

bill to streamline concealed handgun license reciprocity

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[Effective from passage]

A BILL to repeal §61-7-6a of the code of West Virginia, 1931, as amended; and to amend and reenact §61-7-4, §61-7-5 and §61-7-6 of said code, all relating to carrying concealed pistols or revolvers; extending recognition to all licenses issued by other states to nonresidents of this state; limitations; requiring the attorney general to periodically notify the governor, attorney general and licensing authority of each state of such recognition; requiring the attorney general to negotiate and execute reciprocity agreements to secure recognition of West Virginia licenses when required by other states as a condition of recognizing West Virginia licenses; and creating uniform rule concerning the requirement to carry and exhibit license when carrying a concealed pistol or revolver for both West

1 Virginia licensees and licensees of other states whose
2 licenses are recognized in this state.

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

4 That §61-7-6a of the code of West Virginia, 1931, as
5 amended, be repealed; and that §61-7-4, §61-7-5 and §61-7-6 of
6 said code be amended and reenacted, all to read as follows:

7 **ARTICLE 7. DANGEROUS WEAPONS.**

8 **§61-7-4. License to carry concealed pistols and revolvers.**

9 (a) ~~Except as provided in subsection (h) of this section,~~
10 Any person desiring to obtain a state license to carry a
11 concealed ~~deadly weapon~~ pistols and revolvers shall apply to the
12 sheriff of his or her county for such license, and shall pay to
13 the sheriff, at the time of application, a fee of ~~seventy-five~~
14 ninety dollars, ~~of which fifteen dollars of that amount shall be~~
15 ~~deposited in the courthouse facilities improvement fund created~~
16 ~~by section six, article twenty six, chapter twenty nine of this~~
17 ~~code. Concealed weapons permits may only be issued for pistols~~
18 ~~or revolvers.~~ Each applicant shall file with the sheriff, a
19 complete application, as prepared by the superintendent of the
20 West Virginia state police, in writing, duly verified, which
21 sets forth only the following licensing requirements:

22 (1) The applicant's full name, date of birth, social
23 security number and a description of the applicant's physical
24 features;

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

6 (3) That the applicant is twenty-one years of age or older:
7 ~~Provided, That any individual who is less than twenty-one years~~
8 ~~of age and possesses a properly issued concealed weapons license~~
9 ~~as of the effective date of this article shall be licensed to~~
10 ~~maintain his or her concealed weapons license notwithstanding~~
11 ~~the provisions of this section requiring new applicants to be at~~
12 ~~least twenty one years of age: Provided, however, That upon a~~
13 showing of any applicant who is eighteen years of age or older
14 that he or she is required to carry a concealed ~~weapon~~ pistol or
15 revolver as a condition for employment, and ~~presents~~
16 satisfactory proof ~~to the sheriff~~ thereof is presented to the
17 sheriff, then he or she the applicant shall be issued a license
18 upon meeting all other conditions of this section: Provided
19 further, That upon discontinuance of employment that requires
20 the ~~concealed weapons~~ license to carry concealed pistols and
21 revolvers, if the ~~individual issued the license~~ licensee is not
22 yet less than twenty-one years of age, ~~then the individual~~
23 ~~issued the license~~ licensee is no longer eligible and must
24 ~~return his or her~~ surrender the license to the issuing sheriff;

1 (4) That the applicant is not addicted to alcohol, a
2 controlled substance or a drug and is not an unlawful user
3 thereof;

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

7 (6) That the applicant has not been convicted of a
8 misdemeanor offense of assault or battery either under the
9 provisions of section twenty-eight, article two of this chapter
10 or the provisions of subsection (b) or (c), section nine,
11 article two of this chapter in which the victim was a current or
12 former spouse, current or former sexual or intimate partner,
13 person with whom the defendant has a child in common, person
14 with whom the defendant cohabits or has cohabited, a parent or
15 guardian, the defendant's child or ward or a member of the
16 defendant's household at the time of the offense; or a
17 misdemeanor offense with similar essential elements in a
18 jurisdiction other than this state;

19 (7) That the applicant is not under indictment for a felony
20 offense or is not currently serving a sentence of confinement,
21 parole, probation or other court-ordered supervision imposed by
22 a court of any jurisdiction or is the subject of an emergency or
23 temporary domestic violence protective order or is the subject

1 of a final domestic violence protective order entered by a court
2 of any jurisdiction;

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

5 (9) That the applicant has not been adjudicated to be
6 mentally incompetent;

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

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

15 (b) The sheriff shall conduct an investigation which shall
16 verify that the information required in subdivisions (1), (2),
17 (3), (5), (6), (8) and (9), subsection (a) of this section are
18 true and correct.

19 (c) Twenty percent of the application fee shall be
20 forwarded by the sheriff to the superintendent of the state
21 police not later than the tenth day of the month following the
22 month in which the sheriff collected the fee. Twenty percent of
23 the application fee shall be forwarded by the sheriff to the
24 courthouse facilities improvement fund created by section six,

1 article twenty-six, chapter twenty-nine of this code not later
2 than the tenth day of the month following the month in which the
3 sheriff collected the fee. ~~Sixty dollars of the application fee~~
4 and any fees for replacement of lost or stolen licenses The
5 remaining sixty percent of the application fee and the whole
6 amount of all other fees received by the sheriff under this
7 section shall be deposited by the sheriff into a concealed
8 ~~weapons~~ pistols and revolvers license administration fund. Such
9 fund shall be administered by the sheriff and shall take the
10 form of an interest bearing account with any interest earned to
11 be compounded to the fund. Any funds deposited in this concealed
12 ~~weapon~~ pistols and revolvers license administration fund are to
13 be expended by the sheriff to pay for the costs associated with
14 issuing ~~concealed weapons~~ licenses to carry concealed pistols
15 and revolvers. Any surplus in the fund on hand at the end of
16 each fiscal year may be expended for other law-enforcement
17 purposes or operating needs of the sheriff's office, as the
18 sheriff may consider appropriate.

19 (d) All persons applying for a license must complete a
20 training course in handling and firing a handgun. The successful
21 completion of any of the following courses fulfills this
22 training requirement:

23 (1) Any official national rifle association handgun safety
24 or training course;

1 (2) Any handgun safety or training course or class
2 available to the general public offered by an official law-
3 enforcement organization, community college, junior college,
4 college or private or public institution or organization or
5 handgun training school utilizing instructors duly certified by
6 such institution;

7 (3) Any handgun training or safety course or class
8 conducted by a handgun instructor certified as such by the state
9 or by the national rifle association;

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

13 A photocopy of a certificate of completion of any of the
14 courses or classes or an affidavit from the instructor, school,
15 club, organization or group that conducted or taught said course
16 or class attesting to the successful completion of the course or
17 class by the applicant or a copy of any document which shows
18 successful completion of the course or class shall constitute
19 evidence of qualification under this section.

20 (e) All ~~concealed weapons license~~ applications for licenses
21 to carry concealed pistols and revolvers must be notarized by a
22 notary public duly licensed under article four, chapter twenty-
23 nine of this code. Falsification of any portion of the
24 application constitutes false swearing and is punishable under

1 the provisions of section two, article five, ~~chapter sixty one~~
2 of this ~~code~~ chapter.

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

8 (g) ~~Before any approved license shall be issued or become~~
9 ~~effective, the applicant shall pay to the sheriff a fee in the~~
10 ~~amount of fifteen dollars which the sheriff shall forward to the~~
11 ~~superintendent of the West Virginia state police within thirty~~
12 ~~days of receipt. Any such license~~ All licenses issued under this
13 section shall be valid for five years throughout the state,
14 unless sooner revoked.

15 (h) ~~All persons holding a current and valid concealed~~
16 ~~weapons license as of the sixteenth day of December, one~~
17 ~~thousand nine hundred ninety-five, shall continue to hold a~~
18 ~~valid concealed weapons license until his or her license expires~~
19 ~~or is revoked as provided in this article: Provided, That all~~
20 ~~reapplication fees shall be waived for applications received by~~
21 ~~the first day of January, one thousand nine hundred ninety-~~
22 ~~seven, for any person holding a current and valid concealed~~
23 ~~weapons license as of the sixteenth day of December, one~~
24 ~~thousand nine hundred ninety five, which contains use~~

1 ~~restrictions placed upon the license as a condition of issuance~~
2 ~~by the issuing circuit court. Any licenses reissued pursuant to~~
3 ~~this subsection will be issued for the time period of the~~
4 ~~original license.~~

5 ~~(i)~~ Each license shall contain the full name, social
6 security number and address of the licensee; and a space upon
7 which the signature of the licensee shall be signed with pen and
8 ink; and the telephone number of the license to carry concealed
9 pistols and revolvers verification service operated by the
10 superintendent of the state police pursuant to subsection (l) of
11 this section. The issuing sheriff shall sign and attach his or
12 her seal to all license cards. The sheriff shall provide to each
13 new licensee a duplicate license card, in size similar to other
14 state identification cards and licenses, suitable for carrying
15 in a wallet, and such license card is deemed a license for the
16 purposes of this section.

17 ~~(j)~~ (i) The superintendent of the West Virginia state
18 police shall prepare uniform applications for licenses and
19 license cards showing that such license has been granted and
20 shall do any other act required to be done to protect the state
21 and see to the enforcement of this section.

22 ~~(k)~~ (j) ~~In the event~~ If an application is denied, the
23 specific reasons for the denial shall be stated by the sheriff
24 denying the application. Any person denied a license may file,

1 in the circuit court of the county in which the application was
2 made, a petition seeking review of the denial. Such petition
3 shall be filed within thirty days of the denial. The court shall
4 then determine whether the applicant is entitled to the issuance
5 of a license under the criteria set forth in this section. The
6 applicant may be represented by counsel, but in no case shall
7 the court be required to appoint counsel for an applicant. The
8 final order of the court shall include the court's findings of
9 fact and conclusions of law. If the final order upholds the
10 denial, the applicant may file an appeal in accordance with the
11 rules of appellate procedure of the supreme court of appeals.

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

17 ~~(m)~~ (l) The sheriff shall, immediately after the license is
18 granted as aforesaid, furnish the superintendent of the West
19 Virginia state police a certified copy of the approved
20 application. It shall be the duty of the sheriff to furnish to
21 the superintendent of the West Virginia state police at any time
22 so requested a certified list of all such licenses issued in the
23 county. The superintendent of the West Virginia state police
24 shall maintain a registry of all persons who have been issued

1 ~~concealed weapons~~ licenses to carry concealed pistols and
2 revolvers and provide instantaneous verification of the validity
3 of any license issued under this section to any criminal justice
4 agency within the United States twenty-four hours a day, seven
5 days a week, electronically or by telephone. The superintendent
6 shall maintain and operate a license to carry concealed pistols
7 and revolvers verification service, which shall be operational
8 twenty-four hours a day, seven days a week, through a dedicated
9 telephone number, for the purpose of responding to law-
10 enforcement inquiries from any law-enforcement agency within the
11 United States concerning the validity of a license issued under
12 this section.

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

22 ~~(o)~~ (m) The sheriff shall deny any application or revoke
23 any existing license upon determination that any of the
24 licensing application requirements established in this section

1 have been violated by the licensee. The sheriff shall revoke any
2 license issued under this section if the licensee becomes unable
3 to meet the criteria for initial licensure specified in this
4 section. Any licensee under this section who becomes ineligible
5 for continued licensure shall immediately surrender the license
6 to the issuing sheriff.

7 ~~(p)~~ (n) No person who is engaged in the receipt, review or
8 in the issuance or revocation of a ~~concealed weapon~~ license to
9 carry concealed pistols and revolvers shall incur any civil
10 liability as the result of the lawful performance of his or her
11 duties under this article.

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

1 and has the approval of the appropriate chief law-enforcement
2 officer.

3 ~~(r)~~ (p) Except as restricted or prohibited by the
4 provisions of this article or as otherwise prohibited by law,
5 the issuance of a ~~concealed weapon permit~~ license to carry
6 concealed pistols and revolvers issued in accordance with the
7 provisions of this section shall authorize the ~~holder of the~~
8 ~~permit licensee~~ to carry a one or more concealed ~~pistol or~~
9 ~~revolver~~ pistols, revolvers or any combination thereof anywhere
10 on the lands or waters of this state. A license issued under
11 this section does not authorize the licensee to carry any other
12 type or class of concealed deadly weapon.

13 (q)(1) The attorney general shall, not later than the last
14 day of June and the last day of December of each year, notify
15 the governor, attorney general and concealed weapons licensing
16 authority of each state in writing of the provisions of
17 subdivision (9), section six of this article and make written
18 inquiry of whether the other state will extend full faith and
19 credit to licenses issued under this section. The attorney
20 general shall negotiate and execute reciprocity agreements on
21 behalf of this state with other states that require a
22 reciprocity agreement to accord full faith and credit to West
23 Virginia licenses issued pursuant to this section. The attorney
24 general shall seek to establish, by reciprocity agreement or

1 otherwise, the extension of full faith and credit to West
2 Virginia licenses by all other states whose laws permit the same
3 without a requirement for any additional license, qualification
4 or payment of any fee by a West Virginia licensee. The attorney
5 general shall maintain efforts to obtain a reciprocity agreement
6 from any state that may generally honor licenses issued by this
7 state but affords greater recognition, including exemptions from
8 obtaining an additional license if regularly employed, attending
9 an institution of higher education or conducting a business in
10 that state, to licenses issued by states that have executed
11 reciprocity agreements with that state. If a reciprocity
12 agreement is reached or full reciprocity otherwise exists, the
13 requirement to recontact the other state semiannually shall
14 cease while the agreement is in force or full reciprocity is
15 otherwise in effect.

16 (2) For the purposes of participation in reciprocity with
17 other states, the official government-issued law-enforcement
18 identification card issued to a law-enforcement officer in this
19 state who is exempt from obtaining a license under section six
20 of this article but who is not a qualified law-enforcement
21 officer under 18 U.S.C. § 926B and a letter of authorization for
22 a retired or medically discharged member of the state police to
23 carry handguns issued by the superintendent under section
24 twenty-five, article two, chapter fifteen of this code shall be

1 deemed a license to carry concealed pistols and revolvers issued
2 by this state.

3 (3) On the first day of each regular session of the
4 Legislature, the attorney general shall publish and deliver to
5 each house of the Legislature a report enumerating:

6 (A) The states honoring West Virginia licenses to carry
7 concealed pistols and revolvers;

8 (B) The states that issue licenses similar to the license
9 described in this section that have declined to enter into
10 reciprocity agreements with this state and do not otherwise
11 honor licenses issued by this state, the reasons stated therefor
12 and whether each such state has a reciprocity agreement with any
13 other state or otherwise recognizes licenses issued by any other
14 state;

15 (C) Specific recommendations for amending this section that
16 would result in additional states honoring licenses to carry
17 concealed pistols and revolvers issued under this section; and

18 (D) Recommendations on the feasibility and expedience of
19 the amendments proposed pursuant to paragraph (C) of this
20 subdivision. The Legislature does not intend to enact any
21 changes to this section that would require existing licensees to
22 complete new training or otherwise substantially burden or
23 inconvenience existing licensees.

1 **§61-7-5. Licensees to carry license and identification while**
2 **carrying concealed pistols or revolvers.**

3 (a) A person licensed to carry concealed pistols and
4 revolvers under section four of this article or authorized to
5 carry concealed pistols and revolvers in this state pursuant to
6 a license or permit issued by another state that is recognized
7 in this state under subdivision (9), section six of this article
8 shall, whenever the person is carrying a concealed pistol or
9 revolver:

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

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

21 (3) Whenever the person is required to make a disclosure of
22 carrying a concealed pistol or revolver to a law-enforcement
23 officer pursuant to subsection (b) of this section, the person
24 shall, upon request of the law-enforcement officer, produce the

1 documents the licensee is required to carry pursuant to this
2 subsection for inspection by the law-enforcement officer.

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

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

19 **§61-7-6. Exceptions as to prohibitions against carrying**
20 **concealed deadly weapons without license.**

21 The licensure provisions ~~set forth in~~ of section three of
22 this article do not apply to:

23 (1) Any person carrying a deadly weapon upon his or her own
24 premises; nor shall anything herein prevent a person from

1 carrying any firearm, unloaded, from the place of purchase to
2 his or her home, residence or place of business or to a place of
3 repair and back to his or her home, residence or place of
4 business, nor shall anything herein prohibit a person from
5 possessing a firearm while hunting in a lawful manner or while
6 traveling from his or her home, residence or place of business
7 to a hunting site and returning to his or her home, residence or
8 place of business;

9 (2) Any person who is a member of a properly organized
10 target-shooting club authorized by law to obtain firearms by
11 purchase or requisition from this state or from the United
12 States for the purpose of target practice from carrying any
13 pistol, as defined in this article, unloaded, from his or her
14 home, residence or place of business to a place of target
15 practice and from any place of target practice back to his or
16 her home, residence or place of business, for using any such
17 weapon at a place of target practice in training and improving
18 his or her skill in the use of the weapons;

19 (3) Any law-enforcement officer or law-enforcement official
20 as defined in section one, article twenty-nine, chapter thirty
21 of this code;

22 (4) Any employee of the West Virginia Division of
23 Corrections duly appointed pursuant to the provisions of ~~section~~
24 ~~five~~ sections eleven-b and eleven-c, article ~~five~~ one, chapter

1 ~~twenty-eight~~ twenty-five of this code while the employee is on
2 duty;

3 (5) Any member of the Armed Forces of the United States or
4 the militia of this state while the member is on duty;

5 (6) Any circuit judge, including any retired circuit judge
6 designated senior status by the Supreme Court of Appeals of West
7 Virginia, Prosecuting Attorney, Assistant Prosecuting Attorney
8 or a duly appointed investigator employed by a Prosecuting
9 Attorney;

10 (7) ~~Any resident of another state who holds a valid license~~
11 ~~to carry a concealed weapon by a state or a political~~
12 ~~subdivision which has entered into a reciprocity agreement with~~
13 ~~this state, subject to the provisions and limitations set forth~~
14 ~~in section six a of this article;~~

15 ~~(8)~~ Any federal law-enforcement officer or federal police
16 officer authorized to carry a weapon in the performance of the
17 officer's duty; ~~and~~

18 ~~(9)~~ (8) Any Hatfield-McCoy regional recreation authority
19 ranger while the ranger is on duty; and

20 (9) For the purpose of carrying concealed pistols,
21 revolvers or any combination thereof, but no other type or class
22 of concealed deadly weapon, any person who:

23 (A) Is:

24 (i) Not a resident of this state;

1 (ii) A new resident of this state who has established
2 residence in this state within the immediate preceding ninety
3 days unless, during this period, the person applied for a
4 license under section four of this article and the sheriff to
5 whom the application was made, made a final decision to deny a
6 license;

7 (iii) A new resident of this state who has established
8 residence in this state for a period greater than the period
9 specified in subparagraph (ii) of this paragraph if, prior to
10 the expiration of the period specified in subparagraph (ii) of
11 this paragraph, the person applied for a license under section
12 four of this article and the sheriff to whom the application was
13 made has not made a final decision on granting or denying the
14 license; or

15 (iv) A member of the armed services of the United States
16 whose permanent duty station is located outside this state or
17 the spouse of any such person. Nothing contained in this
18 subparagraph shall be deemed to disqualify a person from
19 obtaining a license under section four of this article on the
20 basis of place of residence or to deem any person subject to
21 this subparagraph a nonresident of this state for any purpose
22 other than eligibility to carry concealed pistols and revolvers
23 in this state on the basis of a license or permit issued by
24 another state;

- 1 (B) Is at least twenty-one years of age;
2 (C) Is not prohibited by federal law or section seven of
3 this article from possessing firearms; and
4 (D) Has been issued a license or permit by any other state,
5 territory or possession of the United States that authorizes the
6 person to carry any concealed pistol or revolver, if the license
7 or permit is recognized as a current, valid license or permit
8 throughout the state, territory or possession of issue.

NOTE: The purpose of this bill is to improve the concealed handgun license reciprocity process by recognizing any concealed handgun license issued by any other state to a nonresident of this state without the requirement of a reciprocity agreement or recognition of West Virginia permits by the other state as a condition of such recognition. This bill would continue statutory authorization for the attorney general to negotiate and execute reciprocity agreements with other states as necessary to secure the recognition of West Virginia concealed handgun licenses in as many other states as possible. 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>