

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

### ENROLLED

### Committee Substitute

### for

### Senate Bill 388

SENATORS SYPOLT, AZINGER, BOSO, CLINE, FERNS,

KARNES, MAYNARD, OJEDA, RUCKER, SMITH, TAKUBO,

TRUMP AND MARONEY, *original sponsors*

[Passed April 8, 2017; in effect 90 days from passage]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2017 APR 26 P 7:56

FILED

SB388

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1 AN ACT to amend and reenact §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as  
2 amended, all relating generally to dangerous weapons; exempting persons other than  
3 provisional concealed handgun permittees who are lawfully authorized to carry a  
4 concealed handgun to possess firearms on school parking lots, driveways and other areas  
5 of vehicular ingress or egress; creating safety storage requirements on such possession;  
6 clarifying persons who may possess a firearm on property where such is otherwise  
7 prohibited when acting in an official capacity; and correcting internal statutory references.

*Be it enacted by the Legislature of West Virginia:*

1 That §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, be  
2 amended and reenacted, all 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 citizens of this state are  
2 inextricably dependent upon assurances of safety for children attending and persons employed  
3 by schools in this state and for persons employed by the judicial department of this state. It is for  
4 the purpose of providing assurances of safety that subsections (b), (g) and (h) of this section and  
5 paragraph (I), subdivision (2), subsection (b) of this section are enacted as a reasonable  
6 regulation of the manner in which citizens may exercise the rights accorded to them pursuant to  
7 section twenty-two, article three of the Constitution of the State of West Virginia.

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

13 education building, structure or facility: *Provided*, That it shall not be unlawful to possess a firearm  
14 or other deadly weapon on or in a private primary or secondary education building, structure or  
15 facility when such institution has adopted written policies allowing for possession of firearms on  
16 or in the institution's buildings, structures or facilities.

17 (2) This subsection does not apply to:

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

20 (B) Any probation officer appointed pursuant to section five, article twelve, chapter sixty-  
21 two or chapter forty-nine of this code in the performance of his or her duties;

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

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

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

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

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

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

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

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

37 (F) Programs or raffles conducted with the approval of the county board of education or  
38 school which include the display of unloaded firearms;

39 (G) The official mascot of West Virginia University, commonly known as the Mountaineer,  
40 acting in his or her official capacity;

41 (H) The official mascot of Parkersburg South High School, commonly known as the Patriot,  
42 acting in his or her official capacity; or

43 (I) Any person, twenty-one years old or older, who has a valid concealed handgun permit  
44 may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle or other  
45 areas of vehicular ingress or egress to a public school: *Provided, That:*

46 (i) When he or she is occupying the vehicle the person stores the handgun out of view  
47 from persons outside the vehicle; or

48 (ii) When he or she is not occupying the vehicle the person stores the handgun out of view  
49 from persons outside the vehicle, the vehicle is locked, and the handgun is in a locked trunk, glove  
50 box or other interior compartment, or in a locked container securely fixed to the vehicle.

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

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

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

60 (2) The appropriate local office of the State Police, county sheriff or municipal police  
61 agency.

62 (d) In addition to the methods of disposition provided by article five, chapter forty-nine of  
63 this code, a court which adjudicates a person who is fourteen years of age or older as delinquent  
64 for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend

65 a driver's license or instruction permit issued to the person for a period of time as the court  
66 considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has  
67 not been issued a driver's license or instruction permit by this state, a court may order the Division  
68 of Motor Vehicles to deny the person's application for a license or permit for a period of time as  
69 the court considers appropriate, not to extend beyond the person's nineteenth birthday. A  
70 suspension ordered by the court pursuant to this subsection is effective upon the date of entry of  
71 the order. Where the court orders the suspension of a driver's license or instruction permit  
72 pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in  
73 the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

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

86 (3) If, upon examination of the transcript of the judgment of conviction, the commissioner  
87 determines that the person was convicted as described in subdivision (1) of this subsection, the  
88 commissioner shall make and enter an order revoking the person's license or privilege to operate  
89 a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled  
90 in a secondary school, for a period of one year or until the person's twentieth birthday, whichever

91 is the greater period. The order shall contain the reasons for the revocation and the revocation  
92 period. The order of suspension shall advise the person that because of the receipt of the court's  
93 transcript, a presumption exists that the person named in the order of suspension is the same  
94 person named in the transcript. The commissioner may grant an administrative hearing which  
95 substantially complies with the requirements of the provisions of section two, article five-a, chapter  
96 seventeen-c of this code upon a preliminary showing that a possibility exists that the person  
97 named in the notice of conviction is not the same person whose license is being suspended. The  
98 request for hearing shall be made within ten days after receipt of a copy of the order of  
99 suspension. The sole purpose of this hearing is for the person requesting the hearing to present  
100 evidence that he or she is not the person named in the notice. If the commissioner grants an  
101 administrative hearing, the commissioner shall stay the license suspension pending the  
102 commissioner's order resulting from the hearing.

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

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

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

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

114 (2) This subsection does not apply to:

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

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

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

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

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

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

**§61-7-14. Right of certain persons to limit possession of firearms on premises.**

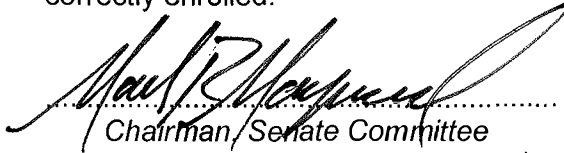
1 Notwithstanding the provisions of this article, any owner, lessee or other person charged  
2 with the care, custody and control of real property may prohibit the carrying openly or concealing  
3 of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes  
4 of this section "person" means an individual or any entity which may acquire title to real property.

5 Any person carrying or possessing a firearm or other deadly weapon on the property of  
6 another who refuses to temporarily relinquish possession of the firearm or other deadly weapon,  
7 upon being requested to do so, or to leave the premises, while in possession of the firearm or  
8 other deadly weapon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not  
9 more than \$1,000 or confined in jail not more than six months, or both: *Provided*, That the  
10 provisions of this section do not apply to a person as set forth in subdivisions (3) through (7),  
11 inclusive, subsection (a), section six of this article while the person is acting in an official capacity;  
12 and to a person as set forth in subdivisions (1) through (8), inclusive, subsection (b) of said  
13 section, while the person is acting in his or her official capacity: *Provided, however*, That under



14 no circumstances, except as provided for by the provisions of paragraph (l), subdivision (2),  
15 subsection (b), section eleven-a of this article, may any person possess or carry or cause the  
16 possession or carrying of any firearm or other deadly weapon on the premises of any primary or  
17 secondary educational facility in this state unless the person is a law-enforcement officer or he or  
18 she has the express written permission of the county school superintendent.

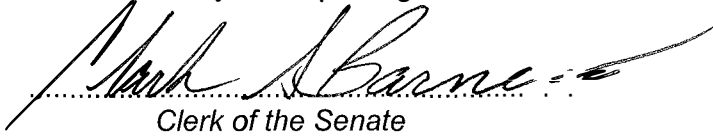
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

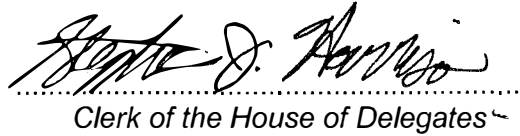
  
Chairman, Senate Committee

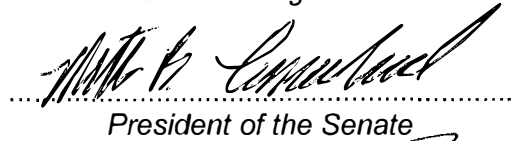
  
Chairman, House Committee

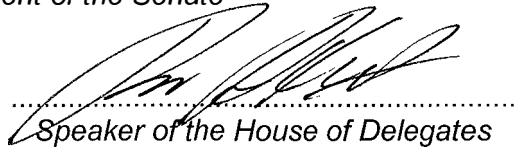
Originated in the Senate.

In effect 90 days from passage.

  
Clerk of the Senate

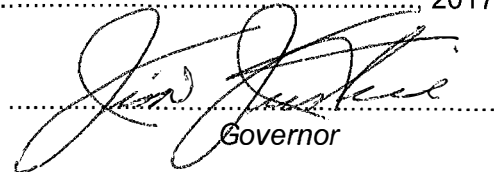
  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

FILED  
2017 APR 26 P 7:57  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within is approved this the 26<sup>th</sup>  
Day of April, 2017.

  
Governor

PRESENTED TO THE GOVERNOR

APR 21 2017

Time 1:08 pm