WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED
Com. Sub. For
HOUSE BILL No. 4077

(By Delegate Lynch, Staton, Manuel, Amores, J. Martin, Riggs and Thomas)

Passed March 8, 1996

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4077

(BY DELEGATES LINCH, STATON, MANUEL, AMORES, J. MARTIN, RIGGS AND THOMAS)

(Passed March 8, 1996; in effect from passage.)

AN ACT to amend and reenact sections four, five and six, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to licensing requirements for carrying concealed deadly weapons; shifting concealed deadly weapons licensing authority from circuit judges to sheriffs; changing license issuance requirements; preventing those persons either adjudicated mentally incompetent, with criminal charges pending, charged or serving sentences for domestic violence, or subject to a domestic violence petition from receiving concealed weapons licenses; modifying applicants background check verification requirements; requiring all concealed weapons applicants to receive training; modifying the appeal process for denied concealed weapons licenses; establishing authority of sheriffs to revoke concealed weapons licenses; directing that certain license fees paid to the sheriff be deposited in a special fund to be administered by the sheriff; providing a portion of the licensing fee be distributed to the state police; directing the state police to develop concealed weapons license cards and application forms; creating a criminal penalty for false swearing for falsifying a permit application; allowing military handgun training to be utilized in meeting training requirements for concealed handgun or revolver license; modifying training program requirements; creating criminal penalties for
concealed weapons licensee for failure to have identification and concealed weapon license in his or her possession when carrying a concealed weapon; allowing certain current licensees to renew their license without paying application fees; excluding retired state police officers from certain licensing requirements; and adding certain retired circuit judges to persons who can carry a concealed weapon without a license.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for such license, and shall pay to the sheriff, at the time of application, a fee of sixty dollars. Each applicant shall file with the sheriff, a complete application, as prepared by the superintendent of the West Virginia state police, in writing, duly verified, which sets forth only the following licensing requirements:

1. The applicant's full name, date of birth, social security number and a description of the applicant's physical features;

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

3. That the applicant is eighteen years of age or older;

4. That the applicant is not addicted to alcohol, a controlled substance or a drug, and is not an unlawful user thereof;
(5) That the applicant has not been convicted of a felony or of an act of violence involving the misuse of a deadly weapon;

(6) That the applicant has no criminal charges pending and is not currently serving a sentence of confinement, parole, probation or other court ordered supervision, because of a charge of domestic violence as provided for in section twenty-eight, article two of this chapter, or is the subject of a restraining order as a result of a domestic violence act as defined in that section, or because of a verified petition of domestic violence as provided for in article two-a, chapter forty-eight of this code or is subject to a protective order as provided for in that article;

(7) That the applicant is physically and mentally competent to carry such weapon;

(8) That the applicant has not been adjudicated to be mentally incompetent;

(9) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing such weapon: Provided, That this requirement shall be waived in the case of a renewal applicant who has previously qualified.

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

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

(c) The sixty dollar application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. Such fund shall be administered by the sheriff and shall take the form of an interest bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay for the costs associated
with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law enforcement purposes or operating needs of the sheriffs office, as the sheriff may deem appropriate.

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

1. Any official national rifle association handgun safety or training course;
2. Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution or organization or handgun training school utilizing instructors duly certified by such institution;
3. Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the national rifle association;
4. Any handgun training or safety course or class conducted by any branch of the United States military, reserve or national guard.

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

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

(f) If the information in the application is found to be
true and correct, the sheriff shall issue a license. The sheriff shall issue or deny the license within thirty days after the application is filed if all required background checks authorized by this section are completed, and no later than forty-five days regardless of whether these background checks have been completed.

(g) Before any approved license shall be issued or become effective, the applicant shall pay to the sheriff a fee in the amount of fifteen dollars which the sheriff shall forward to the superintendent of the West Virginia state police within thirty days of receipt. Any such license shall be valid for five years throughout the state, unless sooner revoked.

(h) All persons holding a current and valid concealed weapons license as of December 16, 1995, shall continue to hold a valid concealed weapons license until his or her license expires or is revoked as provided for in this article; Provided, That all reapplication fees shall be waived for applications received by January 1, 1997, for any person holding a current and valid concealed weapons license as of December 16, 1995 which contains use restrictions placed upon the license as a condition of issuance by the issuing circuit court. Any licenses reissued pursuant to this subsection will be issued for the time period of the original license.

(i) Each license shall contain the full name, social security number and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards.

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

(k) In the event an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the

denial. Such petition shall be filed within thirty days of
the denial. The court shall then determine whether the
applicant is entitled to the issuance of a license under the
criteria set forth in this section. The applicant may be
represented by counsel, but in no case shall the court be
required to appoint counsel for an applicant. The final
order of the court shall include the court's findings of fact
and conclusions of law. If the final order upholds the
denial, the applicant may file an appeal in accordance with
the rules of appellate procedure of the supreme court of
appeals.

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

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

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

(o) The sheriff shall deny any application or revoke
any existing license upon determination that any of the
licensing application requirements established in this
section have been violated by the licensee.

(p) No person who is engaged in the receipt, review, or
in the issuance or revocation of a concealed weapon
license shall incur any civil liability as the result of the lawful performance of his or her duties under this article.

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

§61-7-5. Revocation of license.

A license to carry a deadly weapon shall be deemed revoked at such time as the person licensed becomes unable to meet the criteria for initial licensure set forth in section four of this article. Any person licensed under the provisions of this article shall immediately surrender his or her license to the issuing sheriff upon becoming ineligible for continued licensure.

§61-7-6. Exceptions as to prohibitions against carrying concealed deadly weapons.

The licensure provisions set forth in this article shall not apply to:

(1) Any person carrying a deadly weapon upon his own premises; nor shall anything herein prevent a person from carrying any firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business, nor shall anything herein prohibit a person from possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site, and returning to his or her home, residence or place of business;
(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state, or from the United States for the purpose of target practice, from carrying any pistol, as defined in this article, unloaded, from his home, residence or place of business to a place of target practice, and from any such place of target practice back to his home, residence or place of business, for using any such weapon at such place of target practice in training and improving his skill in the use of such weapons;

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

(4) Any employee of the West Virginia department of corrections duly appointed pursuant to the provisions of section five, article five, chapter twenty-eight of this code while such employee is on duty;

(5) Any member of the armed forces of the United States or the militia of this state while such member is on duty;

(6) Any circuit judge, including any retired circuit judge designated senior status by the supreme court of appeals of West Virginia, prosecuting attorney, assistant prosecuting attorney or a duly appointed investigator employed by a prosecuting attorney.

(7) Any resident of another state, who has been issued a license to carry a concealed weapon by that state or a political subdivision thereof, shall be exempt from the licensing requirements of section four of this article: Provided, That such state or political subdivision thereof shall likewise recognize and honor West Virginia licenses issued pursuant to section four of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 21st day of March, 1996.

Governor