

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 4

BY SENATORS RUCKER, CLINE, ROBERTS, STOLLINGS,

TARR, LINDSAY, SMITH, AND MARONEY

[Introduced January 8, 2020; referred

to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating
2 to dangerous weapons; defining “pepper spray”; exempting pepper spray from definition
3 of “deadly weapons”; and providing that persons over 16 years of age may carry pepper
4 spray for the purpose of self-defense.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

1 As used in this article, unless the context otherwise requires:

2 (1) “Blackjack” means a short bludgeon consisting, at the striking end, of an encased piece
3 of lead or some other heavy substance and, at the handle end, a strap or springy shaft which
4 increases the force of impact when a person or object is struck. The term “blackjack” shall include,
5 but not be limited to, a billy, billy club, sand club, sandbag or slapjack.

6 (2) “Gravity knife” means any knife that has a blade released from the handle by the force
7 of gravity or the application of centrifugal force and when so released is locked in place by means
8 of a button, spring, lever or other locking or catching device.

9 (3) “Knife” means an instrument, intended to be used or readily adaptable to be used as
10 a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to
11 a handle which is capable of inflicting cutting, stabbing or tearing wounds. The term “knife” shall
12 include, but not be limited to, any dagger, dirk, poniard or stiletto, with a blade over three and one-
13 half inches in length, any switchblade knife or gravity knife and any other instrument capable of
14 inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one-half inches
15 or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational
16 uses or a knife designed for use as a tool or household implement shall not be included within the
17 term “knife” as defined herein unless such knife is knowingly used or intended to be used to
18 produce serious bodily injury or death.

19 (4) “Switchblade knife” means any knife having a spring-operated blade which opens

20 automatically upon pressure being applied to a button, catch or other releasing device in its
21 handle.

22 (5) "Nunchaku" means a flailing instrument consisting of two or more rigid parts, connected
23 by a chain, cable, rope or other nonrigid, flexible or springy material, constructed in such a manner
24 as to allow the rigid parts to swing freely so that one rigid part may be used as a handle and the
25 other rigid part may be used as the striking end.

26 (6) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece
27 to be worn over the front of the hand for use as a weapon and constructed in such a manner that,
28 when striking another person with the fist or closed hand, considerable physical damage may be
29 inflicted upon the person struck. The terms "metallic or false knuckles" shall include any such
30 instrument without reference to the metal or other substance or substances from which the
31 metallic or false knuckles are made.

32 (7) "Pistol" means a short firearm having a chamber which is integral with the barrel,
33 designed to be aimed and fired by the use of a single hand.

34 (8) "Revolver" means a short firearm having a cylinder of several chambers that are
35 brought successively into line with the barrel to be discharged, designed to be aimed and fired by
36 the use of a single hand.

37 (9) "Deadly weapon" means an instrument which is designed to be used to produce
38 serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" shall
39 include, but not be limited to, the instruments defined in subdivisions (1) through (8), inclusive, of
40 this section or other deadly weapons of like kind or character which may be easily concealed on
41 or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in
42 addition to the definition of "knife" set forth in subdivision (3) of this section, the term "deadly
43 weapon" also includes any instrument included within the definition of "knife" with a blade of three
44 and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and
45 §61-7-11a of this code, the term "deadly weapon" includes explosive, chemical, biological and
46 radiological materials. Notwithstanding any other provision of this section, the term "deadly

47 weapon” does not include any item or material owned by the school or county board, intended for
48 curricular use, and used by the student at the time of the alleged offense solely for curricular
49 purposes, nor does the term “deadly weapon” include any material defined as pepper spray, which
50 is a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes
51 irritation and blinding of the eyes and inflammation of the nose, throat, and skin, intended for self-
52 defense use, and used by any person over the age of 16 solely for self-defense purposes.

53 (10) “Concealed” means hidden from ordinary observation so as to prevent disclosure or
54 recognition. A deadly weapon is concealed when it is carried on or about the person in such a
55 manner that another person in the ordinary course of events would not be placed on notice that
56 the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee
57 shall be deemed to be carrying on or about his or her person while in or on a motor vehicle if the
58 firearm is located in a storage area in or on the motor vehicle.

59 (11) “Firearm” means any weapon which will expel a projectile by action of an explosion.

60 (12) “Controlled substance” has the same meaning as is ascribed to that term in
61 ~~subsection (d), section one hundred one, article one, chapter sixty-a~~ §60A-1-101(e) of this code.

62 (13) “Drug” has the same meaning as is ascribed to that term in ~~subsection (4), section~~
63 ~~one hundred one, article one, chapter sixty-a~~ §60A-1-101(m) of this code.

NOTE: The purpose of this bill is to define pepper spray and to exclude pepper spray, used by persons over the age of 16 years solely for self-defense, from the defined class of deadly weapons.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.