reserve
21 or national guard.

22 A photocopy of a certificate of completion of any of the
23 courses or classes or an affidavit from the instructor, school,
24 club, organization or group that conducted or taught said course

1 or class attesting to the successful completion of the course or
2 class by the applicant or a copy of any document which shows
3 successful completion of the course or class shall constitute
4 evidence of qualification under this section.

5 (e) All concealed ~~weapons~~ pistol/revolver license
6 applications must be notarized by a notary public duly licensed
7 under article four, chapter twenty-nine of this code.
8 Falsification of any portion of the application constitutes
9 false swearing and is punishable under the provisions of section
10 two, article five, chapter sixty-one of this code.

11 (f) If the information in the application is found to be
12 true and correct, the sheriff shall issue a license. The sheriff
13 shall issue or deny the license within forty-five days after the
14 application is filed if all ~~required~~ background checks
15 ~~authorized~~ required by this section are completed.

16 ~~(g) Before any approved license shall be issued or become~~
17 ~~effective, the applicant shall pay to the sheriff a fee in the~~
18 ~~amount of fifteen dollars which the sheriff shall forward to the~~
19 ~~superintendent of the West Virginia state police within thirty~~
20 ~~days of receipt. Any such license~~ All licenses issued under this
21 section shall be valid for five years throughout the state,
22 unless sooner revoked.

23 (h) ~~All persons holding a current and valid concealed~~
24 ~~weapons license as of the sixteenth day of December, one~~

1 ~~thousand nine hundred ninety five, shall continue to hold a~~
2 ~~valid concealed weapons license until his or her license expires~~
3 ~~or is revoked as provided in this article: Provided, That all~~
4 ~~reapplication fees shall be waived for applications received by~~
5 ~~the first day of January, one thousand nine hundred ninety~~
6 ~~seven, for any person holding a current and valid concealed~~
7 ~~weapons license as of the sixteenth day of December, one~~
8 ~~thousand nine hundred ninety five, which contains use~~
9 ~~restrictions placed upon the license as a condition of issuance~~
10 ~~by the issuing circuit court. Any licenses reissued pursuant to~~
11 ~~this subsection will be issued for the time period of the~~
12 ~~original license.~~

13 ~~(i)~~ Each license shall contain the full name, social
14 security number and address of the licensee and a space upon
15 which the signature of the licensee shall be signed with pen and
16 ink. The issuing sheriff shall sign and attach his or her seal
17 to all license cards. The sheriff shall provide to each new
18 licensee a duplicate license card, in size similar to other
19 state identification cards and licenses, suitable for carrying
20 in a wallet, and such license card is deemed a license for the
21 purposes of this section.

22 ~~(j)~~ (i) The superintendent of the West Virginia state
23 police shall prepare uniform applications for licenses and
24 license cards showing that such license has been granted and

1 shall do any other act required to be done to protect the state
2 and see to the enforcement of this section.

3 ~~(k)~~ (j) ~~In the event~~ If an application is denied, the
4 specific reasons for the denial shall be stated by the sheriff
5 denying the application. Any person denied a license may file,
6 in the circuit court of the county in which the application was
7 made, a petition seeking review of the denial. Such petition
8 shall be filed within thirty days of the denial. The court shall
9 then determine whether the applicant is entitled to the issuance
10 of a license under the criteria set forth in this section. The
11 applicant may be represented by counsel, but in no case shall
12 the court be required to appoint counsel for an applicant. The
13 final order of the court shall include the court's findings of
14 fact and conclusions of law. If the final order upholds the
15 denial, the applicant may file an appeal in accordance with the
16 rules of appellate procedure of the supreme court of appeals.

17 ~~(l)~~ (k) ~~In the event~~ If a license is lost or destroyed, the
18 ~~person to whom the license was issued~~ licensee may obtain a
19 duplicate or substitute license for a fee of five dollars by
20 filing a notarized statement with the sheriff indicating that
21 the license has been lost or destroyed.

22 ~~(m)~~ (l) The sheriff shall, immediately after the license is
23 granted as aforesaid, furnish the superintendent of the West
24 Virginia state police a certified copy of the approved

1 application. It shall be the duty of the sheriff to furnish to
2 the superintendent of the West Virginia state police at any time
3 so requested a certified list of all such licenses issued in the
4 county. The superintendent of the West Virginia state police
5 shall maintain a registry of all persons who have been issued
6 concealed ~~weapons~~ pistol/revolver licenses.

7 ~~(n) All licensees must carry with them a state-issued photo~~
8 ~~identification card with the concealed weapons license whenever~~
9 ~~the licensee is carrying a concealed weapon. Any licensee who~~
10 ~~fails to have in his or her possession a state issued photo~~
11 ~~identification card and a current concealed weapons license~~
12 ~~while carrying a concealed weapon shall be guilty of a~~
13 ~~misdemeanor and, upon conviction thereof, shall be fined not~~
14 ~~less than fifty or more than two hundred dollars for each~~
15 ~~offense.~~

16 ~~(o)~~ (m) The sheriff shall deny any application or revoke
17 any existing license upon determination that any of the
18 licensing application requirements established in this section
19 have been violated by the licensee. The sheriff shall revoke any
20 license issued under this section if the licensee becomes unable
21 to meet the criteria for initial licensure specified in this
22 section. Any licensee under this section who becomes ineligible
23 for continued licensure shall immediately surrender the license
24 to the issuing sheriff.

1 ~~(p)~~ (n) No person who is engaged in the receipt, review or
2 in the issuance or revocation of a concealed ~~weapon~~
3 pistol/revolver license shall incur any civil liability as the
4 result of the lawful performance of his or her duties under this
5 article.

6 ~~(q)~~ (o) Notwithstanding the provisions of subsection (a) of
7 this section, with respect to application by a former law-
8 enforcement officer honorably retired from agencies governed by
9 article fourteen, chapter seven of this code; article fourteen,
10 chapter eight of this code; article two, chapter fifteen of this
11 code; and article seven, chapter twenty of this code, an
12 honorably retired officer is exempt from payment of fees and
13 costs as otherwise required by this section, and the application
14 of the honorably retired officer shall be granted without proof
15 or inquiry by the sheriff as to those requirements set forth in
16 subdivision ~~(9)~~ (10), subsection (a) of this section, if the
17 officer meets the remainder of the requirements of this section
18 and has the approval of the appropriate chief law-enforcement
19 officer.

20 ~~(r)~~ (p) Except as restricted or prohibited by the
21 provisions of this article or as otherwise prohibited by law,
22 the issuance of a concealed ~~weapon-permit~~ pistol/revolver
23 license issued in accordance with the provisions of this section
24 shall authorize the ~~holder of the permit~~ licensee to carry a one

1 or more concealed ~~pistol or revolver~~ pistols, revolvers or any
2 combination thereof anywhere on the lands or waters of this
3 state. A license issued under this section does not authorize
4 the licensee to carry any other type or class of concealed
5 deadly weapon.

6 **§61-7-5. Licensees to carry license and identification while**
7 **carrying concealed pistols or revolvers.**

8 (a) A person licensed to carry concealed pistols and
9 revolvers under §61-7-4 or authorized to carry concealed pistols
10 or revolvers in this state pursuant to a license or permit
11 issued by another state that is recognized in this state
12 pursuant to §61-7-6(7) shall, whenever the person is carrying a
13 concealed pistol or revolver:

14 (1) Carry his or her license or permit on or about his
15 person or in a place from which the person may retrieve it
16 within a reasonable amount of time;

17 (2) If the license or permit does not contain the person's
18 photograph or does not contain the person's current residence
19 address, the person must carry a driver's license or a photo
20 identification issued by that person's state of residence or the
21 United States that contains the person's photograph and current
22 residence address, on or about his person or in a place from
23 which the person may retrieve it within a reasonable amount of
24 time; and

1 (3) Whenever the person is required to make a disclosure of
2 carrying a concealed pistol or revolver to a law-enforcement
3 officer pursuant to subsection (b) of this section, the person
4 shall, upon request of the law-enforcement officer, produce the
5 documents the licensee is required to carry pursuant to this
6 subsection for inspection by the law-enforcement officer.

7 (b) Whenever a person subject to the provisions of
8 subsection (a) of this section is carrying a concealed pistol or
9 revolver, is approached or addressed in an official manner by a
10 law-enforcement officer and the law-enforcement officer asks the
11 person whether the person is armed or otherwise poses to the
12 person a question as to whether the person is carrying any type
13 of deadly weapon, the person shall disclose to the law-
14 enforcement officer that the person is carrying a concealed
15 pistol or revolver and is licensed or otherwise authorized by
16 law to lawfully do so.

17 (c) Any person who violates any provision of this section
18 is guilty of a misdemeanor and, upon conviction thereof, shall
19 be fined not less than fifty dollars or more than two hundred
20 dollars for each offense. A violation of this section does not
21 authorize the forfeiture of any pistol or revolver that was in
22 the otherwise lawful possession of the person carrying the same.

NOTE: The purpose of this bill is to reduce concealed
handgun license fees from \$90 to \$50. Current §61-7-5, relating

to the revocation of licenses, is repealed and consolidated into §61-7-4(m).

Strike-throughs indicate language which would be eliminated; underscoring indicates new language which would be added. §61-7-5 has been completely rewritten; therefore, strikethroughs and underscoring have been omitted.

This bill was proposed by Jim Mullins <jmullins@wvcdl.org>