

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

PA 1:26
STATE
OFFICE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Public Safety TITLE NUMBER: 81

RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §15-2-25

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

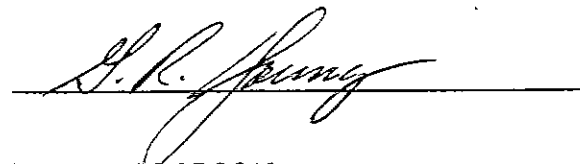
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: VI

TITLE OF RULE BEING PROPOSED: Carrying of Handguns by Retired or
Medically Discharged Members

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 10, 1991 AT 5:00pm. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Superintendent
Division of Public Safety
725 Jefferson Road
South Charleston, WV 25309

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

a.

Carrying of Handguns by Retired or Medically Discharged Members

Legislative Interpretive Procedural

Department of Public Safety Address 725 Jefferson Road,
Charleston, WV 25309

b. Industries;

Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Total Cost	\$	\$	\$2,400	\$2,400	\$2,400
Services					
Expense			\$2,400	\$2,400	\$2,400
Alterations:					

of above estimates:
 The primary cost associated with these rules is the cost of bonding retired
 Officers. We estimate that a five (5) year bond will cost \$200
 and that approximately twelve (12) bonds will have to be purchased
 resulting in an annual cost of \$2,400.

of these rules:
 These rules are implemented in accordance with West Virginia Code
 and are intended to govern the issuance and termination of author-
 ized retired and medically discharged members of the State Police
 carrying handguns and sets specific requirements for the type and condition
 of handgun carried under the provisions of this rule.



Department of Public Safety
(West Virginia State Police)
725 Jefferson Road
South Charleston, West Virginia 25309

Gaston Caperton
Governor

Colonel J. R. Buckalew
Superintendent

July 3, 1991

*Approved
11 July 91*

Major General Joseph J. Skaff
Secretary, Department of Public Safety
State Capitol Building
Post Office Box 2930
Charleston, West Virginia 25305-0001

Dear General Skaff:

Attached are the procedures for the carrying of handguns by retired or medically discharged members of the Division. These procedures require your review and approval before submission to the Secretary of State's Office.

Sincerely,

COLONEL J. R. BUCKALEW
SUPERINTENDENT

JRB:mr

Attachment

GENERAL

*we are fighting a deadline on filing these
with the Sec of STATE 7-11-91*

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PUBLIC SAFETY
CHAPTER 15-2
SERIES VI
FILING

Title: Carrying of Handguns by Retired or Medically Discharged Members

Section 1. General

1.1 Scope - This rule prescribes the requirements for the issuance and termination of authorization for retired and medically discharged members of the West Virginia State Police to carry handguns and sets specific requirements for the type and condition of any handgun carried under the provisions of this rule.

1.2 Authority and related Code Citation - West Virginia Code 15-2-25, effective July 1, 1990.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Authorization Requirements

2.1 Upon retirement, a member of the Division of Public Safety may submit a request to the Superintendent for authorization to carry within the State of West Virginia a handgun, concealed or otherwise, upon his or her person, provided:

a. The retired member is retired honorably with at least twenty (20) years of service; or

b. The retired member is retired with less than twenty years of service due to a total or partial disability, regardless of whether such disability resulted from his or her service with the division, as determined by the Consolidated Public Retirement Board; and provided that any such disability does not affect the retired member's ability to safely operate and control the handgun during firing, as determined by the Superintendent.

2.2 A request submitted in compliance with this rule must be of written form, shall include the retired member's name, complete address and signature and may be submitted at any time prior to the last day of the fourth year of the member's retirement status.

2.3 The authorization issuance provisions of this rule shall expressly exclude:

a. Any member whose retirement from the Division was effective on or before June 30, 1990;

b. Any member whom the Superintendent finds to be mentally incapacitated; and

c. Any member whom the Superintendent finds to constitute a danger to any person or the community.

Section 3. Authorization Issuance

3.1 The Superintendent shall review all requests submitted in accordance with the Authorization Requirements of this rule and will issue authorization to carry a handgun to every member whose request is approved.

3.2 Authorization issued pursuant to this rule shall be provided by the Superintendent and will consist of a letter or certificate signed by the Superintendent indicating the date of issuance and the date of expiration and may be accompanied by a mechanically reproduced copy of such letter or certificate, reduced in size to permit convenient carrying and display. Any such issued authorization shall remain the property of the Division and any retired or medically discharged member accepting such authorization will agree through such action to return the authorization to the Division immediately upon any termination or revocation, as provided by the Authorization Termination and Revocation section of this rule, excepting any authorization in the possession of the retired or medically discharged member on the date of expiration may be retained as memorabilia.

3.3 Authorization issued pursuant to this rule shall be carried by the retired or medically discharged member at all times that he or she has a handgun on his or her person and when such handgun is carried under the authority granted herein.

3.4 Any retired or medically discharged member receiving authorization, as provided herein, shall advise the Superintendent in writing of any change of address and the effective date of such change.

Section 4. Authorization Termination and Revocation

4.1 Authorization, as provided and approved herein, shall terminate immediately and permanently without any right of hearing or other recourse and without any action required by the Superintendent in all cases where the retired or medically discharged member is convicted of any felony or any misdemeanor involving the improper or illegal use of a firearm.

4.2 Authorization, as provided and approved herein, shall terminate without possibility of renewal or extension upon expiration of five years immediately following retirement or medical discharge, notwithstanding the total elapsed period following the authorization issuance.

4.3 Authorization, as provided and approved herein, may be revoked by the Superintendent at any time without cause or recourse. Upon revoking the authorization of any retired or medically discharged member, as hereinbefore in this section provided, the Superintendent shall forthwith notify the member of such revocation, in writing, sent by certified mail, return receipt requested, to the most recent address provided by the member. The return of the receipt or the notice to the Superintendent shall exist as presumptive evidence that proper notice of revocation was given, notwithstanding any reason for non-delivery, unless and until it can be established that the Division directed the notice to an incorrect or non-existent address in contradiction to that address supplied in compliance with section 3.4 of this rule.

Section 5. Handgun Certification

5.1 Any handgun carried under the authority granted herein must be owned or otherwise maintained by the retired or medically discharged member and of reputable manufacture.

5.2 There shall be no restriction as to barrel length, caliber or action type, excepting no handgun capable of full automatic function may be carried under the authority of this rule.

5.3 All handguns carried under this authority must be certified as mechanically reliable by the Firearms/Toolmarks Section of the West Virginia State Police Forensic Laboratory. The provisions of this subsection shall not apply to any handgun owned by the member and awarded under the authority of Chapter 15, Article 2, Section 43, as amended.