

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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FILED
1992 MAY -1 PM 12: 21
OFFICE OF THE SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Division of Public Safety TITLE NUMBER: 81

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 1

SECTION 64-6-4 (f), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: May 1, 1992


Colonel J. R. Buckalew
Superintendent

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

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

b. The 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 or medically discharged member's ability to safely operate and control the handgun during firing, as determined by the Superintendent.

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2.2 A request submitted in compliance with this rule must be in writing and shall include the retired or medically discharged member's name, complete address and signature. The retired or medically discharged member may submit a request at any time prior to the last day of the fourth year of the member's retirement.

2.3 The following retired or medically discharged members are ineligible to receive an authorization under the provisions of this rule:

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

b. Any retired or medically discharged member whom the Superintendent finds to be mentally incapacitated; and

c. Any retired or medically discharged 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 Section 2 of this rule and will issue authorization to carry a handgun to every retired or medically discharged member whose request is approved.

3.2 The Superintendent shall provide the authorization issued pursuant to this rule which 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 issued authorization remains the property of the Division and any retired or medically discharged member accepting such authorization agrees through such action to return the authorization to the Division immediately upon any termination or revocation of the authorization, as provided by Section 4 of this rule: Provided that any authorization in the possession of the retired or medically discharged member on the date of expiration may be retained as memorabilia.

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3.3 The retired or medically discharged member shall carry the authorization issued pursuant to this rule 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 in this rule.

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

Section 4. Authorization Termination and Revocation

4.1 An authorization, as provided and approved under this rule, terminates 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 An authorization, as provided and approved under this rule, terminates without the possibility of renewal or extension upon the expiration of five years immediately following the retirement or medical discharge, notwithstanding the total elapsed period following the authorization's issuance.

4.3 The Superintendent may revoke an authorization, as provided and approved under this rule, at any time without cause or recourse. Upon revoking the authorization of any retired or medically discharged member, as provided for in this section, the Superintendent shall immediately notify the retired or medically discharged member of the revocation, in writing, sent by certified mail, return receipt requested, to the most recent address provided by the retired or medically discharged member. The return of the receipt or the notice to the Superintendent is 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 The retired or medically discharged member must own or otherwise maintain any handgun carried under the authority granted under this rule and the handgun must be of reputable manufacture.

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5.2 There is no restriction on a handgun as to barrel length, caliber or action type, except that no person may carry a handgun capable of full automatic function under the authority of this rule.

5.3 All handguns carried under the authority of this rule must be certified as mechanically reliable by the Firearms/Toolmarks Section of the West Virginia State Police Forensic Laboratory. The provisions of this subsection do not apply to any handgun owned by the retired or medically discharged member and awarded under the authority of West Virginia Code §15-2-43.

Bill - Public Safety, Handguns 81-6

H. B. 4318

(By Delegare Grubb)

(Introduced January 27, 1992; referred to the
Committee on the Judiciary)

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10 A BILL to amend and reenact section four, article six, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of public safety to promulgate legislative rules
14 relating to the carrying of handguns by retired or medically
15 discharged members.

16 Be it enacted by the Legislature of West Virginia:

17 That section four, article six, chapter sixty-four of the
18 code of West Virginia, one thousand nine hundred thirty-one, as
19 amended, be amended and reenacted, to read as follows:

20 ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO
21 PROMULGATE LEGISLATIVE RULES.

22 §64-6-4. Division of public safety.

23 (a) The legislative rules filed in the state register on the
24 twenty-third day of September, one thousand nine hundred

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1 eighty-three, relating to the department of public safety
2 (general orders), are authorized with the amendment set forth
3 below:

4 Page 23, §9.10, remove the period at the end of the sentence
5 and add the words "or municipalities."

6 (b) The legislative rules filed in the state register on the
7 twenty-second day of June, one thousand nine hundred eighty-four,
8 modified by the department of public safety to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the fifth day of December, one
11 thousand nine hundred eighty-four, relating to the department of
12 public safety (commission on drunk driving), are authorized.

13 (c) The legislative rules filed in the state register on the
14 ninth day of August, one thousand nine hundred ninety, modified
15 by the division of public safety to meet the objections of the
16 legislative rule-making review committee and refiled in the state
17 register on the twentieth day of December, one thousand nine
18 hundred ninety, relating to the division of public safety (West
19 Virginia state police career progression system), are authorized.

20 (d) The Legislature hereby authorizes and directs the
21 division of public safety to promulgate legislative rules
22 relating to the requirements and qualifications for official
23 inspection stations and the issuance of permits for the stations.
24 Such legislative rules, in establishing requirements and
25 qualifications for official inspection stations shall not require

1 bay doors at such stations to be greater than eight feet in
2 height.

3 (e) The legislative rules filed in the state register on the
4 twelfth day of August, one thousand nine hundred ninety-one,
5 modified by the division of public safety to meet the objections
6 of the legislative rule-making review committee and refiled in
7 the state register on the nineteenth day of November, one
8 thousand nine hundred ninety-one, relating to the division of
9 public safety (carrying of handguns by retired or medically
10 discharged members), are authorized.

11
12 NOTE: The purpose of this bill is to authorize the Division
13 of Public Safety to promulgate legislative rules relating to the
14 carrying of handguns by retired or medically discharged members.

15
16 Strike-throughs indicate language that would be stricken from
17 the present law, and underscoring indicates new language that
18 would be added.



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STATE OF WEST VIRGINIA

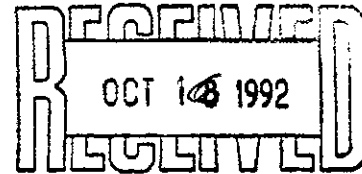
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PLANNING & RESEARCH

TO: Trooper B. Bell

AGENCY: Division of Public Safety

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 6 TITLE: Division of Public Safety

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MADE.

SIGNED: Dr. C. Bell

TITLE OF PERSON SIGNING: Director Planning & Research

DATE: 10-29-92

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE APPROPRIATE AGENCY.