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
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:
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.

(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 the license, and shall pay to the sheriff, at the time of application, a fee of $75, of which $15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. 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 the 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 not been convicted of a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant’s child or ward or a member of the defendant’s household at the time of the offense; or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(7) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement,
parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

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

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

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

(11) 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 including a nationwide criminal background check, in order to verify that the information required in subdivisions (1), (2), (3), (5), (6), (8) and (9), subsection (a) of this section is true and correct.

c) Sixty dollars of the 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. The 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 consider 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 the 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, 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, reissue 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 $15 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The 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 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 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 the license card
is considered 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 the 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) If 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. The 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 may
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) If 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 $5 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. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all 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 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 or more than $200 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) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not 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 of this code; article fourteen, chapter eight of this code; article two, chapter fifteen of this code; 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.

Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon permit issued in accordance with the provisions of this section authorizes the holder of the permit to carry a concealed pistol or revolver on the lands or waters of this state.

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

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

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

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

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

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

(b) A holder of a valid permit or license from another state who is authorized to carry a concealed handgun in this state pursuant to provisions of this section is subject to the
same laws and restrictions with respect to carrying a concealed handgun as a resident of West Virginia who is so permitted, and must carry the concealed handgun in compliance with the laws of this state.

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

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

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

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

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

4. The states agree to apprise one another of changes in permitting standards and requirements, to provide for a prompt reexamination of whether any adopted change in licensing or permitting standards negates the states' ability to continue with the reciprocity agreement.
(e) The West Virginia State Police shall maintain a registry of states with which the State of West Virginia has entered into reciprocity agreements on the criminal information network and make the registry available to law-enforcement officers for investigative purposes.

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

(g) The West Virginia State Police shall make available to the public a list of states which have entered into 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 happened this the 20__ day of May 2009.

Governor
PRESENTED TO THE GOVERNOR

MAY 5 2009

Time