

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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1991 AUG 12 PM 2:45
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: DIVISION OF PUBLIC SAFETY TITLE NUMBER: 81

CITE AUTHORITY West Virginia Code §15-2-25

AMENDMENT TO AN EXISTING RULE: YES NO

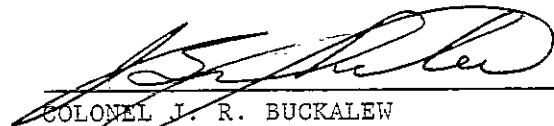
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



COLONEL J. R. BUCKALEW
Superintendent
Division of Public Safety

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Carrying of Handguns by Retired or Medically Discharged Members

Type of Rule: X Legislative Interpretative Procedural

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

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$2,400	\$2,400	\$2,400
Personal Services					
Current Expense			\$2,400	\$2,400	\$2,400
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

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

3. Objectives of these rules:

These rules are implemented in accordance with West Virginia Code §15-2-25 and are intended to govern the issuance and termination of authorization for retired and medically discharged members of the State Police to carry handguns and sets specific requirements for the type and condition of any handgun carried under the provisions of this rule.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: 7-11-91

Signature of Agency Head or Authorized Representative

A. R. Young

DIVISION OF PUBLIC SAFETY

DATE: August 12, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Division of Public Safety (State Police)

LEGISLATIVE RULE TITLE: Carrying of Handguns By Retired or Medically Discharged Members

1. Authorizing statute(s) citation West Virginia Code §15-2-25

2. a. Date filed in State Register with Notice of Hearing:

July 11, 1991

b. What other notice, including advertising, did you give of the hearing?

All Division members received a copy of the proposed rule via Division Notice 91-28 which encouraged them to review the rule and to make their comments, in writing, to the Superintendent.

c. Date of ~~XXXXXXXXXX~~ comment period: July 11, 1991

August 10, 1991

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 12, 1991

f. Name and phone number of agency person to contact for additional information:

Colonel J. R. Buckalew, Superintendent

725 Jefferson Road

South Charleston, WV 25309

746-2111

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what data did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



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

Gaston Caperton
Governor

Colonel J. R. Buckalew
Superintendent

COMMENTS RECEIVED AND AMENDMENTS MADE TO
WEST VIRGINIA STATE POLICE
LEGISLATIVE RULE
SERIES VI
FILING

The comment period for this proposed rule was in effect from July 12 - August 10, 1991. No comments were received, therefore, no changes to the proposed rule were made.

SUMMARY OF RULE EFFECTS

The Legislative Rule of the West Virginia State Police governing the carrying of handguns by retired or medically discharged members was written in compliance with §15-2-25 of the Code of West Virginia, as amended during the 1990 Session of the West Virginia Legislature, and prescribes the requirements necessary for the issuance and continuance of the authority granted therein.

Section 1 is a **General** section, identifying the rule's scope and the statutory authority under which the rule was promulgated.

Section 2 defines the **Authorization Requirements** which must be met before the Superintendent would give his permission for a retired or medically discharged member to carry a handgun.

Section 3 deals with the **manner and form** in which the **Authorization Issuance** would be given by the Superintendent.

Section 4 details the circumstances under which **Authorization Termination and Revocation** action may be taken by the Superintendent.

Section 5 explains the **Handgun Certification** requirements which must be met before a retired or medically discharged member may carry a handgun under the authority of this rule.

This Legislative Rule is a general guideline under which specific procedures for the granting of authority for retired or medically discharged members to carry a handgun are to be administered. This rule effects only those sworn members whose retirement or medical discharge became effective after June 30, 1990 and has no applicability to the Division civilian employees or any other employees of the Department of Public Safety.



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
7/11/91*

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 fixing 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.