

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 347

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2015 MAR 20 A 10:05

FILED

(SENATORS SYPOLT, BEACH, BLAIR, GAUNCH, D. HALL, KARNES,
LEONHARDT, MAYNARD, WILLIAMS AND
FERNS, *ORIGINAL SPONSORS*)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 347 (veto)

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FERNES, *ORIGINAL SPONSORS*)

[Passed March 13, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-5 and §20-2-6a of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-3, §61-7-4 and §61-7-6 of said code; and to amend said code by adding thereto a new section, designated §61-7-7a, all relating to creating the West Virginia Firearms Act of 2015; providing that one not prohibited from possessing firearms may carry a deadly weapon for self-defense while in the woods of this state; establishing that if a magazine is detached and no cartridges remain in a rifle or shotgun, that rifle or shotgun is considered unloaded; removing the requirement of a license to carry a concealed handgun afield; establishing that criminal penalties for carrying a concealed deadly weapon without state license or other lawful authorization applies to persons under twenty-one years of age; establishing that when a concealed handgun license holder moves to another county within the state, unless the sheriff of the new county determines that person is no

longer eligible for a concealed deadly weapon license, the sheriff shall issue a new license and providing for a fee to do so; removing the requirement that a concealed weapons licensee carry state-issued photo identification when carrying a concealed weapon; removing criminal penalties for failure to carry state-issued photo identification when carrying a concealed weapon; providing that active duty members of the United States armed forces, National Guard or United States armed forces reserves are not subject to the criminal penalties for carrying a concealed deadly weapon without license or lawful authorization; removing exemption for certain judicial officers, prosecutors and staff from deadly weapon licensing and application fees; providing enhanced penalties for use of a firearm during commission of a felony; and excepting enhanced penalties in certain circumstances when a firearm is used in defense of self or others.

Be it enacted by the Legislature of West Virginia:

That sections §20-2-5 and §20-2-6a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §61-7-3, §61-7-4 and §61-7-6 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §61-7-7a, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

1 Except as authorized by the director, it is unlawful at any
2 time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless it
4 is plainly visible to him or her;

5 (2) Dig out, cut out or smoke out, or in any manner take
6 or attempt to take, any live wild animal or wild bird out of its
7 den or place of refuge except as may be authorized by rules
8 promulgated by the director or by law;

9 (3) Make use of, or take advantage of, any artificial light
10 in hunting, locating, attracting, taking, trapping or killing any
11 wild bird or wild animal, or to attempt to do so, while having
12 in his or her possession or subject to his or her control, or for
13 any person accompanying him or her to have in his or her
14 possession or subject to his or her control, any firearm,
15 whether cased or uncased, bow, arrow, or both, or other
16 implement or device suitable for taking, killing or trapping a
17 wild bird or animal: *Provided*, That it is lawful to hunt or
18 take coyote, fox, raccoon, opossum or skunk by the use of
19 artificial light subject to the restrictions set forth in this
20 subdivision. No person is guilty of a violation of this
21 subdivision merely because he or she looks for, looks at,
22 attracts or makes motionless a wild bird or wild animal with
23 or by the use of an artificial light, unless at the time he or she
24 has in his or her possession a firearm, whether cased or
25 uncased, bow, arrow, or both, or other implement or device
26 suitable for taking, killing or trapping a wild bird or wild
27 animal, or unless the artificial light (other than the head
28 lamps of an automobile or other land conveyance) is attached
29 to, a part of or used from within or upon an automobile or
30 other land conveyance.

31 Any person violating the provisions of this subdivision is
32 guilty of a misdemeanor and, upon conviction thereof, shall
33 for each offense be fined not less than \$100 nor more than
34 \$500 and shall be confined in jail for not less than ten days
35 nor more than one hundred days;

36 (4) Hunt for, take, kill, wound or shoot at wild animals or
37 wild birds from an airplane, or other airborne conveyance, an

38 automobile, or other land conveyance, or from a motor-driven
39 water conveyance, except as authorized by rules promulgated
40 by the director;

41 (5) Take any beaver or muskrat by any means other than
42 by trap;

43 (6) Catch, capture, take or kill by seine, net, bait, trap or
44 snare or like device of any kind any wild turkey, ruffed
45 grouse, pheasant or quail;

46 (7) Destroy or attempt to destroy needlessly or willfully
47 the nest or eggs of any wild bird or have in his or her
48 possession the nest or eggs unless authorized to do so under
49 rules promulgated by or under a permit issued by the director;

50 (8) Except as provided in section six of this article, carry
51 an uncased or loaded gun in any of the woods of this state
52 except during the open firearms hunting season for wild
53 animals and nonmigratory wild birds within any county of the
54 state unless he or she has in his or her possession a permit in
55 writing issued to him or her by the director: *Provided*, That
56 this section does not prohibit hunting or taking of unprotected
57 species of wild animals and wild birds and migratory wild
58 birds, during the open season, in the open fields, open water
59 and open marshes of the state nor does it prohibit a person
60 who is not prohibited from possessing firearms by section
61 four, article seven, chapter sixty-one of this code from
62 carrying a deadly weapon for purposes of self-defense while
63 in the woods of this state;

64 (9) Have in his or her possession a crossbow with a
65 nocked bolt, rifle or shotgun from which all cartridges have
66 not been removed, in or on any vehicle or conveyance, or its
67 attachments, within the state, except as may otherwise be
68 provided by law or regulation. For the purposes of this

69 section, a rifle or shotgun whose magazine readily detaches
70 is considered unloaded if the magazine is detached, and no
71 cartridges remain in the rifle or shotgun itself. Except as
72 hereinafter provided, between five o'clock postmeridian of
73 one day and seven o'clock antemeridian, eastern standard
74 time of the day following, any unloaded firearm or crossbow,
75 being lawfully carried in accordance with the foregoing
76 provisions, may be so carried only when in a case or taken
77 apart and securely wrapped. During the period from July 1
78 to September 30, inclusive, of each year, the foregoing
79 requirements relative to carrying certain unloaded firearms
80 are permissible only from eight-thirty o'clock postmeridian
81 to five o'clock antemeridian, eastern standard time: *Provided*,
82 That the time periods for carrying unloaded and uncased
83 firearms are extended for one hour after the postmeridian
84 times and one hour before the antemeridian times established
85 above if a hunter is preparing to or in the process of
86 transporting or transferring the firearms to or from a hunting
87 site, campsite, home or other place of abode;

88 (10) Hunt, catch, take, kill, trap, injure or pursue with
89 firearms or other implement by which wildlife may be taken
90 after the hour of five o'clock antemeridian on Sunday on
91 private land without the written consent of the landowner any
92 wild animals or wild birds except when a big game season
93 opens on a Monday, the Sunday prior to that opening day will
94 be closed for any taking of wild animals or birds after five
95 o'clock antemeridian on that Sunday: *Provided*, That traps
96 previously and legally set may be tended after the hour of
97 five o'clock antemeridian on Sunday and the person so doing
98 may carry only a twenty-two caliber firearm for the purpose
99 of humanely dispatching trapped animals. Any person
100 violating the provisions of this subdivision is guilty of a
101 misdemeanor and, upon conviction thereof, in addition to any
102 fines that may be imposed by this or other sections of this
103 code, is subject to a \$100 fine;

104 (11) Hunt, catch, take, kill, injure or pursue a wild animal
105 or bird with the use of a ferret;

106 (12) Buy raw furs, pelts or skins of fur-bearing animals
107 unless licensed to do so;

108 (13) Catch, take, kill or attempt to catch, take or kill any
109 fish at any time by any means other than by rod, line and
110 hooks with natural or artificial lures unless otherwise
111 authorized by law or rules issued by the Director: *Provided,*
112 That snaring of any species of suckers, carp, fallfish and
113 creek chubs shall at all times be lawful;

114 (14) Employ or hire, or induce or persuade, by the use of
115 money or other things of value, or by any means, any person
116 to hunt, take, catch or kill any wild animal or wild bird except
117 those species on which there is no closed season, or to fish
118 for, catch, take or kill any fish, amphibian or aquatic life
119 which is protected by the provisions of this chapter or rules
120 of the director or the sale of which is prohibited;

121 (15) Hunt, catch, take, kill, capture, pursue, transport,
122 possess or use any migratory game or nongame birds
123 included in the terms of conventions between the United
124 States and Great Britain and between the United States and
125 United Mexican States for the protection of migratory birds
126 and wild mammals concluded, respectively, August 16, 1916,
127 and February 7, 1936, except during the time and in the
128 manner and numbers prescribed by the federal Migratory
129 Bird Treaty Act, 16 U. S. C. §U. S. C. §703, *et seq.*, and
130 regulations made thereunder;

131 (16) Kill, take, catch or have in his or her possession, living
132 or dead, any wild bird other than a game bird; or expose for sale
133 or transport within or without the state any bird except as
134 aforesaid. No part of the plumage, skin or body of any

135 protected bird may be sold or had in possession for sale except
136 mounted or stuffed plumage, skin, bodies or heads of the birds
137 legally taken and stuffed or mounted, irrespective of whether
138 the bird was captured within or without this state, except the
139 English or European sparrow (*passer domesticus*), starling
140 (*sturnus vulgaris*) and cowbird (*molothrus ater*), which may not
141 be protected and the killing thereof at any time is lawful;

142 (17) Use dynamite or any like explosive or poisonous
143 mixture placed in any waters of the state for the purpose of
144 killing or taking fish. Any person violating the provisions of
145 this subdivision is guilty of a felony and, upon conviction
146 thereof, shall be fined not more than \$500 or imprisoned for
147 not less than six months nor more than three years, or both
148 fined and imprisoned;

149 (18) Have a bow and gun, or have a gun and any arrow or
150 arrows, in the fields or woods at the same time;

151 (19) Have a crossbow in the woods or fields or use a
152 crossbow to hunt for, take or attempt to take any wildlife
153 except as otherwise provided in section forty-two-w of this
154 article;

155 (20) Take or attempt to take turkey, bear, elk or deer with
156 any arrow unless the arrow is equipped with a point having
157 at least two sharp cutting edges measuring in excess of three
158 fourths of an inch wide;

159 (21) Take or attempt to take any wildlife with an arrow
160 having an explosive head or shaft, a poisoned arrow or an
161 arrow which would affect wildlife by any chemical action;

162 (22) Shoot an arrow across any public highway or from
163 aircraft, motor-driven watercraft, motor vehicle or other land
164 conveyance;

165 (23) Permit any dog owned by him or her or under his or
166 her control to chase, pursue or follow upon the track of any
167 wild animal or wild bird, either day or night, between May 1
168 and the August 15 next following: *Provided*, That dogs may
169 be trained on wild animals and wild birds, except deer and
170 wild turkeys, and field trials may be held or conducted on the
171 grounds or lands of the owner or by his or her bona fide
172 tenant or tenants or upon the grounds or lands of another
173 person with his or her written permission or on public lands
174 at any time: *Provided, however*, That nonresidents may not
175 train dogs in this state at any time except during the legal
176 small game hunting season: *Provided further*, That the
177 person training said dogs does not have firearms or other
178 implements in his or her possession during the closed season
179 on wild animals and wild birds, whereby wild animals or wild
180 birds could be taken or killed;

181 (24) Conduct or participate in a field trial,
182 shoot-to-retrieve field trial, water race or wild hunt hereafter
183 referred to as trial: *Provided*, That any person, group of
184 persons, club or organization may hold the trial at any time of
185 the year upon obtaining a permit as is provided in section
186 fifty-six of this article. The person responsible for obtaining
187 the permit shall prepare and keep an accurate record of the
188 names and addresses of all persons participating in said trial
189 and make same readily available for inspection by any natural
190 resources police officer upon request;

191 (25) Except as provided in section four of this article,
192 hunt, catch, take, kill or attempt to hunt, catch, take or kill
193 any wild animal, wild bird or wild fowl except during the
194 open season established by rule of the director as authorized
195 by subdivision (6), section seven, article one of this chapter;

196 (26) Hunting on public lands on Sunday after five o'clock
197 antemcridian is prohibited;

198 (27) Hunt, catch, take, kill, trap, injure or pursue with
 199 firearms or other implement which wildlife can be taken, on
 200 private lands on Sunday after the hour of five o'clock
 201 antemeridian: *Provided*, That the provisions of this
 202 subdivision do not apply in any county until the county
 203 commission of the county holds an election on the question
 204 of whether the provisions of this subdivision prohibiting
 205 hunting on Sunday shall apply within the county and the
 206 voters approve the allowance of hunting on Sunday in the
 207 county. The election is determined by a vote of the resident
 208 voters of the county in which the hunting on Sunday is
 209 proposed to be authorized. The county commission of the
 210 county in which Sunday hunting is proposed shall give notice
 211 to the public of the election by publication of the notice as a
 212 Class II-0 legal advertisement in compliance with the
 213 provisions of article three, chapter fifty-nine of this code and
 214 the publication area for the publication is the county in which
 215 the election is to be held. The date of the last publication of
 216 the notice shall fall on a date within the period of the fourteen
 217 consecutive days next preceding the election.

218 On the local option election ballot shall be printed the
 219 following:

220 Shall hunting on Sunday be authorized in _____
 221 County?

222 Yes No

223 (Place a cross mark in the square opposite your choice.)

224 Any local option election to approve or disapprove of the
 225 proposed authorization of Sunday hunting within a county
 226 shall be in accordance with procedures adopted by the
 227 commission. The local option election may be held in
 228 conjunction with a primary or general election or at a special

229 election. Approval shall be by a majority of the voters
230 casting votes on the question of approval or disapproval of
231 Sunday hunting at the election.

232 If a majority votes against allowing Sunday hunting, no
233 election on the issue may be held for a period of one hundred
234 four weeks. If a majority votes "yes," no election
235 reconsidering the action may be held for a period of five
236 years. A local option election may thereafter be held if a
237 written petition of qualified voters residing within the county
238 equal to at least five percent of the number of persons who
239 were registered to vote in the next preceding general election
240 is received by the county commission of the county in which
241 Sunday hunting is authorized. The petition may be in any
242 number of counterparts. The election shall take place at the
243 next primary or general election scheduled more than ninety
244 days following receipt by the county commission of the
245 petition required by this subsection: *Provided*, That the issue
246 may not be placed on the ballot until all statutory notice
247 requirements have been met. No local law or regulation
248 providing any penalty, disability, restriction, regulation or
249 prohibition of Sunday hunting may be enacted and the
250 provisions of this article preempt all regulations, rules,
251 ordinances and laws of any county or municipality in conflict
252 with this subdivision; and

253 (28) Hunt or conduct hunts for a fee where the hunter is
254 not physically present in the same location as the wildlife
255 being hunted within West Virginia.

§20-2-6a. Carrying a handgun while afield.

1 (a) Notwithstanding any provision of this code to the
2 contrary, a person who is not prohibited at the time from
3 possessing a firearm pursuant to the provisions of section
4 seven, article seven, chapter sixty-one of this code or by any

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5 applicable federal law may carry a handgun for self defense
6 purposes while afield hunting, hiking, camping or in or on a
7 motor vehicle.

8 (b) The provisions of this section shall not exempt any
9 person from obtaining any hunting or fishing license or stamp
10 required by the Division of Natural Resources.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-3. Carrying deadly weapon without license or other authorization by persons under twenty-one; penalties

1 (a) Any person under twenty-one years of age who
2 carries a concealed deadly weapon, without a state license or
3 other lawful authorization established under the provisions of
4 this code, shall be guilty of a misdemeanor, and, upon
5 conviction thereof, shall be fined not less than one hundred
6 dollars nor more than one thousand dollars and may be
7 imprisoned in the county jail for not more than twelve months
8 for the first offense; but upon conviction of a second or
9 subsequent offense, he or she shall be guilty of a felony, and,
10 upon conviction thereof, shall be imprisoned in the
11 penitentiary not less than one nor more than five years and
12 fined not less than one thousand dollars nor more than five
13 thousand dollars.

14 (b) It shall be the duty of the prosecuting attorney in all
15 cases to ascertain whether or not the charge made by the
16 grand jury is a first offense or is a second or subsequent
17 offense and, if it shall be a second or subsequent offense, it
18 shall be so stated in the indictment returned, and the
19 prosecuting attorney shall introduce the record evidence
20 before the trial court of such second or subsequent offense

21 and shall not be permitted to use discretion in introducing
22 evidence to prove the same on the trial.

§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 pay to the sheriff, at the time
5 of application, a fee of \$75, of which \$15 of that amount shall
6 be deposited in the Courthouse Facilities Improvement Fund
7 created by section six, article twenty-six, chapter twenty-nine
8 of this code. Concealed weapons permits may only be issued
9 for pistols or revolvers. Each applicant shall file with the
10 sheriff a complete application, as prepared by the
11 Superintendent of the West Virginia State Police, in writing,
12 duly verified, which sets forth only the following licensing
13 requirements:

14 (1) The applicant's full name, date of birth, Social
15 Security number, a description of the applicant's physical
16 features, the applicant's place of birth, the applicant's country
17 of citizenship and, if the applicant is not a United States
18 citizen, any alien or admission number issued by the United
19 States Bureau of Immigration and Customs Enforcement, and
20 any basis, if applicable, for an exception to the prohibitions
21 of 18 U. S. C. §922(g)(5)(B);

22 (2) That, on the date the application is made, the
23 applicant is a bona fide resident of this state and of the county
24 in which the application is made and has a valid driver's
25 license or other state-issued photo identification showing the
26 residence;

27 (3) That the applicant is twenty-one years of age or older:
28 *Provided*, That any individual who is less than twenty-one

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

44 (4) That the applicant is not addicted to alcohol, a
45 controlled substance or a drug and is not an unlawful user
46 thereof as evidenced by either of the following within the
47 three years immediately prior to the application:

48 (A) Residential or court-ordered treatment for alcoholism
49 or alcohol detoxification or drug treatment; or

50 (B) Two or more convictions for driving while under the
51 influence or driving while impaired;

52 (5) That the applicant has not been convicted of a felony
53 unless the conviction has been expunged or set aside or the
54 applicant's civil rights have been restored or the applicant has
55 been unconditionally pardoned for the offense;

56 (6) That the applicant has not been convicted of a
57 misdemeanor crime of violence other than an offense set forth
58 in subdivision (7) of this subsection in the five years
59 immediately preceding the application;

60 (7) That the applicant has not been convicted of a
61 misdemeanor crime of domestic violence as defined in 18 U. S.
62 C. §921(a)(33), or a misdemeanor offense of assault or battery
63 either under the provisions of section twenty-eight, article two
64 of this chapter or the provisions of subsection (b) or (c), section
65 nine, article two of this chapter in which the victim was a
66 current or former spouse, current or former sexual or intimate
67 partner, person with whom the defendant cohabits or has
68 cohabited, a parent or guardian, the defendant's child or ward
69 or a member of the defendant's household at the time of the
70 offense, or a misdemeanor offense with similar essential
71 elements in a jurisdiction other than this state;

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

79 (9) That the applicant has not been adjudicated to be
80 mentally incompetent or involuntarily committed to a mental
81 institution. If the applicant has been adjudicated mentally
82 incompetent or involuntarily committed, the applicant must
83 provide a court order reflecting that the applicant is no longer
84 under such disability and the applicant's right to possess or
85 receive a firearm has been restored;

86 (10) That the applicant is not prohibited under the
87 provisions of section seven of this article or federal law,
88 including 18 U. S. C. § 922(q) or (n), from receiving,
89 possessing or transporting a firearm;

90 (11) That the applicant has qualified under the minimum
91 requirements set forth in subsection (d) of this section for

92 handling and firing the weapon: *Provided*, That this
93 requirement shall be waived in the case of a renewal
94 applicant who has previously qualified; and

95 (12) That the applicant authorizes the sheriff of the
96 county, or his or her designee, to conduct an investigation
97 relative to the information contained in the application.

98 (b) For both initial and renewal applications, the sheriff
99 shall conduct an investigation including a nationwide criminal
100 background check consisting of inquiries of the National Instant
101 Criminal Background Check System, the West Virginia
102 criminal history record responses and the National Interstate
103 Identification Index and shall review the information received
104 in order to verify that the information required in subsection (a)
105 of this section is true and correct. A license may not be issued
106 unless the issuing sheriff has verified through the National
107 Instant Criminal Background Check System that the
108 information available to him or her does not indicate that receipt
109 or possession of a firearm by the applicant would be in violation
110 of the provisions of section seven of this article or federal law,
111 including 18 U. S. C. §922(g) or (n).

112 (c) Sixty dollars of the application fee and any fees for
113 replacement of lost or stolen licenses received by the sheriff
114 shall be deposited by the sheriff into a concealed weapons
115 license administration fund. The fund shall be administered
116 by the sheriff and shall take the form of an interest-bearing
117 account with any interest earned to be compounded to the
118 fund. Any funds deposited in this concealed weapon license
119 administration fund are to be expended by the sheriff to pay
120 the costs associated with issuing concealed weapons licenses.
121 Any surplus in the fund on hand at the end of each fiscal year
122 may be expended for other law-enforcement purposes or
123 operating needs of the sheriff's office, as the sheriff considers
124 appropriate.

125 (d) All persons applying for a license must complete a
126 training course in handling and firing a handgun. The
127 successful completion of any of the following courses fulfills
128 this training requirement:

129 (1) Any official National Rifle Association handgun
130 safety or training course;

131 (2) Any handgun safety or training course or class
132 available to the general public offered by an official
133 law-enforcement organization, community college, junior
134 college, college or private or public institution or
135 organization or handgun training school utilizing instructors
136 certified by the institution;

137 (3) Any handgun training or safety course or class
138 conducted by a handgun instructor certified as such by the
139 state or by the National Rifle Association;

140 (4) Any handgun training or safety course or class
141 conducted by any branch of the United States military,
142 reserve or National Guard or proof of other handgun
143 qualification received while serving in any branch of the
144 United States military, reserve or National Guard.

145 A photocopy of a certificate of completion of any of the
146 courses or classes or an affidavit from the instructor, school,
147 club, organization or group that conducted or taught the
148 course or class attesting to the successful completion of the
149 course or class by the applicant or a copy of any document
150 which shows successful completion of the course or class is
151 evidence of qualification under this section.

152 (c) All concealed weapons license applications must be
153 notarized by a notary public duly licensed under article four,
154 chapter twenty-nine of this code. Falsification of any portion

155 of the application constitutes false swearing and is punishable
156 under the provisions of section two, article five, chapter
157 sixty-one of this code.

158 (f) The sheriff shall issue a license unless he or she
159 determines that the application is incomplete, that it contains
160 statements that are materially false or incorrect or that applicant
161 otherwise does not meet the requirements set forth in this
162 section. The sheriff shall issue, reissue or deny the license
163 within forty-five days after the application is filed if all required
164 background checks authorized by this section are completed.

165 (g) Before any approved license is issued or is effective,
166 the applicant shall pay to the sheriff a fee in the amount of
167 \$25 which the sheriff shall forward to the Superintendent of
168 the West Virginia State Police within thirty days of receipt.
169 The license is valid for five years throughout the state, unless
170 sooner revoked.

171 (h) Each license shall contain the full name and address
172 of the licensee and a space upon which the signature of the
173 licensee shall be signed with pen and ink. The issuing sheriff
174 shall sign and attach his or her seal to all license cards. The
175 sheriff shall provide to each new licensee a duplicate license
176 card, in size similar to other state identification cards and
177 licenses, suitable for carrying in a wallet, and the license card
178 is considered a license for the purposes of this section.

179 (i) The Superintendent of the West Virginia State Police
180 shall prepare uniform applications for licenses and license
181 cards showing that the license has been granted and shall do
182 any other act required to be done to protect the state and see
183 to the enforcement of this section.

184 (j) If an application is denied, the specific reasons for the
185 denial shall be stated by the sheriff denying the application.

186 Any person denied a license may file, in the circuit court of
187 the county in which the application was made, a petition
188 seeking review of the denial. The petition shall be filed
189 within thirty days of the denial. The court shall then
190 determine whether the applicant is entitled to the issuance of
191 a license under the criteria set forth in this section. The
192 applicant may be represented by counsel, but in no case is the
193 court required to appoint counsel for an applicant. The final
194 order of the court shall include the court's findings of fact
195 and conclusions of law. If the final order upholds the denial,
196 the applicant may file an appeal in accordance with the Rules
197 of Appellate Procedure of the Supreme Court of Appeals. If
198 the findings of fact and conclusions of law of the court fail to
199 uphold the denial, the applicant may be entitled to reasonable
200 costs and attorney's fees, payable by the sheriff's office
201 which issued the denial.

202 (k) If a license is lost or destroyed, the person to whom
203 the license was issued may obtain a duplicate or substitute
204 license for a fee of \$5 by filing a notarized statement with the
205 sheriff indicating that the license has been lost or destroyed.

206 (l) Whenever any person after applying for and receiving a
207 concealed handgun license moves from the address named in
208 the application to another county within the state, the license
209 remains valid for the remainder of the five years unless the
210 sheriff of the new county has determined that the person is no
211 longer eligible for a concealed deadly weapon license under this
212 article, and the sheriff shall issue a new license bearing the
213 person's new address and the original expiration date for a fee
214 not to exceed \$5: *Provided*, That the licensee within twenty
215 days thereafter notifies the sheriff in the new county of
216 residence in writing of the old and new addresses.

217 (m) The sheriff shall, immediately after the license is
218 granted as aforesaid, furnish the Superintendent of the West

219 Virginia State Police a certified copy of the approved
220 application. The sheriff shall furnish to the Superintendent of
221 the West Virginia State Police at any time so requested a
222 certified list of all licenses issued in the county. The
223 Superintendent of the West Virginia State Police shall
224 maintain a registry of all persons who have been issued
225 concealed weapons licenses.

226 (n) The sheriff shall deny any application or revoke any
227 existing license upon determination that any of the licensing
228 application requirements established in this section have been
229 violated by the licensee.

230 (o) A person who is engaged in the receipt, review or in
231 the issuance or revocation of a concealed weapon license
232 does not incur any civil liability as the result of the lawful
233 performance of his or her duties under this article.

234 (p) Notwithstanding the provisions of subsection (a) of
235 this section, with respect to application by a former
236 law-enforcement officer honorably retired from agencies
237 governed by article fourteen, chapter seven of this code;
238 article fourteen, chapter eight of this code; article two,
239 chapter fifteen of this code; and article seven, chapter twenty
240 of this code, an honorably retired officer is exempt from
241 payment of fees and costs as otherwise required by this
242 section. All other application and background check
243 requirements set forth in this shall be applicable to these
244 applicants.

245 (q) Except as restricted or prohibited by the provisions of
246 this article or as otherwise prohibited by law, the issuance of
247 a concealed weapon permit issued in accordance with the
248 provisions of this section authorizes the holder of the permit
249 to carry a concealed pistol or revolver on the lands or waters
250 of this state.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns; exemptions from licensing fees.

1 (a) The provisions set forth in section three of this article
2 do not apply to:

3 (1) Any person:

4 (A) Carrying a deadly weapon upon his or her own
5 premises;

6 (B) Carrying a firearm, unloaded, from the place of
7 purchase to his or her home, residence or place of business or
8 to a place of repair and back to his or her home, residence or
9 place of business; or

10 (C) Possessing a firearm while hunting in a lawful
11 manner or while traveling from his or her home, residence or
12 place of business to a hunting site and returning to his or her
13 home, residence or place of business;

14 (2) Any person who is a member of a properly organized
15 target-shooting club authorized by law to obtain firearms by
16 purchase or requisition from this state or from the United
17 States for the purpose of target practice from carrying any
18 pistol, as defined in this article, unloaded, from his or her
19 home, residence or place of business to a place of target
20 practice and from any place of target practice back to his or
21 her home, residence or place of business, for using any such
22 weapon at a place of target practice in training and improving
23 his or her skill in the use of the weapons;

24 (3) Any law-enforcement officer or law-enforcement
25 official as defined in section one, article twenty-nine, chapter
26 thirty of this code;

27 (4) Any employee of the West Virginia Division of
28 Corrections duly appointed pursuant to the provisions of
29 section eleven-c, article one, chapter twenty-five of this code
30 while the employee is on duty;

31 (5) Any resident of another state who holds a valid permit
32 or license to possess or carry a handgun issued by a state or
33 a political subdivision subject to the provisions and
34 limitations set forth in section six-a of this article;

35 (6) Any federal law-enforcement officer or federal police
36 officer authorized to carry a weapon in the performance of
37 the officer's duty;

38 (7) Any Hatfield-McCoy Regional Recreation Authority
39 ranger while the ranger is on duty;

40 (8) Any parole officer appointed pursuant to section
41 fourteen, article twelve, chapter sixty-two of this code in the
42 performance of their duties; and

43 (9) Any active duty member of the United States armed
44 forces, or any active duty member of the National Guard or
45 United States armed forces reserves.

§61-7-7a. Enhanced penalty for use of firearm during commission of felony.

1 (a) Except to the extent that a greater minimum sentence
2 is otherwise provided by any other provision of law, any
3 person who uses or displays a firearm during the planning or
4 commission of any felony shall, in addition to the punishment
5 provided for such felony, be sentenced to an additional term
6 of imprisonment in the custody of the Department of
7 Corrections of five years, which sentence shall not be
8 reduced or suspended.

9 (b) Except to the extent that a greater minimum sentence
10 is otherwise provided by any other provision of law, any
11 convicted felon who uses or displays a firearm during the
12 planning or commission of any felony shall, in addition to the
13 punishment provided for such felony, be sentenced to an
14 additional term of imprisonment in the custody of the
15 Department of Corrections of ten years, to run consecutively,
16 not concurrently, which sentence shall not be reduced or
17 suspended.

18 (c) Unless otherwise provided in code, the provisions of
19 this article do not apply to a person who in good faith
20 employs the use of a firearm, in self-defense or the defense of
21 others, against another person who is perpetuating violence
22 or the threat of violence.

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

Mark P. Raymond
.....
Chairman Senate Committee

John B. McIl
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Mark A. Burns
.....
Clerk of the Senate

Stephen J. Harris
.....
Clerk of the House of Delegates

William P. Blaine
.....
President of the Senate

Philip P. Thomas
.....
Speaker of the House of Delegates

The within *is dropped* this the *20th*
Day of *March*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 10:11 AM