WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2605

(By Delegates Proudfoot, Kominar, Staton and Mezzatesta)

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Passed February 15, 2000

In Effect Ninety Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2605

(BY DELEGATES PROUDFOOT, KOMINAR, STATON AND MEZZATESTA)

[Passed February 15, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to concealed weapons licensing; limiting licenses to pistols and revolvers; changing the age requirement for obtaining a concealed weapon license from eighteen to twenty-one years of age and creating exceptions thereto; requiring sheriffs to provide duplicate license; and providing that sheriffs shall issues permits within a specified time period and only upon qualification.

Be it enacted by the Legislature of West Virginia:

That section four, 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.
§61-7-4. 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. Concealed weapons permits may only be issued for pistols or revolvers. 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 twenty-one years of age or older: Provided, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: Provided, however, That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;

(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), subsection (a) of this section 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 sheriff’s office, as the sheriff may deem appropri-
ate.

(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 con-
ducted 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 con-
ducted 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, 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 forty-five days after the application is filed if all required background checks authorized by this section are 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 the sixteenth day of December, one thousand nine hundred ninety-five, 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 the first day of January, one thousand nine hundred ninety-seven, for any person holding a current and valid concealed weapons license as of the sixteenth day of December, one thousand nine hundred ninety-five, 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. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and such license card is deemed a license for the purposes of this section.

(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 misde-
meanor 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), subsection (a) 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 24th
day of February, 2000.

Governor