

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

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2005 APR 26 P 2:29

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Form #6

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

AGENCY: West Virginia State Police TITLE NUMBER: 81

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

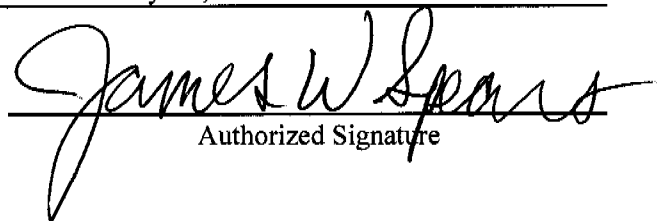
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 386

SECTION 64-6-3(c), PASSED ON April 7, 2005

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: May 16, 2005

  
Authorized Signature

#2.60

FILED

TITLE 81  
LEGISLATIVE RULE  
WEST VIRGINIA STATE POLICE

2005 APR 26 P 2: 29

SERIES 6  
CARRYING OF HANDGUNS BY RETIRED  
OR MEDICALLY DISCHARGED MEMBERS

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§81-6-1. 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. -- W. Va. Code §15-2-25.

1.3. Filing Date. -- April 26, 2005.

1.4. Effective Date. -- May 16, 2005

**§81-6-2. Authorization Requirements.**

2.1. Upon retirement or medical discharge, a member of the West Virginia State Police 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 Department, 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.

2.2. A request submitted in compliance with

this rule for either issuance or renewal of an authorization must be in writing upon a form prescribed by the Superintendent and shall include the retired or medically discharged member's name, complete address, signature and other information as requested. The retired or medically discharged member, or a member petitioning for retirement, may submit a request at any time.

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

(a) Any retired or medically discharged member the Superintendent finds to be mentally incapacitated; or

(b) Any retired or medically discharged member the Superintendent finds to constitute a danger to any person or the community.

**§81-6-3. Authorization Issuance.**

3.1. The Superintendent shall review all requests submitted in accordance with Section 2 of this rule and shall 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 shall cause to be issued an authorization identification card to permit convenient carrying and display. Any issued authorization remains the property of the Department and any retired or medically discharged member accepting such authorization

agrees through such action to return the authorization to the Department 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.

3.3. The retired or medically discharged member shall carry the authorization identification card 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 within thirty (30) days of any change of address and the effective date of the change.

3.5. Holders of authorizations issued under the provisions of this rule shall have the same privileges and rights as enjoyed by persons issued concealed pistol/handgun permits under the authority of W. Va. Code §61-7.

**§81-6-4. Authorization Termination, Revocation and Renewal.**

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, any misdemeanor involving the improper or illegal use of a firearm, or any misdemeanor involving domestic violence.

4.2. An authorization, as provided and approved under this rule, terminates with the possibility of renewal upon the expiration of five years following the date of the authorization's issuance.

4.3 Retired or medically discharged members may submit a request for authorization

renewal within sixty (60) days of the current authorization's expiration date as specified in Section 2.2 of this rule.

4.4. 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 Department 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.

**§81-6-5. 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.

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 W. Va. Code §15-2-43.