

SB 170

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



# ENROLLED

COMMITTEE SUBSTITUTE FOR  
SENATE BILL NO. 170

(By Senator BALL, ET AL )



PASSED MARCH 10, 2000

In Effect NINETY DAYS FROM Passage

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OF THE SENATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 170

(SENATORS BALL, MITCHELL, KESSLER, ROSS  
AND HUNTER, *original sponsors*)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to firearms; prohibition against certain persons possessing firearms; procedures for regaining one's ability to possess firearms; offenses; and penalties.

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

That section seven, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-7. Persons prohibited from possessing firearms; classifications; reinstatement of rights to possess; offenses; penalties.**

1 (a) Except as provided for in this section, no person shall  
2 possess a firearm as such is defined in section two of this  
3 article who:

4 (1) Has been convicted in any court of a crime punish-  
5 able by imprisonment for a term exceeding one year;

6 (2) Is addicted to alcohol;

7 (3) Is an unlawful user of or addicted to any controlled  
8 substance;

9 (4) Has been adjudicated as a mental defective or who  
10 has been involuntarily committed to a mental institution;

11 (5) Being an alien is illegally or unlawfully in the United  
12 States;

13 (6) Has been discharged from the armed forces under  
14 dishonorable conditions;

15 (7) Is subject to a domestic violence protective order  
16 that:

17 (A) Was issued after a hearing of which such person  
18 received actual notice and at which such person had an  
19 opportunity to participate;

20 (B) Restrains such person from harassing, stalking or  
21 threatening an intimate partner of such person or child of  
22 such intimate partner or person, or engaging in other  
23 conduct that would place an intimate partner in reason-  
24 able fear of bodily injury to the partner or child; and

25 (C) (i) Includes a finding that such person represents a  
26 credible threat to the physical safety of such intimate  
27 partner or child; or

28 (ii) By its terms explicitly prohibits the use, attempted  
29 use or threatened use of physical force against such  
30 intimate partner or child that would reasonably be ex-  
31 pected to cause bodily injury; or

32 (8) Has been convicted in any court of a misdemeanor  
33 crime of domestic violence.

34 Any person who violates the provisions of this subsection  
35 shall be guilty of a misdemeanor and, upon conviction  
36 thereof, shall be fined not less than one hundred dollars  
37 nor more than one thousand dollars or confined in the  
38 county jail for not less than ninety days nor more than one  
39 year, or both.

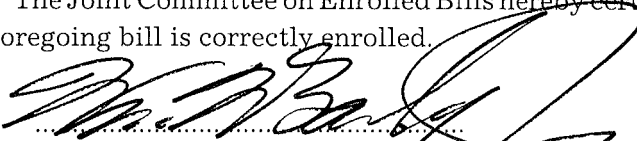
40 (b) Notwithstanding the provisions of subsection (a) of  
41 this section, any person:

42 (1) Who has been convicted in this state or any other  
43 jurisdiction of a felony crime of violence against the  
44 person of another or of a felony sexual offense; or

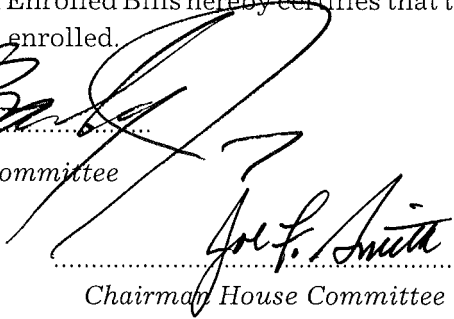
45 (2) Who has been convicted in this state or any other  
46 jurisdiction of a felony controlled substance offense  
47 involving a schedule I controlled substances other than  
48 marijuana, a schedule II or a schedule III controlled  
49 substance as such are defined in sections two hundred  
50 four, two hundred five and two hundred six, article two,  
51 chapter sixty-a of this code and who possesses a firearm as  
52 such is defined in section two of this article shall be guilty  
53 of a felony and, upon conviction thereof, shall be confined  
54 in a state correctional facility for not more than five years  
55 or fined not more than five thousand dollars, or both. The  
56 provisions of subsection (c) of this section shall not apply  
57 to persons convicted of offenses referred to in this subsec-  
58 tion or to persons convicted of a violations of this subsec-  
59 tion.

60 (c) Any person prohibited from possessing a firearm by  
61 the provisions of subsection (a) of this section may petition  
62 the circuit court of the county in which he or she resides to  
63 regain the ability to possess a firearm and if the court  
64 finds by clear and convincing evidence that the person is  
65 competent and capable of exercising the responsibility  
66 concomitant with the possession of a firearm, the court  
67 may enter an order allowing the person to possess a  
68 firearm if such possession would not violate any federal  
69 law.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



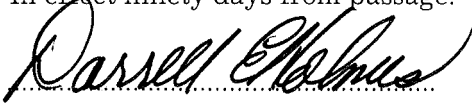
Chairman Senate Committee



Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.



Clerk of the Senate

*By: D. By*

Clerk of the House of Delegates

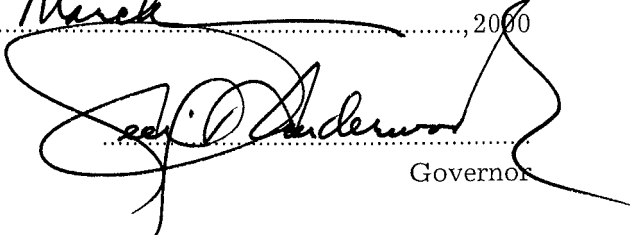


President of the Senate



Speaker House of Delegates

The within..... *approved* ..... this the *22nd*  
Day of..... *March* ..... 2000



Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/00

Time 12:17 pm