WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

House Bill 2691

BY DELEGATES HOWELL, D. JEFFRIES, PACK, PHILLIPS, WORRELL, SYPOLT, HOTT, C. MARTIN, CADLE, DEAN AND STORCH

[Passed March 4, 2019; in effect from passage.]
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[Passed March 4, 2019; in effect from passage.]
AN ACT to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to providing that a license to carry a concealed deadly weapon currently in effect expires on the holder’s birthday occurring during the fifth year of licensure or five years from the date of issuance, whichever is later in time; providing that renewals of such licenses and licenses newly issued after the effective date of the amendments to this section are valid for five years from the licensee’s birthday, and maintaining provisions making licenses subject to revocation for cause.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in §61-7-4(h) of this code, 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 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 §29-26-6 of this code. Concealed weapons license may only be issued for pistols and 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, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. § 922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application
(3) That the applicant is twenty-one years of age or older;

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

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

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

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

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

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, 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;

(8) 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 order.
41 protective order or is the subject of a final domestic violence protective order entered by a court
42 of any jurisdiction;
43
44 (9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily
45 committed to a mental institution. If the applicant has been adjudicated mentally incompetent or
46 involuntarily committed the applicant must provide a court order reflecting that the applicant is no
47 longer under such disability and the applicant’s right to possess or receive a firearm has been
48 restored;
49
50 (10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or
51 federal law, including 18 U.S.C. § 922(g) or (n), from receiving, possessing, or transporting a
52 firearm;
53
54 (11) That the applicant has qualified under the minimum requirements set forth in
55 subsection (d) of this section for handling and firing the weapon: Provided, That this requirement
56 shall be waived in the case of a renewal applicant who has previously qualified; and
57
58 (12) That the applicant authorizes the sheriff of the county, or his or her designee, to
59 conduct an investigation relative to the information contained in the application.
60
61 (b) For both initial and renewal applications, the sheriff shall conduct an investigation
62 including a nationwide criminal background check consisting of inquiries of the National Instant
63 Criminal Background Check System, the West Virginia criminal history record responses and the
64 National Interstate Identification Index and shall review the information received in order to verify
65 that the information required in subsection (a) of this section is true and correct. A license may
66 not be issued unless the issuing sheriff has verified through the National Instant Criminal
67 Background Check System that the information available to him or her does not indicate that
68 receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-
69 7-7 of this code or federal law, including 18 U.S.C. § 922(g) or (n).
70
71 (c) Sixty dollars of the application fee and any fees for replacement of lost or stolen
72 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 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 considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: Provided, That the completed course includes the actual live firing of ammunition by the applicant:

(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 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 or proof of other handgun qualification received while serving in 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 the 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 is evidence of qualification under this section and shall include the instructor’s name, signature and NRA or state instructor identification number, if applicable.
(e) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 et seq. of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of $25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid until the licensee’s birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid for a period of five years from the licensees’ most recent birthday.

(h) 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. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs’ Bureau of Professional Standards, 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.

(j) 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 30 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 is the court 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. If the findings of fact and conclusions of
law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and
attorney’s fees, payable by the sheriff’s office which issued the denial.

(k) 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.

(l) Whenever any person after applying for and receiving a concealed weapon license
moves from the address named in the application to another county within the state, the license
remains valid for the remainder of the five years unless the sheriff of the new county has
determined that the person is no longer eligible for a concealed weapon license under this article,
and the sheriff shall issue a new license bearing the person’s new address and the original
expiration date for a fee not to exceed $5: Provided, That the licensee, within 20 days thereafter,
notifies the sheriff in the new county of residence in writing of the old and new addresses.

(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) 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.

(o) 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.

(p) Notwithstanding subsection (a) of this section, with respect to application by a former law-enforcement officer honorably retired from agencies governed by §7-14-1 et seq. of this code; §8-14-1 et seq. of this code; §15-2-1 et seq. of this code; and §20-7-1 et seq. of this code, an honorably retired officer is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon license, is confidential: Provided, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 or more than $200 for each offense.

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed $50: Provided, That if such training was provided for free or for less than $50, then such tax credit may be applied to the fees associated with the initial application.
(s) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

\[ Signature \]
Chairman, House Committee

\[ Signature \]
Chairman, Senate Committee

Originating in the House.

In effect from passage.

\[ Signature \]
Clerk of the House of Delegates

\[ Signature \]
Clerk of the Senate

\[ Signature \]
Speaker of the House of Delegates

\[ Signature \]
President of the Senate

The within … is approved … this the … 25th … day of … March … … 2019.

\[ Signature \]
Governor
PRESENTED TO THE GOVERNOR

MAR 06 2019

Time 2:36 pm