State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

June 2, 2014

(304) 558-2021
Fax (304) 558-0410

The Honorable Lawrence G. Wasden
Attorney General of Idaho
Criminal Law Division, Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642

RE: Concealed Handgun Reciprocity with the State of West Virginia

Dear Attorney General Wasden:

I am writing to confirm that your state still recognizes West Virginia concealed handgun permits.

So that our Office may satisfy the statutory requirements of W.Va. Code § 61-7-6a, it would be greatly appreciated if you could provide written confirmation of the following:

1. Whether a West Virginia resident may carry a concealed handgun in your state based upon having a valid West Virginia concealed handgun permit; and,
2. Whether a West Virginia resident may carry a concealed handgun in your state based upon having a valid West Virginia concealed handgun permit, pursuant to the laws of your state or by the execution of a valid reciprocity agreement or mutual recognition between our two states.

To assist with your review, please find enclosed a copy of West Virginia's latest concealed handgun permitting standards, which were recently updated by the West Virginia Legislature in an effort to satisfy the ATF's requirements for a Brady exemption. Specifically, W.Va. Code § 61-7-4 was amended to ensure that West Virginia concealed handgun licenses may be issued only after an authorized government official has verified that possession or receipt of a firearm by the applicant would not be in violation of state or federal law.

West Virginia greatly values your state's previous recognition of our concealed handgun permits, and hopes to continue this recognition into the future. Please feel free to contact me if you need any additional information, or have any questions regarding this matter.

Sincerely,

Richard R. Heath, Jr.
Deputy Attorney General

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2014

ENROLLED

House Bill No. 4186

(By Delegates Phillips, R., White, Tomblin, Marcum, Hamilton, Evans, A., Ashley, Barker, Boggs, Hartman and Sponaugle)

Passed March 6, 2014

In effect ninety days from passage.

E N R O L L E D

H. B. 4186

(BY DELEGATES PHILLIPS, R., WHITE,
TOMBLIN, MARCUM, HAMILTON, EVANS, A.,
ASHLEY, BARKER, BOGGS, HARTMAN AND SPONAUGLE)

[Passed March 6, 2014; in effect ninety days from passage.]

AN ACT to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to the procedures for issuing a concealed weapon license; adding requirements to ensure that an applicant is not prohibited under the provisions of state or federal law from the receipt or possession of a firearm.

Be it enacted by the Legislature of West Virginia:

That §61-7-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

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

2 (a) Except as provided in subsection (h) of this section, any
3 person desiring to obtain a state license to carry a concealed
4 deadly weapon shall apply to the sheriff of his or her county for
5 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 section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or 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 resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older: *Provided,* That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: *Provided, however,* That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of

40 age, then the individual issued the license is no longer eligible
41 and must return his or her license to the issuing sheriff;

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

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

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

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

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

58 (7) That the applicant has not been convicted of a
59 misdemeanor crime of domestic violence as defined in 18 U. S.
60 C. § 921(a)(33), or a misdemeanor offense of assault or battery
61 either under the provisions of section twenty-eight, article two of
62 this chapter or the provisions of subsection (b) or (c), section
63 nine, article two of this chapter in which the victim was a current
64 or former spouse, current or former sexual or intimate partner,
65 person with whom the defendant cohabits or has cohabited, a
66 parent or guardian, the defendant's child or ward or a member of
67 the defendant's household at the time of the offense, or a
68 misdemeanor offense with similar essential elements in a
69 jurisdiction other than this state;

70 (8) That the applicant is not under indictment for a felony
71 offense or is not currently serving a sentence of confinement,

72 parole, probation or other court-ordered supervision imposed by
73 a court of any jurisdiction or is the subject of an emergency or
74 temporary domestic violence protective order or is the subject of
75 a final domestic violence protective order entered by a court of
76 any jurisdiction;

77 (9) That the applicant has not been adjudicated to be
78 mentally incompetent or involuntarily committed to a mental
79 institution. If the applicant has been adjudicated mentally
80 incompetent or involuntarily committed the applicant must
81 provide a court order reflecting that the applicant is no longer
82 under such disability and the applicant's right to possess or
83 receive a firearm has been restored;

84 (10) That the applicant is not prohibited under the provisions
85 of section seven of this article or federal law, including
86 18 U.S.C. § 922(q) or (n), from receiving, possessing or
87 transporting a firearm;

88 (11) That the applicant has qualified under the minimum
89 requirements set forth in subsection (d) of this section for
90 handling and firing the weapon: *Provided,* That this requirement
91 shall be waived in the case of a renewal applicant who has
92 previously qualified; and

93 (12) That the applicant authorizes the sheriff of the county,
94 or his or her designee, to conduct an investigation relative to the
95 information contained in the application.

96 (b) For both initial and renewal applications, the sheriff shall
97 conduct an investigation including a nationwide criminal
98 background check consisting of inquiries of the National Instant
99 Criminal Background Check System, the West Virginia criminal
100 history record responses and the National Interstate
101 Identification Index and shall review the information received in
102 order to verify that the information required in subsection (a) of
103 this section is true and correct. A license may not be issued

104 unless the issuing sheriff has verified through the National
105 Instant Criminal Background Check System that the information
106 available to him or her does not indicate that receipt or
107 possession of a firearm by the applicant would be in violation of
108 the provisions of section seven of this article or federal law,
109 including 18 U.S.C. § 922(g) or (n).

110 (c) Sixty dollars of the application fee and any fees for
111 replacement of lost or stolen licenses received by the sheriff
112 shall be deposited by the sheriff into a concealed weapons
113 license administration fund. The fund shall be administered by
114 the sheriff and shall take the form of an interest-bearing account
115 with any interest earned to be compounded to the fund. Any
116 funds deposited in this concealed weapon license administration
117 fund are to be expended by the sheriff to pay the costs associated
118 with issuing concealed weapons licenses. Any surplus in the
119 fund on hand at the end of each fiscal year may be expended for
120 other law-enforcement purposes or operating needs of the
121 sheriff's office, as the sheriff considers appropriate.

122 (d) All persons applying for a license must complete a
123 training course in handling and firing a handgun. The successful
124 completion of any of the following courses fulfills this training
125 requirement:

126 (1) Any official National Rifle Association handgun safety
127 or training course;

128 (2) Any handgun safety or training course or class available
129 to the general public offered by an official law-enforcement
130 organization, community college, junior college, college or
131 private or public institution or organization or handgun training
132 school utilizing instructors certified by the institution;

133 (3) Any handgun training or safety course or class conducted
134 by a handgun instructor certified as such by the state or by the
135 National Rifle Association;

136 (4) Any handgun training or safety course or class conducted
137 by any branch of the United States Military, Reserve or National
138 Guard or proof of other handgun qualification received while
139 serving in any branch of the United States Military, Reserve or
140 National Guard.

141 A photocopy of a certificate of completion of any of the
142 courses or classes or an affidavit from the instructor, school,
143 club, organization or group that conducted or taught the course
144 or class attesting to the successful completion of the course or
145 class by the applicant or a copy of any document which shows
146 successful completion of the course or class is evidence of
147 qualification under this section.

148 (e) All concealed weapons license applications must be
149 notarized by a notary public duly licensed under article four,
150 chapter twenty-nine of this code. Falsification of any portion of
151 the application constitutes false swearing and is punishable
152 under the provisions of section two, article five, chapter sixty-
153 one of this code.

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

161 (g) Before any approved license is issued or is effective, the
162 applicant shall pay to the sheriff a fee in the amount of $25
163 which the sheriff shall forward to the Superintendent of the West
164 Virginia State Police within thirty days of receipt. The license is
165 valid for five years throughout the state, unless sooner revoked.

166 (h) Each license shall contain the full name and address of
167 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.

(i) The Superintendent of the West Virginia State Police 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 thirty 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 ~~be~~ 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.

(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 handgun 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: *Provided,* That

201 the licensee within twenty days thereafter notifies the sheriff in
202 the new county of residence in writing of the old and new
203 addresses.

204 (m) The sheriff shall, immediately after the license is
205 granted as aforesaid, furnish the Superintendent of the West
206 Virginia State Police a certified copy of the approved
207 application. The sheriff shall furnish to the Superintendent of the
208 West Virginia State Police at any time so requested a certified
209 list of all licenses issued in the county. The Superintendent of the
210 West Virginia State Police shall maintain a registry of all
211 persons who have been issued concealed weapons licenses.

212 (n) Except when subject to an exception under section six,
213 article seven of this chapter, all licensees shall carry with them
214 a state-issued photo identification card with the concealed
215 weapons license whenever the licensee is carrying a concealed
216 weapon. Any licensee who, in violation of this subsection, fails
217 to have in his or her possession a state-issued photo
218 identification card and a current concealed weapons license
219 while carrying a concealed weapon is guilty of a misdemeanor
220 and, upon conviction thereof, shall be fined not less than $50 or
221 more than $200 for each offense.

222 (o) The sheriff shall deny any application or revoke any
223 existing license upon determination that any of the licensing
224 application requirements established in this section have been
225 violated by the licensee.

226 (p) A person who is engaged in the receipt, review or in the
227 issuance or revocation of a concealed weapon license does not
228 incur any civil liability as the result of the lawful performance of
229 his or her duties under this article.

230 (q) Notwithstanding the provisions of subsection (a) of this
231 section, with respect to application by a former law-enforcement
232 officer honorably retired from agencies governed by article

233 fourteen, chapter seven of this code; article fourteen, chapter
234 eight of this code; article two, chapter fifteen of this code; and
235 article seven, chapter twenty of this code, an honorably retired
236 officer is exempt from payment of fees and costs as otherwise
237 required by this section. All other application and background
238 check requirements set forth in this shall be applicable to these
239 applicants.

240 (r) Except as restricted or prohibited by the provisions of this
241 article or as otherwise prohibited by law, the issuance of a
242 concealed weapon permit issued in accordance with the
243 provisions of this section authorizes the holder of the permit to
244 carry a concealed pistol or revolver on the lands or waters of this
245 state.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Danny Wells
Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Gregory A. Bailey
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 26th day of March, 2014.

Earl Ray Tomblin
Governor

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

June 17, 2014

Richard R. Heath, Jr.
Deputy Attorney General
State of West Virginia
Office of the Attorney General
State Capitol Building 1, Room E-26
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: Concealed Weapons License Reciprocity – West Virginia With Idaho

Dear Mr. Heath:

I am in receipt of your letter of June 2, 2014 regarding concealed handgun reciprocity between the states of West Virginia and Idaho. Idaho responds to your questions as follows.

Question 1 – Whether a West Virginia resident may carry a concealed handgun in your state based upon having a valid West Virginia concealed handgun permit.

> *Answer to Question 1 – Idaho law recognizes all other states' validly issued concealed weapons licenses/permits. The out-of-state person carrying a concealed weapon must have his valid out-of-state concealed weapons license/permit on his person when carrying a concealed weapon in Idaho.*

Question 2 – Whether a West Virginia residence may carry a concealed handgun in your state based upon having a valid West Virginia concealed handgun permit, pursuant to the laws of your state or by the execution of a valid reciprocity agreement or mutual recognition between our two states.

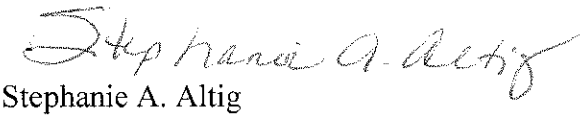
> *Answer to Question 2 – Idaho law recognizes all other states' validly issued concealed weapons licenses/permits. Idaho does not require a reciprocity agreement or mutual recognition, but Idaho will enter into a reciprocity agreement if another state requires such an agreement.*

Idaho greatly values West Virginia's previous recognition of Idaho's concealed weapons licenses and hopes to continue this recognition into the future.

Criminal Law Division, Idaho State Police
700 S. Stratford Drive, Meridian, Idaho 83642
Telephone: (208) 884-7050, FAX: (208) 884-7228

Since Idaho law requires the Idaho Attorney General's Office to contact other states for this same purpose, you will receive a similar letter from me sometime during the first part of July 2014. I look forward to your response to that as well.

Sincerely,



Stephanie A. Altig
Lead Deputy Attorney General
Idaho State Police