

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4573

By Delegate Horst

[Introduced January 10, 2024; 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 to
 2 adding definition of "ammunition" for purposes of obtaining state license to carry concealed
 3 deadly weapon.

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) Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant
 3 powder designed for use in any firearm. The term "ammunition" includes ammunition designed for
 4 training and includes, but is not limited to, marking rounds and simulated training munitions.

5 ~~(1)~~ (2) "Antique firearm" means:

6 (A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock,
 7 percussion cap, or similar type of ignition system which was manufactured on or before 1898;

8 (B) Any replica of any firearm described in paragraph (A) of this subdivision if ~~such~~ the
 9 replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition
 10 which is no longer manufactured in the United States and which is not readily available in the
 11 ordinary channels of commercial trade; and

12 (C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is
 13 designed to use black powder, or black powder substitute, and which cannot use fixed
 14 ammunition. For purposes of this subdivision, the term "antique firearm" ~~shall~~ does not include
 15 any weapon which includes a firearm frame or receiver, any firearm which is converted into a
 16 muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire
 17 fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

18 ~~(2)~~ (3) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased
 19 piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which
 20 increases the force of impact when a person or object is struck. The term "blackjack" includes, but

21 is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

22 ~~(3)~~ (4) "Concealed" means hidden from ordinary observation so as to prevent disclosure or
23 recognition. A deadly weapon is concealed when it is carried on or about the person in such a
24 manner that another person in the ordinary course of events would not be placed on notice that the
25 deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is
26 considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm
27 is located in a storage area in or on the motor vehicle.

28 ~~(4)~~ (5) "Controlled substance" has the same meaning as is ascribed to that term in §60A-1-
29 101(e) of this code.

30 ~~(5)~~ (6) "Deadly weapon" means an instrument which is designed to be used to produce
31 serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon"
32 includes, but is not limited to, the instruments defined in subdivisions ~~(1)~~ (2), ~~(5)~~, (6), ~~(7)~~, (8), (9),
33 (10), (11), (12), (13), (14), (15), and ~~(15)~~ (16), inclusive, of this section or other deadly weapons of
34 like kind or character which may be easily concealed on or about the person. For the purposes of
35 §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of "knife" set forth in
36 subdivision ~~(9)~~ (10) of this subsection, the term "deadly weapon" also includes any instrument
37 included within the definition of "knife" with a blade of three and one-half inches or less in length.
38 Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term
39 "deadly weapon" includes explosive, chemical, biological, and radiological materials.
40 Notwithstanding any other provision of this section, the term "deadly weapon" does not include
41 any item or material owned by the school or county board, intended for curricular use, and used by
42 the student at the time of the alleged offense solely for curricular purposes. The term "deadly
43 weapon" does not include pepper spray as defined in subdivision ~~(12)~~ (13) of this subsection when
44 used by any person solely for self-defense purposes.

45 ~~(6)~~ (7) "Drug" has the same meaning as is ascribed to that term in §60A-1-101(m) of this
46 code.

47 ~~(7)~~ (8) "Firearm" means any weapon which will expel a projectile by action of an explosion:
48 *Provided*, That it does not mean an antique firearm as defined in subdivision ~~(4)~~ (2) of this
49 subsection except for the purposes of §48-27-502 of this code.

50 ~~(8)~~ (9) "Gravity knife" means any knife that has a blade released from the handle by the
51 force of gravity or the application of centrifugal force and when released is locked in place by
52 means of a button, spring, lever, or other locking or catching device.

53 ~~(9)~~ (10) "Knife" means an instrument, intended to be used or readily adaptable to be used
54 as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached
55 to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term "knife"
56 includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-
57 half inches in length, any switchblade knife or gravity knife, and any other instrument capable of
58 inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half
59 inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other
60 recreational uses, or a knife designed for use as a tool or household implement is not included
61 within the term "knife" as defined in this subdivision unless the knife is knowingly used or intended
62 to be used to produce serious bodily injury or death.

63 ~~(10)~~ (11) "Metallic or false knuckles" means a set of finger rings attached to a transverse
64 piece to be worn over the front of the hand for use as a weapon and constructed in such a manner
65 that, when striking another person with the fist or closed hand, considerable physical damage may
66 be inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any
67 such instrument without reference to the metal or other substance or substances from which the
68 metallic or false knuckles are made.

69 ~~(14)~~ (12) "Nunchaku" means a flailing instrument consisting of two or more rigid parts,
70 connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a
71 manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle
72 and the other rigid part may be used as the striking end.

73 ~~(12)~~ (13) "Pepper spray" means a temporarily disabling aerosol that is composed partly of
74 capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose,
75 throat, and skin that is intended for self-defense use.

76 ~~(13)~~ (14) "Pistol" means a short firearm having a chamber which is integral with the barrel,
77 designed to be aimed and fired by the use of a single hand.

78 ~~(14)~~ (15) "Revolver" means a short firearm having a cylinder of several chambers that are
79 brought successively into line with the barrel to be discharged, designed to be aimed and fired by
80 the use of a single hand.

81 ~~(15)~~ (16) "Switchblade knife" means any knife having a spring-operated blade which opens
82 automatically upon pressure being applied to a button, catch, or other releasing device in its
83 handle.

NOTE: The purpose of this bill is to add a definition of the term "ammunition" relating to the requirements for obtaining a state permit to carry a concealed deadly weapon pursuant to the provisions of §61-7-4 of this code.

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