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
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.

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

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is addicted to alcohol;

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

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

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

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

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

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

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) By its terms explicitly prohibits the use, attempted
use or threatened use of physical force against such
intimate partner or child that would reasonably be ex-
pected to cause bodily injury; or

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

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

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

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

(2) Who has been convicted in this state or any other
jurisdiction of a felony controlled substance offense
involving a schedule I controlled substances other than
marijuana, a schedule II or a schedule III controlled
substance as such are defined in sections two hundred
four, two hundred five and two hundred six, article two,
chapter sixty-a of this code and who possesses a firearm as
such is defined in section two of this article shall be guilty
of a felony and, upon conviction thereof, shall be confined
in a state correctional facility for not more than five years
or fined not more than five thousand dollars, or both. The
provisions of subsection (c) of this section shall not apply
to persons convicted of offenses referred to in this subsec-
tion or to persons convicted of a violations of this subsec-
tion.
(c) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal 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

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 31st Day of November, 2000

Governor
PRESENTED TO THE
GOVERNOR

Date: 3/18/00
Time: 12:17 PM