

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 270**

BY SENATORS MARTIN, ROSE, THORNE, RUCKER, HART,

BARTLETT, AND MORRIS

[Reported February 19, 2025, from the Committee on  
the Judiciary]



1 A BILL to amend and reenact §15-5-19a of the Code of West Virginia, 1931, as amended, relating  
2 to declaring the sale, repair, maintenance, and manufacture of firearms, ammunition, and  
3 related accessories and components to be essential businesses and services for the  
4 purposes of safety and security in times of declared emergency or any other statutorily  
5 authorized responses to disaster, war, acts of terrorism, riot or civil disorder, or other  
6 emergencies; prohibiting specific governmental regulation of firearms, ammunition,  
7 components or accessories of any kind or nature, or their use or possession; extending  
8 the expiration date of concealed license during emergencies; creating an action for  
9 damages, injunctive relief, declaratory relief, or other appropriate redress for the unlawful  
10 seizure or confiscation of firearms or related accessories and components; and providing  
11 for civil damages.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

#### **§15-5-19a. Possession of firearms during a declared state of emergency.**

1 ~~(a) During a federal or state declared state of emergency, no state agency, county, or~~  
2 ~~municipality, or any elected or appointed official or employee thereof, may:~~

3 ~~(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer,~~  
4 ~~transportation, storage, sale, display, or other lawful use of a firearm or ammunition, any firearm~~  
5 ~~or ammunition component or accessory, ammunition reloading equipment and supplies, or~~  
6 ~~personal weapons other than firearms;~~

7 ~~(2) Seize, confiscate, or authorize the seizure or confiscation of any otherwise lawfully~~  
8 ~~possessed firearm or ammunition, any firearm or ammunition component or accessory,~~

~~ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms unless:~~

~~(A) The person acting on behalf of or under the authority of the state, a county, or municipality is:~~

~~(i) Defending himself or herself or another from an assault; or~~

~~(ii) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or~~

~~(B) The firearm or ammunition is being seized or confiscated as evidence of a crime;~~

~~(3) Require registration of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms;~~

~~(4) Suspend or revoke a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon issued pursuant to §61-7-1 et seq. of this code except as expressly authorized in that article;~~

~~(5) Willfully refuse to accept an application for a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon, provided the application has been properly completed in accordance with §61-7-1 et seq. of this code;~~

~~(6) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, ammunition reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies generally within the jurisdiction of commerce;~~

~~(7) Close or limit the operating hours of any indoor or outdoor shooting range; or~~

~~(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms.~~

~~(b) The prohibitions of subdivision (1), subsection (a) of this section do not prohibit the state or an authorized state or local authority from ordering and enforcing an evacuation or general closure of businesses in the affected area during a declared state of emergency.~~

~~(c) Any individual adversely affected by a violation of this section may seek relief in an action at law or in equity for redress against any state agency, county, municipality, or any elected or appointed official or employee of this state, a county, or municipality that subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.~~

~~(d) In addition to any other remedy at law or in equity, an individual adversely affected by the seizure or confiscation of any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms in violation of this section may bring an action for the return of the seized or confiscated property in the circuit court of the county in which that individual resides or in which the seized or confiscated property is located.~~

~~(e) A prevailing plaintiff in an action under this section is entitled to recover the following:~~

~~(1) Actual damages, including consequential damages;~~

~~(2) Court costs and fees; and~~

~~(3) Reasonable attorney's fees.~~

(a) Notwithstanding any other provision of law to the contrary, the transport, storage, transfer, sale, commerce in, import and export of, distribution, repair, maintenance, and manufacture of firearms, ammunition, and related accessories and components, and other goods and services directly related to lawful firearm possession, use, storage, repair, maintenance, and training in the use of firearms, are declared to be "essential" businesses and services for the purposes of safety and security in times of declared emergency or any other statutorily authorized responses to disaster, war, acts of terrorism, riot or civil disorder, or emergencies of whatever kind or nature.

(b) Except as provided in this section, no state agency, political subdivision, or any elected or appointed official or employee of this state or of a political subdivision may, under any governmental authority or color of law exercised as part of any statutorily authorized responses to disaster, war, acts of terrorism, riot or civil disorder, or emergencies of whatever kind or nature:

(1) Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any:

(A) Firearm, including any component or accessory;

(B) Ammunition, including any component or accessory; or

(C) Ammunition-reloading equipment and supplies.

(2) Require registration of a firearm, including any component or accessory, or ammunition for which registration is not otherwise required by state law;

(3) Seize, commandeer, or confiscate in any manner, any:

(A) Firearm, including any component or accessory;

(B) Ammunition, including any component or accessory; or

(C) Ammunition-reloading equipment and supplies.

(4) Suspend or revoke a concealed handgun license issued pursuant to §61-7-4 of this code, except as expressly authorized in §61-7-5 of this code;

(5) Refuse to accept an application for a license to carry a concealed handgun, including a renewal application, provided the application has been properly completed in accordance with §61-7-4 of this code;

(6) Close or limit the operation of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, including any component or accessory, or ammunition-reloading equipment and supplies, unless the closing or limitation applies equally to all forms of commerce within the jurisdiction;

(7) Close or limit the operation of any indoor or outdoor shooting range, or any entity engaged in providing firearms safety training or firearms safety instructor courses, classes, or

programs, unless the closing or limitation applies equally to all forms of commerce within the jurisdiction;

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any;

(A) Firearm, including any component or accessory;

(B) Ammunition, including any component or accessory; or

(C) Ammunition-reloading equipment and supplies.

(9) Suspend, restrict, or prohibit otherwise lawful hunting or fishing activities, unless the suspension, restriction, or prohibition is consistent with travel restrictions or restrictions on public access to state lands or waters that apply equally to other travel or public access to state lands or waters within the jurisdiction.

(c)(1) If a concealed handgun license has been issued to a person pursuant to §61-7-4 of this code, and if the date that the valid and subsisting license would or is scheduled to expire falls within the period of emergency declared by the Governor's executive order or the 14 days immediately preceding that declaration, then, notwithstanding the date of scheduled expiration, the duration of that license is automatically extended for a period of 60 days commencing from the date of the license's scheduled expiration or 30 days commencing from the termination of the state of emergency, whichever is later.

(2) If subdivision (1) of this subsection applies with respect to a concealed handgun license, during the extension period described in that section that is applicable to that license, all of the following apply:

(A) The license shall be valid for all purposes under the laws of this state and the person to whom the license was issued shall be considered for all purposes under the laws of this state to be the holder of a valid license to carry a concealed handgun;

(B) The license remains subject to the operation of §61-7-1 et seq. of this code during the extended period of the license and at any other time; and

111 (C) Except for the date of scheduled expiration, all other conditions, and restrictions  
112 otherwise applicable to the license and the license holder continue to apply during the extended  
113 period of the license and at any other time.

114 (D) This section may not apply to the following:

115 (i) The authority of a chief administrative officer of a political subdivision with police powers  
116 to prohibit the sale, offering for sale, dispensing, or transportation of firearms or other dangerous  
117 weapons, ammunition, dynamite, or other dangerous explosives in, to, or from a cordoned-off  
118 area;

119 (ii) The ability of a law-enforcement officer to remove firearms or ammunition from any  
120 person pursuant to other lawful authority. Before releasing the individual, the law-enforcement  
121 officer shall return to the individual any seized firearms and ammunition, and components thereof,  
122 and any firearms accessories and ammunition-reloading equipment and supplies, unless the  
123 officer takes the individual into physical custody for engaging in criminal activity or for observation,  
124 or seizes the items as evidence pursuant to an investigation for the commission of a crime; or

125 (iii) A zoning ordinance that specifies the hours of operation or the geographic areas where  
126 the commercial sale of firearms, firearm components, or ammunition for firearms may occur,  
127 provided that the zoning ordinance is consistent with zoning ordinances for other retail  
128 establishments in the same geographic area and does not result in a de facto prohibition of the  
129 commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for  
130 commercial, retail, or industrial uses.

131 (E)(i) A person, group, or entity adversely affected by any manner of law, ordinance, rule,  
132 regulation, resolution, practice, or other action enacted or enforced in violation of this section may  
133 file an action for damages, injunctive relief, declaratory relief, or other appropriate redress in the  
134 court having jurisdiction over the county in which the aggrieved person resides, or group or entity  
135 is located, or in which the violation occurred.

136        (ii) In addition to any actual damages awarded against the state agency, political  
137        subdivision, or any elected or appointed official or employee of this state or of a political  
138        subdivision, and other relief provided with respect to such an action, the court may award  
139        reasonable court costs and expenses to any person, group, or entity that brings the action,  
140        regardless of whether the law, ordinance, rule, regulation, resolution, practice, or action or the  
141        manner of its enforcement is repealed or rescinded or expires after the civil action was filed but  
142        prior to a final court determination of the action.

143        (iii) In addition to any other remedy available at law or in equity, a person, group, or entity  
144        aggrieved by the seizure or confiscation of an item listed in clause (i), paragraph (E) of this  
145        subdivision, in violation of this section, may make application for the immediate return of the items  
146        to the office of the clerk of the circuit court for the county in which the items were seized and,  
147        except as provided in clause (ii), paragraph (D) of this subdivision, the court shall order the  
148        immediate return of the items by the seizing or confiscating governmental office and that office's  
149        employed officials.

150        (iv) A person, group, or entity aggrieved by the seizure or confiscation of an item listed in  
151        clause (i), paragraph (E) of this subdivision, in violation of this section, may also be entitled to  
152        recover a civil penalty for damages, in the amount of \$5,000 per violation, against a person who  
153        violates the seizure or confiscation restrictions in this section.