WEST VIRGINIA LEGISLATURE
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ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 421

(Senators Nohe, Boley, Carmichael and Walters,
original sponsors)

[Passed April 5, 2013; in effect ninety days from passage.]
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AN ACT to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to providing an exemption for the official mascot of Parkersburg South High School, commonly known as the Patriot, which would allow the mascot to carry a musket on school grounds when the mascot is acting in his or her official capacity.

Be it enacted by the Legislature of West Virginia:

That §61-7-11a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver’s license; possessing deadly weapons on premises housing courts of law and in offices of family law master.
(a) The Legislature hereby finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section twenty-two, article three of the Constitution of the State of West Virginia.

(b) (1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in section one, article one, chapter seventeen-a of this code, or in or on a public or private primary or secondary education building, structure, facility or grounds including a vocational education building, structure, facility or grounds where secondary vocational education programs are conducted or at a school-sponsored function.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity;

(B) A person specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(C) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(D) Programs or rallies conducted with the approval of the county board of education or school which include the display of unloaded firearms;
E) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or

F) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than $5,000, or both.

(c) It is the duty of the principal of each school subject to the authority of the State Board of Education to report a violation of subsection (b) of this section discovered by the principal to the State Superintendent of Schools within seventy-two hours after the violation occurs. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for the making and delivery of the reports as required by this subsection. In addition, it is the duty of the principal of each school subject to the authority of the State Board of Education to report a violation of subsection (b) of this section discovered by the principal to the appropriate local office of the Division of Public Safety within seventy-two hours after the violation occurs.

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may, in its discretion, order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth
birthday. Where the person has not been issued a driver's
license or instruction permit by this state, a court may order
the Division of Motor Vehicles to deny the person's
application for a license or permit for a period of time as the
court considers appropriate, not to extend beyond the person's
nineteenth birthday. A suspension ordered by the court
pursuant to this subsection is effective upon the date of entry
of the order. Where the court orders the suspension of a
driver's license or instruction permit pursuant to this
subsection, the court shall confiscate any driver's license or
instruction permit in the adjudicated person's possession and
forward to the Division of Motor Vehicles.

(e) (1) If a person eighteen years of age or older is
convicted of violating subsection (b) of this section, and if the
person does not act to appeal the conviction within the time
periods described in subdivision (2) of this subsection, the
person's license or privilege to operate a motor vehicle in this
state shall be revoked in accordance with the provisions of
this section.

(2) The clerk of the court in which the person is
convicted as described in subdivision (1) of this subsection
shall forward to the commissioner a transcript of the
judgment of conviction. If the conviction is the judgment of
a magistrate court, the magistrate court clerk shall forward
the transcript when the person convicted has not requested an
appeal within twenty days of the sentencing for the
conviction. If the conviction is the judgment of a circuit
court, the circuit clerk shall forward a transcript of the
judgment of conviction when the person convicted has not
filed a notice of intent to file a petition for appeal or writ of
error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment
of conviction, the commissioner determines that the person
was convicted as described in subdivision (1) of this
subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when such person enters a plea of guilty or is found guilty by a court or jury.

(f) (1) It is unlawful for a parent, guardian or custodian of a person less than eighteen years of age who knows that the person is in violation of subsection (b) of this section or has reasonable cause to believe that the person's violation of subsection (b) is imminent, to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.
(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or shall be confined in jail not more than one year, or both.

(g) (1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or shall be confined in jail not more than one year, or both.

(h) (1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than $5,000, or both.

Nothing in this section may be construed to be in conflict with the provisions of federal law.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

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 approved this the Day of April, 2013.

Governor