

HB 3314

FILED

2009 MAY -8 PM 3:42

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 3314

(By Delegates Varner, Perdue, Miley, Hunt, White,
Beach, Campbell, Hamilton, Hall, Shaver and Ellem)



Passed April 11, 2009

In Effect Ninety Days from Passage

E N R O L L E D

FILED

2009 MAY -8 PM 3:42

COMMITTEE SUBSTITUTE

FOR

**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

H. B. 3314

**(BY DELEGATES VARNER, PERDUE, MILEY, HUNT, WHITE,
BEACH, CAMPBELL, HAMILTON, HALL, SHAVER AND ELLEM)**

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §61-7-4 and §61-7-6a of the Code of West Virginia, 1931, as amended, all relating to concealed handgun licensing generally; clarifying scope of license; clarifying that the investigation necessary for licensure shall include a nationwide criminal background check; requiring reissue application to be ruled on within forty-five days; eliminating social security number from issued license; related to the honoring of concealed handgun licenses issued by another state; eliminating requirement that a person holding a concealed handgun license from a reciprocating state be a resident of that state and requiring that a potential reciprocating state's licensure standards be similar to or greater than those of this state.

Be it enacted by the Legislature of West Virginia:

SA:8 17 8- That §61-7-4 and §61-7-6a of the Code of West Virginia, 1931, 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.

1 (a) Except as provided in subsection (h) of this section,
2 any person desiring to obtain a state license to carry a
3 concealed deadly weapon shall apply to the sheriff of his or
4 her county for the license, and shall pay to the sheriff, at the
5 time of application, a fee of \$75, of which \$15 of that amount
6 shall be deposited in the Courthouse Facilities Improvement
7 Fund created by section six, article twenty-six, chapter
8 twenty-nine of this code. Concealed weapons permits may
9 only be issued for pistols or revolvers. Each applicant shall
10 file with the sheriff, a complete application, as prepared by
11 the Superintendent of the West Virginia State Police, in
12 writing, duly verified, which sets forth only the following
13 licensing requirements:

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

16 (2) That, on the date the application is made, the
17 applicant is a bona fide resident of this state and of the county
18 in which the application is made and has a valid driver's
19 license or other state-issued photo identification showing the
20 residence;

21 (3) That the applicant is twenty-one years of age or older:
22 *Provided*, That any individual who is less than twenty-one
23 years of age and possesses a properly issued concealed
24 weapons license as of the effective date of this article shall be
25 licensed to maintain his or her concealed weapons license
26 notwithstanding the provisions of this section requiring new

27 applicants to be at least twenty-one years of age: *Provided,*
28 *however,* That upon a showing of any applicant who is
29 eighteen years of age or older that he or she is required to
30 carry a concealed weapon as a condition for employment, and
31 presents satisfactory proof to the sheriff thereof, then he or
32 she shall be issued a license upon meeting all other
33 conditions of this section. Upon discontinuance of
34 employment that requires the concealed weapons license, if
35 the individual issued the license is not yet twenty-one years
36 of age, then the individual issued the license is no longer
37 eligible and must return his or her license to the issuing
38 sheriff;

39 (4) That the applicant is not addicted to alcohol, a
40 controlled substance or a drug and is not an unlawful user
41 thereof;

42 (5) That the applicant has not been convicted of a felony
43 or of an act of violence involving the misuse of a deadly
44 weapon;

45 (6) That the applicant has not been convicted of a
46 misdemeanor offense of assault or battery either under the
47 provisions of section twenty-eight, article two of this chapter
48 or the provisions of subsection (b) or (c), section nine, article
49 two of this chapter in which the victim was a current or
50 former spouse, current or former sexual or intimate partner,
51 person with whom the defendant has a child in common,
52 person with whom the defendant cohabits or has cohabited,
53 a parent or guardian, the defendant's child or ward or a
54 member of the defendant's household at the time of the
55 offense; or a misdemeanor offense with similar essential
56 elements in a jurisdiction other than this state;

57 (7) That the applicant is not under indictment for a felony
58 offense or is not currently serving a sentence of confinement,

59 parole, probation or other court-ordered supervision imposed
60 by a court of any jurisdiction or is the subject of an
61 emergency or temporary domestic violence protective order
62 or is the subject of a final domestic violence protective order
63 entered by a court of any jurisdiction;

64 (8) That the applicant is physically and mentally
65 competent to carry the weapon;

66 (9) That the applicant has not been adjudicated to be
67 mentally incompetent;

68 (10) That the applicant has qualified under the minimum
69 requirements set forth in subsection (d) of this section for
70 handling and firing the weapon: *Provided*, That this
71 requirement shall be waived in the case of a renewal
72 applicant who has previously qualified;

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

76 (b) The sheriff shall conduct an investigation including a
77 nationwide criminal background check, in order to verify that
78 the information required in subdivisions (1), (2), (3), (5), (6),
79 (8) and (9), subsection (a) of this section is true and correct.

80 (c) Sixty dollars of the application fee and any fees for
81 replacement of lost or stolen licenses received by the sheriff
82 shall be deposited by the sheriff into a concealed weapons
83 license administration fund. The fund shall be administered
84 by the sheriff and shall take the form of an interest bearing
85 account with any interest earned to be compounded to the
86 fund. Any funds deposited in this concealed weapon license
87 administration fund are to be expended by the sheriff to pay
88 for the costs associated with issuing concealed weapons

89 licenses. Any surplus in the fund on hand at the end of each
90 fiscal year may be expended for other law-enforcement
91 purposes or operating needs of the sheriff's office, as the
92 sheriff may consider appropriate.

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

97 (1) Any official National Rifle Association handgun
98 safety or training course;

99 (2) Any handgun safety or training course or class
100 available to the general public offered by an official
101 law-enforcement organization, community college, junior
102 college, college or private or public institution or
103 organization or handgun training school utilizing instructors
104 duly certified by the institution;

105 (3) Any handgun training or safety course or class
106 conducted by a handgun instructor certified as such by the
107 state or by the National Rifle Association;

108 (4) Any handgun training or safety course or class
109 conducted by any branch of the United States Military,
110 Reserve or National Guard.

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

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

124 (f) If the information in the application is found to be true
125 and correct, the sheriff shall issue a license. The sheriff shall
126 issue, reissue or deny the license within forty-five days after
127 the application is filed if all required background checks
128 authorized by this section are completed.

129 (g) Before any approved license shall be issued or
130 become effective, the applicant shall pay to the sheriff a fee
131 in the amount of \$15 which the sheriff shall forward to the
132 Superintendent of the West Virginia State Police within thirty
133 days of receipt. The license shall be valid for five years
134 throughout the state, unless sooner revoked.

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

147 (i) Each license shall contain the full name and address of
148 the licensee and a space upon which the signature of the
149 licensee shall be signed with pen and ink. The issuing sheriff

150 shall sign and attach his or her seal to all license cards. The
151 sheriff shall provide to each new licensee a duplicate license
152 card, in size similar to other state identification cards and
153 licenses, suitable for carrying in a wallet, and the license card
154 is considered a license for the purposes of this section.

155 (j) The Superintendent of the West Virginia State Police
156 shall prepare uniform applications for licenses and license
157 cards showing that the license has been granted and shall do
158 any other act required to be done to protect the state and see
159 to the enforcement of this section.

160 (k) If an application is denied, the specific reasons for the
161 denial shall be stated by the sheriff denying the application.
162 Any person denied a license may file, in the circuit court of
163 the county in which the application was made, a petition
164 seeking review of the denial. The petition shall be filed
165 within thirty days of the denial. The court shall then
166 determine whether the applicant is entitled to the issuance of
167 a license under the criteria set forth in this section. The
168 applicant may be represented by counsel, but in no case may
169 the court be required to appoint counsel for an applicant. The
170 final order of the court shall include the court's findings of
171 fact and conclusions of law. If the final order upholds the
172 denial, the applicant may file an appeal in accordance with
173 the Rules of Appellate Procedure of the Supreme Court of
174 Appeals.

175 (l) If a license is lost or destroyed, the person to whom
176 the license was issued may obtain a duplicate or substitute
177 license for a fee of \$5 by filing a notarized statement with the
178 sheriff indicating that the license has been lost or destroyed.

179 (m) The sheriff shall, immediately after the license is
180 granted as aforesaid, furnish the Superintendent of the West
181 Virginia State Police a certified copy of the approved

182 application. The sheriff shall furnish to the Superintendent
183 of the West Virginia State Police at any time so requested a
184 certified list of all licenses issued in the county. The
185 Superintendent of the West Virginia State Police shall
186 maintain a registry of all persons who have been issued
187 concealed weapons licenses.

188 (n) All licensees must carry with them a state-issued
189 photo identification card with the concealed weapons license
190 whenever the licensee is carrying a concealed weapon. Any
191 licensee who fails to have in his or her possession a
192 state-issued photo identification card and a current concealed
193 weapons license while carrying a concealed weapon is guilty
194 of a misdemeanor and, upon conviction thereof, shall be
195 fined not less than \$50 or more than \$200 for each offense.

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

200 (p) A person who is engaged in the receipt, review or in
201 the issuance or revocation of a concealed weapon license
202 does not incur any civil liability as the result of the lawful
203 performance of his or her duties under this article.

204 (q) Notwithstanding the provisions of subsection (a) of
205 this section, with respect to application by a former
206 law-enforcement officer honorably retired from agencies
207 governed by article fourteen, chapter seven of this code;
208 article fourteen, chapter eight of this code; article two,
209 chapter fifteen of this code; and article seven, chapter twenty
210 of this code, an honorably retired officer is exempt from
211 payment of fees and costs as otherwise required by this
212 section, and the application of the honorably retired officer
213 shall be granted without proof or inquiry by the sheriff as to

214 those requirements set forth in subdivision (9), subsection (a)
215 of this section, if the officer meets the remainder of the
216 requirements of this section and has the approval of the
217 appropriate chief law-enforcement officer.

218 (r) Except as restricted or prohibited by the provisions of
219 this article or as otherwise prohibited by law, the issuance of
220 a concealed weapon permit issued in accordance with the
221 provisions of this section authorizes the holder of the permit
222 to carry a concealed pistol or revolver on the lands or waters
223 of this state.

§61-7-6a. Reciprocity; out-of-state concealed handgun permits.

1 (a) A holder of a valid out-of-state permit or license to
2 carry a concealed handgun, as issued by another state with
3 which the State of West Virginia has executed a reciprocity
4 agreement, shall be recognized as valid in this state, if the
5 following conditions are met:

6 (1) The permit or license holder is 21 years or older;

7 (2) The permit or license is in his or her immediate
8 possession;

9 (3) The permit or license holder is not a resident of the
10 State of West Virginia; and,

11 (4) The State of West Virginia has executed a valid and
12 effective reciprocity agreement with the issuing state
13 pertaining to the carrying and verification of concealed
14 handgun licenses and permits issued in the respective states.

15 (b) A holder of a valid permit or license from another
16 state who is authorized to carry a concealed handgun in this
17 state pursuant to provisions of this section is subject to the

18 same laws and restrictions with respect to carrying a
19 concealed handgun as a resident of West Virginia who is so
20 permitted, and must carry the concealed handgun in
21 compliance with the laws of this state.

22 (c) A license or permit from another state is not valid in
23 this state if the holder is or becomes prohibited by law from
24 possessing a firearm.

25 (d) The West Virginia Attorney General shall seek to
26 enter into and may execute reciprocity agreements on behalf
27 of the State of West Virginia with states which meet the
28 following standards and requirements:

29 (1) The standards applied by the other state before issuing
30 a concealed handgun license or permit must be similar to or
31 greater than the standards imposed by this article;

32 (2) This state's law-enforcement officers have continuous
33 access to data bases on the criminal information network,
34 twenty-four hours per day, seven days per week, to verify the
35 continued validity of any license or permit to carry a
36 concealed handgun that has been granted by the issuing state;

37 (3) The other state agrees to grant the right to carry a
38 concealed handgun to residents of West Virginia who have
39 valid concealed handgun permits issued pursuant to this
40 article in their possession while carrying concealed weapons
41 in that state; and

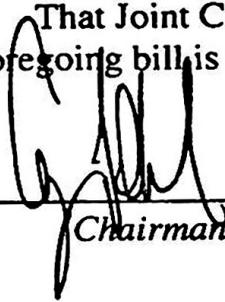
42 (4) The states agree to apprise one another of changes in
43 permitting standards and requirements, to provide for a
44 prompt reexamination of whether any adopted change in
45 licensing or permitting standards negates the states' ability to
46 continue with the reciprocity agreement.

47 (e) The West Virginia State Police shall maintain a
48 registry of states with which the State of West Virginia has
49 entered into reciprocity agreements on the criminal
50 information network and make the registry available to
51 law-enforcement officers for investigative purposes.

52 (f) Every twelve months after the effective date of this
53 section, the West Virginia Attorney General shall make
54 written inquiry of the concealed handgun permitting
55 authorities in each other state as to: (i) Whether a West
56 Virginia resident may carry a concealed handgun in their
57 state based upon having a valid West Virginia concealed
58 handgun permit; and (ii) whether a West Virginia resident
59 may carry a concealed handgun in that state based upon
60 having a valid West Virginia concealed handgun permit,
61 pursuant to the laws of that state or by the execution of a
62 valid reciprocity agreement between the states.

63 (g) The West Virginia State Police shall make available
64 to the public a list of states which have entered into
65 reciprocity agreements with the State of West Virginia.

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



Chairman Senate Committee



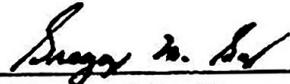
Chairman House Committee

Originating in the House.

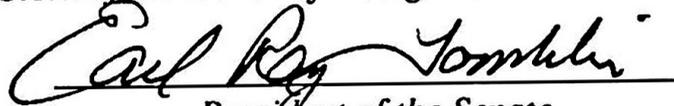
In effect ninety days from passage.



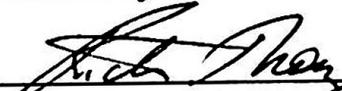
Clerk of the Senate



Clerk of the House of Delegates

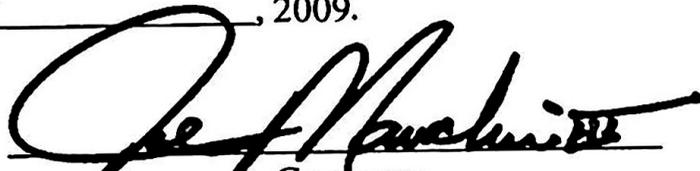


President of the Senate



Speaker of the House of Delegates

The within is appended this the 5th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY · 5 2009

Time 2:50 pm