

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1974

— ● —

ENROLLED

HOUSE BILL No. 714

(By Mrs. Withrow and Mr. Greer)

— ● —

PASSED February 16 1974

In Effect Ninety Days From Passage



714

FILED IN THE OFFICE  
EDGAR T. HEICKELL III  
SECRETARY OF STATE  
THIS DATE 2-25-74

**ENROLLED**

**H. B. 714**

(By MRS. WITHROW and MR. GREER)

[Passed February 16, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the right of guards at the penitentiary to carry firearms and concealed weapons only during the performance of their duties.

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

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

**ARTICLE 5. THE PENITENTIARY.**

**§28-5-5. Appointment of other assistants and employees; duties of guard; right to carry weapons.**

1 The warden of the penitentiary shall, in the manner pro-  
2 vided in section eleven, article one, chapter twenty-five of  
3 this code, appoint all assistants and employees required for  
4 the management of the penitentiary, including a sufficient  
5 number of guards to preserve order and enforce discipline  
6 among the convicts, to prevent escapes, and to remove all  
7 persons convicted and sentenced to the penitentiary from the  
8 place where confined to the penitentiary, all of whom shall  
9 be under the control of the warden. The warden may at his  
10 discretion issue a certificate authorizing any guard to carry  
11 firearms and concealed weapons while on duty. Any guard  
12 appointed as herein provided and authorized by the warden  
13 shall have the right, without a state license therefor, to carry  
14 firearms and concealed weapons while on duty. Each guard

15 appointed as aforesaid shall carry with him a certificate,  
16 authorizing him to carry a firearm or concealed weapon  
17 when he is performing his official duties as a guard, bearing  
18 the official signature of the warden of the penitentiary. Such  
19 right shall be extended to a guard during the time he travels  
20 from place to place within the state for the purpose of re-  
21 moving prisoners from county jails to the penitentiary, and  
22 during the time he is pursuing and apprehending escaped  
23 convicts, and during any other time he is performing his  
24 official duties as a guard, but a guard shall not have the  
25 right to carry a firearm or concealed weapon for any other  
26 purpose or during any other time, including when he travels  
27 to and from his residence and the penitentiary, unless he  
28 shall have obtained a state license therefor in the manner  
29 prescribed in section two, article seven, chapter sixty-one  
30 of this code.

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

H. Darrell Darley  
Chairman Senate Committee

Archie B. Thurston  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Robinson  
Clerk of the Senate

Clara Blankenship  
Clerk of the House of Delegates

H. T. Brodbeck Jr  
President of the Senate

Lewis N. McMane  
Speaker House of Delegates

The within approved this the 25<sup>th</sup>  
day of February, 1974.

Arthur A. Massey Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 2/21/74

Time 11:00a.m.