

HB 2502

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2502

(By Delegate(s) Espinosa, Upson,
Gearheart, Cooper, Ambler, O'Neal, Miller, Sobonya,
Shott, Arvon and Blair)



Passed March 11, 2015

In effect ninety days from passage.

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E N R O L L E D

OFFICE WEST VIRGINIA
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for

H. B. 2502

(BY DELEGATE(S) ESPINOSA, UPSON,
GEARHEART, COOPER, AMBLER, O' NEAL, MILLER, SOBONYA,
SHOTT, ARVON AND BLAIR)

[Passed March 11, 2015;
in effect ninety days from passage.]

AN ACT to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to persons possessing deadly weapons on school buses or on the premises of educational facilities; authorizing active law-enforcement officers in certain circumstances to possess a firearm or deadly weapon on a school bus, on school property or at school sponsored functions; authorizing retired law-enforcement officers in certain circumstances to carry deadly weapons on a school bus, on school property or at school sponsored functions when certain conditions are met; and establishing reporting requirements for the school principal.

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 family law courts.

1 (a) The Legislature finds that the safety and welfare of the
2 citizens of this state are inextricably dependent upon assurances
3 of safety for children attending and persons employed by schools
4 in this state and for persons employed by the judicial department
5 of this state. It is for the purpose of providing assurances of
6 safety that subsections (b), (g) and (h) of this section are enacted
7 as a reasonable regulation of the manner in which citizens may
8 exercise the rights accorded to them pursuant to section twenty-
9 two, article three of the Constitution of the State of West
10 Virginia.

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

19 (2) This subsection does not apply to:

20 (A) A law-enforcement officer employed by a federal, state,
21 county or municipal law enforcement agency;

22 (B) A retired law-enforcement officer who:

23 (i) Is employed by a state, county or municipal law
24 enforcement agency;

25 (ii) Is covered for liability purposes by his or her employer;

26 (iii) Is authorized by a county board of education and the
27 school principal to serve as security for a school;

28 (iv) Meets all the requirements to carry a firearm as a
29 qualified retired law-enforcement officer under the Law
30 Enforcement Officer Safety Act of 2004, as amended, pursuant
31 to 18 U.S.C. §926C(c); and

32 (v) Meets all of the requirements for handling and using a
33 firearm established by his or her employer, and has qualified
34 with his or her firearm to those requirements;

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

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

43 (E) Programs or raffles conducted with the approval of the
44 county board of education or school which include the display of
45 unloaded firearms;

46 (F) The official mascot of West Virginia University,
47 commonly known as the Mountaineer, acting in his or her
48 official capacity; or

49 (G) The official mascot of Parkersburg South High School,
50 commonly known as the Patriot, acting in his or her official
51 capacity.

52 (3) A person violating this subsection is guilty of a felony
53 and, upon conviction thereof, shall be imprisoned in a state
54 correctional facility for a definite term of years of not less than
55 two years nor more than ten years, or fined not more than
56 \$5,000, or both fined and imprisoned.

57 (c) A school principal subject to the authority of the State
58 Board of Education who discovers a violation of subsection (b)
59 of this section shall report the violation as soon as possible to:

60 (1) The State Superintendent of Schools. The State Board of
61 Education shall keep and maintain these reports and may
62 prescribe rules establishing policy and procedures for making
63 and delivering the reports as required by this subsection; and

64 (2) The appropriate local office of the Division of Public
65 Safety, county sheriff or municipal police agency.

66 (d) In addition to the methods of disposition provided by
67 article five, chapter forty-nine of this code, a court which
68 adjudicates a person who is fourteen years of age or older as
69 delinquent for a violation of subsection (b) of this section may
70 order the Division of Motor Vehicles to suspend a driver's
71 license or instruction permit issued to the person for a period of
72 time as the court considers appropriate, not to extend beyond the
73 person's nineteenth birthday. If the person has not been issued
74 a driver's license or instruction permit by this state, a court may
75 order the Division of Motor Vehicles to deny the person's
76 application for a license or permit for a period of time as the
77 court considers appropriate, not to extend beyond the person's
78 nineteenth birthday. A suspension ordered by the court pursuant
79 to this subsection is effective upon the date of entry of the order.

80 Where the court orders the suspension of a driver's license or
81 instruction permit pursuant to this subsection, the court shall
82 confiscate any driver's license or instruction permit in the
83 adjudicated person's possession and forward to the Division of
84 Motor Vehicles.

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

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

103 (3) If, upon examination of the transcript of the judgment of
104 conviction, the commissioner determines that the person was
105 convicted as described in subdivision (1) of this subsection, the
106 commissioner shall make and enter an order revoking the
107 person's license or privilege to operate a motor vehicle in this
108 state for a period of one year or, in the event the person is a
109 student enrolled in a secondary school, for a period of one year
110 or until the person's twentieth birthday, whichever is the greater
111 period. The order shall contain the reasons for the revocation and
112 the revocation period. The order of suspension shall advise the

113 person that because of the receipt of the court's transcript, a
114 presumption exists that the person named in the order of
115 suspension is the same person named in the transcript. The
116 commissioner may grant an administrative hearing which
117 substantially complies with the requirements of the provisions of
118 section two, article five-a, chapter seventeen-c of this code upon
119 a preliminary showing that a possibility exists that the person
120 named in the notice of conviction is not the same person whose
121 license is being suspended. The request for hearing shall be
122 made within ten days after receipt of a copy of the order of
123 suspension. The sole purpose of this hearing is for the person
124 requesting the hearing to present evidence that he or she is not
125 the person named in the notice. If the commissioner grants an
126 administrative hearing, the commissioner shall stay the license
127 suspension pending the commissioner's order resulting from the
128 hearing.

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

132 (f) (1) It is unlawful for a parent, guardian or custodian of a
133 person less than eighteen years of age who knows that the person
134 is in violation of subsection (b) of this section or has reasonable
135 cause to believe that the person's violation of subsection (b) is
136 imminent, to fail to immediately report his or her knowledge or
137 belief to the appropriate school or law-enforcement officials.

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

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

145 (2) This subsection does not apply to:

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

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

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

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

158 (2) A person violating this subsection is guilty of a felony
159 and, upon conviction thereof, shall be imprisoned in a state
160 correctional facility for a definite term of years of not less than
161 two years nor more than ten years, or fined not more than
162 \$5,000, or both fined and imprisoned.

163 (i) Nothing in this section may be construed to be in conflict
164 with the provisions of federal law.

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


Chairman, House Committee


Chairman, Senate Committee


Originating in the House.

In effect ninety days from passage.


Clerk of the House of Delegates


Clerk of the Senate


Speaker of the House of Delegates


President of the Senate

The within is approved this the 2th
day of March, 2015.


Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 5:15 PM