

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975



ENROLLED

HOUSE BILL No. 704

(By Mr. Chapin)



PASSED March 5, 1975

In Effect ninety days from Passage



104

ENROLLED

H. B. 704

(By MR. CHAFIN)

[Passed March 5, 1975; in effect ninety days from passage.]

AN ACT to amend and reenact sections thirty-nine, forty-a and forty-three, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, three, eight and nine, article seven, chapter sixty-one of said code, all relating to the issuance by the department of natural resources of various types of hunting and combination licenses to unnaturalized persons; providing that any unnaturalized person may lawfully possess, transport, carry and use any firearm he is permitted to use for hunting under a valid license issued by the department of natural resources if he obeys all of the laws, rules and regulations pertaining thereto; allowing unnaturalized persons to own, keep, possess, transport, carry and use firearms for hunting and permitting the sale, rental, gift or loan of any firearm which may be lawfully used for hunting to any unnaturalized person who has been issued and holds a valid permit from the department of natural resources allowing him to apply for a hunting license.

Be it enacted by the Legislature of West Virginia:

That sections thirty-nine, forty-a and forty-three, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections one, three, eight and nine, article seven, chapter sixty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-39. Class A resident statewide hunting and trapping license.

1 A Class A license shall be a resident statewide hunting
2 and trapping license and shall entitle the licensee to hunt
3 and trap all legal species of game in all counties of the
4 state, except as prohibited by rules or regulations of the
5 director. It shall be issued only to citizens of the United
6 States and to unnaturalized persons who possess the permit
7 referred to in section twenty-nine of this article who are
8 residents of this state. The fee therefor shall be five dollars.

**§20-2-40a. Class AB combination resident statewide hunting, trap-
ping and fishing license.**

1 A class AB combination license shall be a resident state-
2 wide hunting, trapping and fishing license and shall entitle
3 the licensee to hunt and trap for all legal species of game,
4 and fish for all legal species of fish and frogs in all counties of
5 the state, except as prohibited by rules or regulations of the
6 director. It shall be issued only to citizens of the United
7 States and to unnaturalized persons who possess the permit
8 referred to in section twenty-nine of this article who are
9 residents of this state. The fee therefor shall be eight dollars.

§20-2-43. Class E, Class F and Class G licenses for nonresidents.

1 A Class E license shall be a nonresident hunting license
2 and shall entitle the licensee to hunt all game in all counties
3 of the state. It shall be issued only to citizens of the United
4 States and to unnaturalized persons who possess the permit
5 referred to in section twenty-nine of this article who are not
6 residents of this state. The fee therefor shall be thirty dollars.

7 A Class F license shall be a nonresident fishing license
8 and shall entitle the licensee to fish for all fish in all counties
9 of the state. It shall be issued only to citizens of the United
10 States and to unnaturalized persons who possess the permit
11 referred to in section twenty-nine of this article who are not
12 residents of this state. The fee therefor shall be twenty dollars.

13 A Class G license shall be a nonresident family fishing
 14 license and shall entitle the licensee and members of his family
 15 to fish within the territorial limits of state parks and state
 16 forests and in the waters of streams bounding same, for a
 17 distance of not to exceed one hundred yards from the ex-
 18 terior boundary of any state park or state forest, for a period
 19 not to exceed one week. It may be issued to any adult
 20 nonresident who is temporarily residing in any state park or
 21 forest as tenant or lessee of the state. The fee therefor shall
 22 be three dollars for the head of the family, plus fifty cents
 23 additional for each member of his family to whom the
 24 privileges of such license are extended. Class G licenses may
 25 be issued in such manner and under such regulations as the
 26 director may see fit to prescribe.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-1. Carrying dangerous or deadly weapon without license or other authorization; penalties; second offense a felony.

1 If any person, without a state license therefor or except
 2 as provided elsewhere in this article and other provisions of
 3 this code, carry about his person any revolver or pistol, dirk,
 4 bowie knife, slung shot, razor, billy, metallic or other false
 5 knuckles, or other dangerous or deadly weapon of like kind or
 6 character, he shall be guilty of a misdemeanor, and, upon
 7 conviction thereof, shall be imprisoned in the county jail
 8 not less than six nor more than twelve months for the first
 9 offense; but upon the conviction of the same person for the
 10 second offense in this state, he shall be guilty of a felony,
 11 and, upon conviction thereof, shall be imprisoned in the peni-
 12 tentiary not less than one nor more than five years, and, in
 13 either case, shall be fined not less than fifty dollars nor more
 14 than two hundred dollars; and it shall be the duty of the
 15 prosecuting attorney in all cases to ascertain whether or not
 16 the charge made by the grand jury is the first or second offense,
 17 and if it shall be the second offense, it shall be so stated in
 18 the indictment returned, and the prosecuting attorney shall in-
 19 troduce the record evidence before the trial court of such

20 second offense, and shall not be permitted to use his dis-
21 cretion in charging such second offense nor in introducing
22 evidence to prove the same on the trial: *Provided*, That boys
23 or girls under the age of eighteen years, upon the second con-
24 viction, may, in the discretion of the court, be sent to the
25 industrial school for boys or the industrial home for girls,
26 respectively, of this state.

**§61-7-3. Exceptions as to prohibition against carrying deadly
weapons.**

1 Nothing in this article shall prevent any person from carry-
2 ing any such weapon as is mentioned in the first section of
3 this article, in good faith and not having felonious purposes,
4 upon his own premises; nor shall anything herein prevent a
5 person from carrying any such weapon, unloaded, from the
6 place of purchase to his home or residence, or to a place of
7 repair and back to his home or residence; nor shall anything
8 herein prevent a guard at the West Virginia penitentiary duly
9 appointed in conformity with section five, article five, chapter
10 twenty-eight of the code of West Virginia, from carrying
11 any such weapon while on duty; nor shall anything herein
12 prevent a bona fide member of the national guard of West
13 Virginia, or of the reserve officers component of the United
14 States army, while in performance of his official duties as
15 such or any properly organized target-shooting club authorized
16 by law to obtain firearms by purchase or requisition from
17 this state, or from the United States for the purpose of target
18 practice, from carrying any revolver or pistol mentioned in
19 this article, unloaded, from his home or place of residence
20 to a place of target practice, and from any such place of
21 target practice back to his home or residence, or using any
22 such weapon at such place of target practice in training and
23 improving his skill in the use of such weapons; but nothing
24 herein shall be construed to authorize any employee of any
25 person, firm or corporation doing business in this state to
26 carry, on or about the premises of such employer, any such
27 pistol, or other weapon mentioned in this article, for which a
28 license is herein required, without having first obtained the
29 license and given the bond as herein provided.

30 Notwithstanding any other provision of this article or any

31 other provision of this code, any resident, nonresident or
32 unnaturalized person may lawfully possess, transport, carry
33 and use any firearm he is permitted to use for hunting under
34 any valid license he has been issued by the department of
35 natural resources and which he holds in his possession. At
36 all times such person shall comply with all of the requirements
37 of law set forth in this code and the rules and regulations
38 promulgated thereunder pertaining to possessing, transporting,
39 carrying and using firearms for hunting.

§61-7-8. Possession of machine guns, high-powered rifles, or ammunition therefor; permits; unnaturalized persons may not possess firearms; exception.

1 It shall be unlawful for any person to carry, transport, or
2 have in his possession, any machine gun, sub-machine gun, or
3 what is commonly known as a high-powered rifle, or any
4 gun of similar kind or character, or any ammunition therefor,
5 except on his own premises or premises leased to him for a
6 fixed term, until such person shall have first obtained a permit
7 from the superintendent of the department of public safety of
8 this state, and approved by the governor, or until a license
9 therefor shall have been obtained from the circuit court as in
10 the case of revolvers and pistols, and all such licenses, together
11 with the numbers identifying such firearms, shall be certified to
12 the superintendent of the department of public safety: *Provided*,
13 That nothing herein contained shall prevent the use of rifles by
14 bona fide rifle club members who are free-holders or tenants for
15 a fixed term in this state, at their usual or customary place of
16 practice, and: *Provided, however*, That notwithstanding any
17 other provision of this article or any other provision of this
18 code, any resident, nonresident and unnaturalized person may
19 lawfully possess, transport, carry and use any firearm he is per-
20 mitted to use for hunting under any valid license he has been
21 issued by the department of natural resources and which he
22 holds in his possession. At all times such person shall comply
23 with all of the requirements of law set forth in this code and the
24 rules and regulations promulgated thereunder pertaining to pos-
25 sessed, transporting, carrying and using firearms for hunting.

26 No such permit shall be granted by the superintendent except
27 in cases of riot, public danger and emergency until such

28 applicant shall have filed his written application with the
29 superintendent in accordance with the rules and regulations
30 that may be from time to time prescribed by the department
31 of public safety relative thereto, which application shall be
32 accompanied by a fee of two dollars to be used in defraying
33 the expense of issuing such permit, and such application shall
34 contain the same provisions as are required to be shown under
35 the provisions of section two of this article by applicants for
36 a state license to carry a weapon, and shall be duly verified
37 by such applicant and at least one other reputable citizen of
38 this state. Any such permit as granted under the provisions of
39 this section may be revoked by the governor at his pleasure, and
40 upon the revocation of any such permit, the department of
41 public safety shall immediately seize and take possession of
42 any machine gun, sub-machine gun, high-powered rifle, or gun
43 of similar kind and character, held by reason of such permit,
44 and all ammunition therefor; and the department of public
45 safety shall also confiscate any such machine gun, sub-machine
46 gun, high-powered rifle, or any gun of similar kind and charac-
47 ter, and all ammunition therefor, so owned, carried, transported
48 or possessed contrary to the provisions of this section, and shall
49 safely store and keep the same, subject to the order of the
50 governor.

51 No unnaturalized person may own, keep, possess, transport,
52 carry or use any firearm of any kind or character, except for
53 hunting as provided in sections three and eight of this article
54 and article two, chapter twenty of this code.

**§61-7-9. Display of dangerous weapons for sale or hire; sale to
unnaturalized person; penalties for violation of this
section or §61-7-8.**

1 It shall be unlawful for any person, firm or corporation to
2 place or keep on public display to passersby on the streets,
3 roads or alleys, for rent or sale, any revolver, pistol, dirk,
4 bowie knife, slung shot, or other dangerous weapons of like
5 kind or character, or any machine gun, sub-machine gun or
6 high-powered rifle, or any gun of similar kind or character,
7 or any ammunition for the same. All dealers licensed to sell
8 any of the foregoing arms or weapons shall take the name,
9 address, age and general appearance of the purchaser, as well

10 as the maker of the gun, manufacturer's serial number and the
11 caliber, and report the same at once in writing to the super-
12 intendent of the department of public safety. It shall be
13 unlawful for any person to sell, rent, give or lend any of the
14 arms mentioned in this article to an unnaturalized person:
15 *Provided*, That a person may lawfully sell, rent, give or lend
16 any firearm which may lawfully be used for hunting to any
17 unnaturalized person who has been issued and holds a valid
18 permit in accordance with the provisions of section twenty-
19 nine, article two, chapter twenty of this code and the un-
20 naturalized person shows such permit to such person when
21 the sale, rental, gift or loan is made.

22 Any person violating the provisions of this or the pre-
23 ceding section shall be guilty of a misdemeanor, and, upon
24 conviction thereof, shall be fined not less than fifty dollars
25 nor more than three hundred dollars, or imprisoned in the
26 county jail not less than thirty days nor more than six
27 months, or both fined and imprisoned.

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

James L. Davis
Chairman Senate Committee

Lawrence C. Christensen
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Wilson, Jr.
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Brubaker, Jr.
President of the Senate

Louis H. McMane
Speaker House of Delegates

The within *approved* this the *13th*
March
day of _____, 1975.

Arvid A. Hanson, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/8/75

Time 4:30 pm.

MAR 14 11 45 AM '75

OFFICE OF
SECRETARY OF STATE
STATE OF MISSISSIPPI