

bill to regulate property owner-imposed restrictions on carrying
guns or other deadly weapons

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[Effective July 1]

A BILL to amend and reenact §61-7-2, §61-7-11a and §61-7-14 of
the code of West Virginia, 1931, as amended; and to further
amend said code by adding thereto a new section, designated
§18B-14-12, all relating to the right of property owners to
prohibit or restrict the possession or carrying of firearms
or other deadly weapons on their premises; defining terms;
limiting restrictions imposed by state institutions of
higher education; prohibiting certain property owners from
prohibiting or restricting the otherwise lawful
transporting and storing of deadly weapons in locked
vehicles on certain property; providing limited civil
immunity; limiting the authority of public property owners
to prohibit or restrict the possession of deadly weapons to
secure restricted access areas; requiring property owners

1 to give notice of prohibitions or restrictions on the
2 possession or carrying of deadly weapons by posting
3 specified signs; format of signs; and effect of failure to
4 properly post signs indicating such prohibition or
5 restriction.

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

7 That §61-7-2, §61-7-11a and §61-7-14 of the code of West
8 Virginia, 1931, as amended, be amended and reenacted; and that
9 said code be further amended by adding thereto a new section,
10 designated §18B-14-12, all to read as follows:

11 **CHAPTER 18B. HIGHER EDUCATION.**

12 **ARTICLE 14. MISCELLANEOUS.**

13 **§18B-14-12. Regulation of deadly weapons at state institutions**
14 **of higher education.**

15 No state institution of higher education or governing
16 board, nor the policy commission, may establish any rule
17 limiting or abridging the ability of any person who possesses a
18 valid concealed weapons license from lawfully carrying a
19 handgun, either openly or concealed, at any time or place. No
20 state institution of higher education or governing board, nor
21 the policy commission, may establish any rule limiting or
22 abridging the ability of any person to lawfully possess, carry
23 or store any firearm in a motor vehicle operated or parked on
24 institutional property. However, a governing board may establish

1 such rules relating to (i) students receiving military training
2 in the Reserved Officers' Training Corps or other military
3 training program administered by the educational institution,
4 (ii) students engaging in athletic events and (iii) restrictions
5 permitted under §61-7-14 for a public property owner.

6 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

7 **ARTICLE 7. DANGEROUS WEAPONS.**

8 **§61-7-2. Definitions.**

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

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

17 (2) "Gravity knife" means any knife that has a blade
18 released from the handle by the force of gravity or the
19 application of centrifugal force and when so released is locked
20 in place by means of a button, spring, lever or other locking or
21 catching device.

22 (3) "Knife" means an instrument, intended to be used or
23 readily adaptable to be used as a weapon, consisting of a sharp-
24 edged or sharp-pointed blade, usually made of steel, attached to

1 a handle which is capable of inflicting cutting, stabbing or
2 tearing wounds. The term "knife" shall include, but not be
3 limited to, any dagger, dirk, poniard or stiletto, with a blade
4 over three and one-half inches in length, any switchblade knife
5 or gravity knife, or ~~and~~ any other instrument capable of
6 inflicting cutting, stabbing or tearing wounds. A pocket knife
7 with a blade three and one-half inches or less in length, a
8 hunting or fishing knife carried for hunting, fishing, sports or
9 other recreational uses, or a knife designed for use as a tool
10 or household implement shall not be included within the term
11 "knife" as defined herein unless such knife is knowingly used or
12 intended to be used to produce serious bodily injury or death.

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

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

23 (6) "Metallic or false knuckles" means a set of finger
24 rings attached to a transverse piece to be worn over the front

1 of the hand for use as a weapon and constructed in such a manner
2 that, when striking another person with the fist or closed hand,
3 considerable physical damage may be inflicted upon the person
4 struck. The terms "metallic or false knuckles" shall include any
5 such instrument without reference to the metal or other
6 substance or substances from which the metallic or false
7 knuckles are made.

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

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

15 (9) "Deadly weapon" means an instrument which is designed
16 to be used to produce serious bodily injury or death or is
17 readily adaptable to such use. The term "deadly weapon" shall
18 include, but not be limited to, ~~the instruments defined in~~
19 ~~subdivisions (1) through (8), inclusive, of this section a~~
20 firearm, antique firearm, blackjack, nunchucka, metallic or
21 false knuckles, knife or other deadly weapons of like kind or
22 character which may be easily concealed on or about the person.
23 For the purposes of ~~section one a, article five, chapter~~
24 ~~eighteen a of this code~~ §18A-5-1a and ~~section eleven a, article~~

1 ~~seven of this chapter~~ §61-7-11a, in addition to the definition
2 of "knife" set forth in subdivision (3) of this section, the
3 term "deadly weapon" also includes any instrument included
4 within the definition of "knife" with a blade of three and one-
5 half inches or less in length. Additionally, for the purposes of
6 §61-6-19, ~~section one a, article five, chapter eighteen a of~~
7 ~~this code~~ §18A-5-1a and ~~section eleven a, article seven of this~~
8 ~~chapter~~ §61-7-11a, the term "deadly weapon" includes explosive,
9 chemical, biological and radiological materials. Notwithstanding
10 any other provision of this section, the term "deadly weapon"
11 does not include any item or material owned by the school or
12 county board, intended for curricular use, and used by the
13 student at the time of the alleged offense solely for curricular
14 purposes.

15 (10) "Concealed" means hidden from ordinary observation so
16 as to prevent disclosure or recognition. A deadly weapon is
17 concealed when it is carried on or about the person in such a
18 manner that another person in the ordinary course of events
19 would not be placed on notice that the deadly weapon was being
20 carried.

21 (11) "Firearm" means:

22 (A) Any weapon (including a starter pistol) which will or
23 is designed to expel a projectile by action of an explosion;

24 (B) The frame or receiver of any such weapon; or

1 (C) Any firearm silencer.

2 Such term does not include an antique firearm unless the
3 antique firearm is used in the commission of a crime.

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

7 (13) "Drug" has the same meaning as ~~is ascribed to that~~
8 ~~term in subsection (1), section one hundred one, article one,~~
9 ~~chapter sixty a of this code~~ §60A-1-101.

10 (14) "Alien" means any person not a citizen or national of
11 the United States.

12 (15) "Ammunition" means ammunition or cartridge cases,
13 primers, bullets, or propellant powder designed for use in any
14 firearm.

15 (16) "Antique firearm" means:

16 (A) Any firearm (including any firearm with a matchlock,
17 flintlock, percussion cap, or similar type of ignition system)
18 manufactured in or before 1898; or

19 (B) Any replica of any firearm described in paragraph (A)
20 if such replica:

21 (i) Is not designed or redesigned for using rimfire or
22 conventional centerfire fixed ammunition, or

23 (ii) Uses rimfire or conventional centerfire fixed
24 ammunition which is no longer manufactured in the United States

1 and which is not readily available in the ordinary channels of
2 commercial trade; or

3 (C) Any muzzle loading rifle, muzzle loading shotgun, or
4 muzzle loading pistol, which is designed to use black powder, or
5 a black powder substitute, and which cannot use fixed
6 ammunition. For purposes of this paragraph, the term "antique
7 firearm" shall not include any weapon which incorporates a
8 firearm frame or receiver, any firearm which is converted into a
9 muzzle loading weapon, or any muzzle loading weapon which can be
10 readily converted to fire fixed ammunition by replacing the
11 barrel, bolt, breechblock, or any combination thereof.

12 (17) "Conviction" or "convicted," for the purposes of
13 determining whether a person is disqualified under this article
14 from shipping, transporting, possessing or receiving any firearm
15 or other deadly weapon or obtaining a concealed weapon license,
16 does not include any conviction which has been expunged, or set
17 aside or for which a person has been pardoned or has had civil
18 rights restored, unless such pardon, expungement or restoration
19 of civil rights expressly provides that the person may not ship,
20 transport, possess or receive firearms. What constitutes a
21 conviction of a crime shall be determined in accordance with the
22 law of the jurisdiction in which the proceedings were held.

23 (18) "Courthouse" means any premises other than the state
24 capitol complex which houses a state court facility and, when a

1 building is occupied entirely by county or other government
2 offices, including a state court facility, includes the entire
3 building, exclusive of any parking lot or other area set aside
4 for vehicular travel or parking.

5 (19) "Crime punishable by imprisonment for a term exceeding
6 one year" does not include:

7 (A) Any Federal or State offenses pertaining to antitrust
8 violations, unfair trade practices, restraints of trade, or
9 other similar offenses relating to the regulation of business
10 practices; or

11 (B) Any State offense classified by the laws of the State
12 as a misdemeanor and punishable by a term of imprisonment of two
13 years or less.

14 (20) "Family or household member" has the same meaning as
15 in §48-27-204.

16 (21) "Firearm silencer" means any device for silencing,
17 muffling, or diminishing the report of a portable firearm,
18 including any combination of parts, designed or redesigned, and
19 intended for use in assembling or fabricating a firearm
20 silencer, and any part intended only for use in such assembly or
21 fabrication.

22 (22) "Fugitive from justice" means any person who has fled
23 from any State to avoid prosecution for a crime or to avoid
24 giving testimony in any criminal proceeding.

1 (23) "Handgun" means any firearm which has a short stock
2 and is designed to be held and fired by the use of a single hand
3 and includes any pistol or revolver.

4 (24) "Intimate partner" means, with respect to a person,
5 the spouse of the person, a former spouse of the person, an
6 individual who is a parent of a child of the person, and an
7 individual who cohabitates or has cohabited with the person.

8 (25) "Law-enforcement officer" has the same meaning as in
9 §30-29-1.

10 (26) "Law-enforcement official" has the same meaning as in
11 §30-29-1.

12 (27) "Loaded," with respect to a firearm, has the following
13 meaning:

14 (A) A firearm is loaded when live, unexpended ammunition is
15 in the firing position. If there is no live, unexpended
16 ammunition actually in the firing position, the presence near
17 the firearm of ammunition for the firearm does not make the
18 firearm loaded, even if the ammunition is readily accessible for
19 immediate use.

20 (B) A pistol or revolver is loaded when live, unexpended
21 ammunition is in the firing position or a position whereby the
22 manual operation of any mechanism once would cause the
23 unexpended ammunition to be fired. If there is no live,
24 unexpended ammunition actually in the firing position or a

1 position whereby the manual operation of any mechanism once
2 would cause the unexpended ammunition to be fired, the presence
3 near the pistol or revolver of ammunition for the pistol or
4 revolver does not make the pistol or revolver loaded, even if
5 the ammunition is readily accessible for immediate use.

6 (C) A muzzle-loading firearm is loaded when it is capped or
7 primed and has a powder charge and ball or shot in the barrel or
8 cylinders.

9 (28)(A) Except as otherwise provided in this subdivision,
10 "misdemeanor crime of domestic violence" means an offense that:

11 (i) Is a misdemeanor under Federal or State law; and

12 (ii) Has, as an element, the use or attempted use of
13 physical force, or the threatened use of a deadly weapon,
14 committed by a current or former spouse, parent, or guardian of
15 the victim, by a person with whom the victim shares a child in
16 common, by a person who is cohabiting with or has cohabited with
17 the victim as a spouse, parent, or guardian, or by a person
18 similarly situated to a spouse, parent, or guardian of the
19 victim.

20 (B) A person shall not be considered to have been convicted
21 of such an offense for purposes of this article, unless:

22 (i) The person was represented by counsel in the case, or
23 knowingly and intelligently waived the right to counsel in the
24 case; and

1 (ii) In the case of a prosecution for an offense described
2 in this paragraph for which a person was entitled to a jury
3 trial in the jurisdiction in which the case was tried, either:

4 (I) The case was tried by a jury, or

5 (II) The person knowingly and intelligently waived the
6 right to have the case tried by a jury, by guilty plea or
7 otherwise.

8 (29) "Private property owner" means any property owner
9 other than a public property owner.

10 (30) "Property owner" means an owner, lessee or other
11 person charged with the care, custody and control of real
12 property. For the purposes of this definition, "person" means
13 an individual or any entity which may acquire title to real
14 property.

15 (31) "Public property owner" means this state, any county,
16 any municipality or any institution, agency or other
17 instrumentality thereof, including any state institution of
18 higher education, in its capacity as a property owner.

19 (32) "Readily accessible for immediate use" means that a
20 firearm, ammunition or other deadly weapon is carried on the
21 person or within such close proximity and in such a manner that
22 it can be retrieved and used as easily and quickly as if carried
23 on the person.

1 (33) "School" means any public or private primary or
2 secondary education building, structure, facility or grounds
3 thereof, including any vocational education building, structure,
4 facility or grounds thereof where secondary vocational education
5 programs are conducted, but does not include any institution of
6 higher education, public or private.

7 (34) "School bus" has the same meaning as in §17A-1-1.

8 (35) "Secure restricted access area":

9 (A) Means a secure area beyond a security perimeter and
10 security checkpoints where all visitors are screened for weapons
11 prohibited within the area, a secure weapon storage area is
12 provided and in which the safety of all occupants of the area is
13 protected by the security perimeter and the significant presence
14 of law-enforcement officers or professional security guards; and

15 (B) Does not include common areas of ingress and egress
16 open to the general public outside the security perimeter and
17 checkpoints.

18 (36) "Secure weapon storage area" means a facility
19 maintained in conjunction with a secure restricted access area,
20 school, courthouse or state court facility that:

21 (A) Provides free storage of any deadly weapon otherwise
22 lawful for the depositor to possess whose possession within the
23 secure restricted access area, school, courthouse or state court
24 facility is prohibited;

1 (B) Tags each weapon stored and issues a corresponding
2 receipt that protects the weapon from misplacement or erroneous
3 transfer and enables the depositor to retrieve the weapon upon
4 exiting the secure restricted access area, school, courthouse or
5 state court facility; and

6 (C) Which is open for retrieval at all times the secure
7 restricted access area, school, courthouse or state court
8 facility is occupied plus a reasonable amount of time thereafter
9 for a depositor who has lawfully entered and remained in the
10 secure restricted access area, school, courthouse or state court
11 facility to retrieve the weapon and not be unduly denied
12 restoration of his or her lawful possession of the weapon upon
13 leaving the secure restricted access area, school, courthouse or
14 state court facility.

15 (37) "Unloaded":

16 (A) A with respect to a firearm, means the state of a
17 firearm not being loaded; and

18 (B) With respect to a firearm employing a percussion cap,
19 flintlock, or other obsolete ignition system, in addition to the
20 circumstances described in paragraph (A) of this subdivision,
21 the firearm is "unloaded" when the weapon is uncapped or when
22 the priming charge is removed from the pan.

1 **§61-7-11a. Possessing deadly weapons on premises of schools;**
2 **reports by school principals; suspension of driver**
3 **license; possessing deadly weapons in courthouses or**
4 **state court facilities.**

5 (a) The Legislature hereby finds that the safety and
6 welfare of the citizens of this state are inextricably dependent
7 upon assurances of safety for children attending, and the
8 persons employed by, schools in this state and for those persons
9 employed with the judicial department of this state. It is for
10 the purpose of providing such assurances of safety, therefore,
11 that subsections (b), (g) and (h) of this section are enacted as
12 a reasonable regulation of the manner in which citizens may
13 exercise those rights accorded to them pursuant to section
14 twenty-two, article three of the Constitution of the state of
15 West Virginia.

16 (b) (1) ~~It shall be unlawful for any~~ Except as otherwise
17 provided in this subsection, no person ~~to~~ may possess any
18 ~~firearm or any other~~ deadly weapon on any school bus, ~~as defined~~
19 ~~in section one, article one, chapter seventeen-a of this code,~~
20 ~~or in or on any public or private primary or secondary education~~
21 ~~building, structure, facility or grounds thereof, including any~~
22 ~~vocational education building, structure, facility or grounds~~
23 ~~thereof where secondary vocational education programs are~~
24 ~~conducted~~ within any school or at any school-sponsored function.

1 (2) This subsection shall not apply to:

2 (A) ~~A law enforcement officer acting in his or her official~~
3 ~~capacity~~ Any person authorized to carry a concealed deadly
4 weapon pursuant to subsections (3) through (6) of §61-7-6;

5 (B) A person specifically authorized by the board of
6 education of the county or principal of the school where the
7 property is located to conduct programs with valid educational
8 purposes;

9 (C) A person who, as otherwise permitted by the provisions
10 of this article, possesses an unloaded firearm or deadly weapon
11 other than a firearm, in a motor vehicle other than a school
12 bus, or leaves an unloaded firearm or deadly weapon other than a
13 firearm, in a locked motor vehicle other than a school bus;

14 (D) Any person who is licensed or otherwise authorized by
15 law to carry a concealed handgun and possesses or carries a
16 handgun, loaded or unloaded, within a motor vehicle other than a
17 school bus or leaves a handgun, loaded or unloaded, in a locked
18 motor vehicle other than a school bus;

19 (E) Programs or raffles conducted with the approval of the
20 county board of education or school which include the display of
21 unloaded firearms or other deadly weapons; ~~or~~

22 (F) Any person who possesses a deadly weapon as a part of
23 any program sponsored or facilitated by either the school or any

1 organization authorized by the school to conduct its programs
2 either on or off the school premises;

3 (G) A person possessing a knife or blade which he uses
4 customarily in his or her occupation, profession or trade;

5 ~~(E)~~ (H) The official mascot of West Virginia University,
6 commonly known as "The Mountaineer", acting in his or her
7 official capacity;

8 (I) A person transporting a firearm that is unloaded or a
9 deadly weapon other than a firearm, while traversing school
10 premises for the purpose of gaining access to public or private
11 lands open to hunting; or

12 (J) Any person authorized by the county school
13 superintendent in the case of the county schools, or the chief
14 administrative officer of a private school, in writing, to carry
15 such weapon.

16 (3) Each principal or other chief administrator of a public
17 or private school shall display at all public entrances to
18 school buildings, sports arenas, gymnasiums, stadiums, and
19 cafeterias; at the corners of school property that make a turn
20 of thirty (30) degrees or more and are not enclosed by fences,
21 walls, or other complete barriers with gates or controlled
22 entrances; at the gate or controlled entrances of enclosed
23 properties; and at the entrance of any access road for all open
24 areas owned, operated, leased, or controlled by the school,

1 signs conforming to the specifications of §61-7-14(f), which
2 shall contain the following text:

3 UNLAWFUL POSSESSION OF A WEAPON ON SCHOOL PROPERTY

4 IN WEST VIRGINIA IS A FELONY.

5 POSTED PURSUANT TO WV CODE §61-7-11a.

6 Failure to post the required signs shall prohibit any
7 prosecution under this subsection of any person who is at least
8 eighteen years of age and not a student of any school. Failure
9 to post the required signs shall not prohibit any prosecution or
10 other disciplinary action against any minor or student.

11 (4) Any person violating this subsection shall be is guilty
12 of a felony and, upon conviction thereof, shall be imprisoned ~~in~~
13 ~~the penitentiary of this state~~ for a definite term ~~of years~~ of
14 not less than two years nor more than ten years, ~~or~~ fined not
15 more than ~~five~~ one hundred thousand dollars, or both.

16 ~~(c) It shall be the duty of~~ The principal of each school
17 subject to the authority of the state board of education ~~to~~
18 shall report any violation of subsection (b) of this section
19 discovered by such principal to the state superintendent of
20 schools within seventy-two hours after such violation occurs.
21 The state board of education shall keep and maintain such
22 reports and may prescribe rules establishing policy and
23 procedures for the making and delivery of the same as required
24 by this subsection. ~~In addition, it shall be the duty of~~ The

1 principal of each school subject to the authority of the state
2 board of education ~~to~~ shall also report any violation of
3 subsection (b) of this section discovered by such principal to
4 the appropriate local office of the ~~division of public safety~~
5 state police within seventy-two hours after such violation
6 occurs.

7 (d) In addition to the methods of disposition provided by
8 article five, chapter forty-nine of this code, any court which
9 adjudicates a person who is fourteen years of age or older as
10 delinquent for a violation of subsection (b) of this section
11 may, in its discretion, order the division of motor vehicles to
12 suspend any driver's license or instruction permit issued to
13 such person for such period of time as the court may deem
14 appropriate, such suspension, however, not to extend beyond such
15 person's nineteenth birthday; or, where such person has not been
16 issued a driver's license or instruction permit by this state,
17 order the division of motor vehicles to deny such person's
18 application for the same for such period of time as the court
19 may deem appropriate, such denial, however, not to extend beyond
20 such person's nineteenth birthday. Any suspension ordered by the
21 court pursuant to this subsection shall be effective upon the
22 date of entry of such order. Where the court orders the
23 suspension of a driver's license or instruction permit pursuant
24 to this subsection, the court shall confiscate any driver's

1 license or instruction permit in the adjudicated person's
2 possession and forward the same to the division of motor
3 vehicles.

4 (e) (1) If a person eighteen years of age or older is
5 convicted of ~~violating~~ a felony under subsection (b) of this
6 section, and if such person does not act to appeal such
7 conviction within the time periods described in subdivision (2)
8 of this subsection, such person's license or privilege to
9 operate a motor vehicle in this state shall be revoked in
10 accordance with the provisions of this section.

11 (2) The clerk of the court in which the person is convicted
12 as described in subdivision (1) of this subsection shall forward
13 to the commissioner of motor vehicles a transcript of the
14 judgment of conviction. If the conviction is the judgment of a
15 magistrate court, the magistrate court clerk shall forward such
16 transcript when the person convicted has not requested an appeal
17 within twenty days of the sentencing for such conviction. If the
18 conviction is the judgment of a circuit court, the circuit clerk
19 shall forward such transcript when the person convicted has not
20 filed a notice of intent to file a petition for appeal or writ
21 of error within thirty days after the judgment was entered.

22 (3) If, upon examination of the transcript of the judgment
23 of conviction, the commissioner ~~shall determine~~ of motor
24 vehicles determines that the person was convicted as described

1 in subdivision (1) of this subsection, the commissioner shall
2 make and enter an order revoking such person's license or
3 privilege to operate a motor vehicle in this state for a period
4 of one year, or, ~~in the event~~ if the person is a student
5 enrolled in a secondary school, for a period of one year or
6 until the person's twentieth birthday, whichever is the greater
7 period. The order shall contain the reasons for the revocation
8 and the revocation period. The order of suspension shall advise
9 the person that because of the receipt of the court's
10 transcript, a presumption exists that the person named in the
11 order of suspension is the same person named in the transcript.
12 The commissioner may grant an administrative hearing which
13 substantially complies with the requirements of the provisions
14 of ~~section two, article five a, chapter seventeen c of this code~~
15 §17C-5A-2 upon a preliminary showing that a possibility exists
16 that the person named in the notice of conviction is not the
17 same person whose license is being suspended. Such request for
18 hearing shall be made within ten days after receipt of a copy of
19 the order of suspension. The sole purpose of this hearing shall
20 be for the person requesting the hearing to present evidence
21 that he or she is not the person named in the notice. ~~In the~~
22 ~~event~~ If the commissioner of motor vehicles grants an
23 administrative hearing, the commissioner shall stay the license

1 suspension pending the commissioner's order resulting from the
2 hearing.

3 (4) For the purposes of this subsection, a person is
4 convicted when such person enters a plea of guilty or is found
5 guilty by a court or jury.

6 (f) (1) It shall be unlawful for any parent(s), guardian(s)
7 or custodian(s) of ~~a person less than eighteen years of age~~ an
8 unemancipated minor who knows that ~~said person~~ the unemancipated
9 minor is in violation of subsection (b) of this section, or who
10 has reasonable cause to believe that said ~~person's~~ unemancipated
11 minor's violation of said subsection is imminent, to fail to
12 immediately report such knowledge or belief to the appropriate
13 school or law-enforcement officials.

14 (2) Any person violating this subsection ~~shall be~~ is guilty
15 of a misdemeanor and, upon conviction thereof, shall be fined
16 not more than ~~one~~ ten thousand dollars, ~~or shall be~~ confined in
17 jail for not more than one year, or both.

18 (g) (1) ~~It shall be unlawful for~~ Except as provided by
19 subdivision (2) of this subsection, any person ~~to possess~~ who
20 possesses any ~~firearm or any other~~ deadly weapon ~~on any premises~~
21 ~~which houses a court of law or in the offices of a family law~~
22 ~~master~~ within any courthouse or state court facility is guilty
23 of a misdemeanor, and, upon conviction thereof, shall be fined

1 not more than ten thousand dollars, confined in jail for not
2 more than one year, or both.

3 (2) This subsection shall not apply to:

4 (A) ~~A law enforcement officer acting in his or her official~~
5 ~~capacity~~ Any person authorized to carry a concealed deadly
6 weapon pursuant to subsection (b) of §61-7-6; and

7 (B) Any person who is licensed to carry a concealed
8 handgun, except when within a secure restricted access area or a
9 state court facility; or

10 (C) A person exempted from the provisions of this
11 subsection by order of record entered by a court with
12 jurisdiction over ~~such premises or offices~~ the applicable state
13 court facility.

14 (3) ~~Any person violating this subsection shall be guilty of~~
15 ~~a misdemeanor, and, upon conviction thereof, shall be fined not~~
16 ~~more than one thousand dollars, or shall be confined in jail not~~
17 ~~more than one year, or both.~~ Any state court facility without a
18 secure restricted access area shall provide a secure weapon
19 storage area in the same manner required of a secure restricted
20 access area. The lack of any secure weapon storage area does not
21 exempt any person from compliance with subdivision (1) of this
22 subsection.

23 (4) The chief judge having jurisdiction over a state court
24 facility shall cause to be displayed at all public entrances to

1 the state court facility and courthouse, signs conforming to the
2 specifications of §61-7-14(f), which shall contain the following
3 text:

4 POSSESSION OF A WEAPON IN A COURTHOUSE IN WEST VIRGINIA,
5 WITHOUT A CONCEALED HANDGUN LICENSE, IS PROHIBITED BY LAW.

6
7 POSSESSION OF ANY WEAPON, WITH OR WITHOUT A LICENSE,
8 WITHIN A STATE COURT FACILITY OR SECURE RESTRICTED
9 ACCESS AREA IS PROHIBITED BY LAW. A SECURE WEAPON
10 STORAGE AREA IS AVAILABLE FOR THE SECURE, LAWFUL
11 STORAGE OF YOUR WEAPON DURING YOUR VISIT.
12 POSTED PURSUANT TO WV CODE §61-7-11a.

13 Failure to post the required signs shall prohibit any
14 prosecution under this subsection of any person licensed or
15 otherwise authorized to carry a concealed handgun. Failure to
16 post the required signs shall not prohibit any prosecution under
17 this subsection of any other person.

18 ~~(h) (1) It shall be unlawful for Any person to possess who,~~
19 ~~with the intent to commit any crime, possesses any firearm or~~
20 ~~any other deadly weapon within any courthouse or state court~~
21 ~~facility, on any premises which houses a court of law or in the~~
22 ~~offices of a family law master with the intent to commit a~~
23 ~~crime.~~

1 ~~(2) Any person violating this subsection shall be~~ is guilty
2 of a felony and, upon conviction thereof, shall be imprisoned in
3 ~~the penitentiary of this state~~ for a definite term of ~~years~~ of
4 not less than two years nor more than ten years, ~~or~~ fined not
5 more than ~~five~~ one hundred thousand dollars, or both.

6 (i) Nothing in this section may be construed to be in
7 conflict with ~~the provisions of~~ federal law.

8 **§61-7-14. Right of property owners to limit possession of**
9 **firearms or other deadly weapons on premises;**
10 **exceptions; limited immunity from civil liability;**
11 **required form of notice.**

12 (a) Notwithstanding the provisions of this article, and
13 except as otherwise provided in this section, any ~~owner, lessee~~
14 ~~or other person charged with the care, custody and control of~~
15 ~~real~~ property owner may prohibit or restrict the carrying openly
16 or concealed of any firearm or deadly weapon on property under
17 his or her domain. ~~Provided, That for purposes of this section~~
18 ~~"person" means an individual or any entity which may acquire~~
19 ~~title to real property.~~

20 (b) Notwithstanding any provision of the laws of this state
21 to the contrary:

22 (1) No property owner may prohibit any person from
23 transporting or storing in a locked vehicle, on any property set

1 aside for any vehicle, any deadly weapon such person may
2 lawfully possess under federal law and the laws of this state;

3 (2) A landlord may not prohibit any tenant or guest of a
4 tenant from possessing or carrying any deadly weapon such person
5 may lawfully possess under federal law and the laws of this
6 state; and

7 (3) No public property owner, nor any officer, employee or
8 agent of a public property owner, may prohibit or restrict, by a
9 person licensed to carry a concealed weapon or authorized by
10 federal law or the laws of this state to carry a concealed
11 weapon without a license, the otherwise lawful possession or
12 carrying of any deadly weapon whose possession by that person
13 does not violate federal law or the laws of this state, except
14 in a secure restricted access area or those places where
15 carrying firearms or other deadly weapons is prohibited by this
16 code or by federal law.

17 (c) No person, property owner, tenant, employer or business
18 entity shall be liable in any civil action for any occurrence
19 that results from or is connected to the use of a deadly weapon
20 that was lawfully stored, carried or possessed, unless the
21 person, property owner, tenant, employer or business entity
22 commits a criminal act involving the use of the deadly weapon.

23 (d) Any person carrying or possessing a firearm or other
24 deadly weapon on the property of another who refuses to

1 temporarily relinquish possession of such firearm or other
2 deadly weapon, upon being lawfully requested to do so, or to
3 leave such premises, while in possession of such firearm or
4 other deadly weapon, ~~shall be~~ is guilty of a misdemeanor, and,
5 upon conviction thereof, shall be fined not more than one
6 thousand dollars, ~~or~~ confined in ~~the county~~ jail for not more
7 than six months, or both. ~~Provided, That the provisions of~~

8 (e) Any prohibition or restriction on possessing or
9 carrying any weapon under this section shall not apply to those
10 persons set forth in subsections (3) through (6) of §61-7-6.
11 ~~section six of this code while such persons are acting in an~~
12 ~~official capacity: Provided, however, That under no~~
13 ~~circumstances may any person possess or carry or cause the~~
14 ~~possession or carrying of any firearm or other deadly weapon on~~
15 ~~the premises of any primary or secondary educational facility in~~
16 ~~this state unless such person is a law enforcement officer or he~~
17 ~~or she has the express written permission of the county school~~
18 ~~superintendent. Except in the case of a prohibition or~~
19 ~~restriction applicable to a private residence established by the~~
20 ~~private property owner, no prohibition or restriction on~~
21 ~~possessing or carrying any weapon under this section shall be~~
22 ~~valid unless signs are posted pursuant to subsection (f) of this~~
23 ~~section, regardless of whether actual or effective notice is~~
24 ~~given by other means. No person, otherwise lawfully possessing~~

1 or carrying any deadly weapon, may be subjected to any adverse
2 action by any property owner, employer or other person for
3 violating any prohibition or restriction on possessing or
4 carrying such weapon unless notice of such prohibition or
5 restriction has been given in the form required by this section.

6 **§61-7-16. Regulation of signs prohibiting weapons; failure to**
7 **post constitutes defense.**

8 (a) All signs indicating a prohibition or restriction on
9 possessing or carrying handguns or other deadly weapons must be
10 in the form prescribed by this section.

11 (b) A sign regulated by this section shall not be valid or
12 enforceable unless the sign:

13 (1) Expresses the prohibition in both written language
14 interdict and universal sign language;

15 (2) Is posted at each entrance into a building where a
16 person is prohibited or restricted from carrying a designated
17 weapon, including each separate entry door at any entrance
18 equipped with more than one door, and must be:

19 (A) Clearly visible from outside the building from a
20 distance of at least thirty feet;

21 (B) Not less than eight inches wide by twelve inches tall
22 in size;

1 (C) Contain in black one-inch tall or larger uppercase type
2 at the bottom of the sign and centered between the lateral edges
3 of the sign, words indicating the nature of the prohibition;

4 (D) Contain a black silhouette of a handgun inside a red
5 circle at least seven inches in diameter with a red diagonal
6 line that runs from the lower left to the upper right at a
7 forty-five degree angle from the horizontal;

8 (E) A diameter of a circle; and

9 (F) Placed not less than forty inches and not more than
10 sixty inches from the bottom of the building's entrance door;
11 and

12 (3) If the premises where designated weapons are prohibited
13 does not have doors, then the signs contained in subdivision (1)
14 of this subsection must be:

15 (A) Not less than thirty-six inches wide by forty-eight
16 inches tall in size;

17 (B) Contain in black three-inch tall or larger uppercase
18 type at the bottom of the sign and centered between the lateral
19 edges of the sign, words indicating the nature of the
20 prohibition or restriction;

21 (C) Contain a black silhouette of a handgun inside a red
22 circle at least thirty-four inches in diameter with a red
23 diagonal line that is at least two inches wide and runs from the
24 lower left to the upper right at a forty-five degree angle from

1 the horizontal and must be a diameter of a circle whose
2 circumference is at least two inches wide;

3 (D) Placed not less than forty inches and not more than
4 ninety-six inches above the ground; and

5 (E) Posted in sufficient quantities to be clearly visible
6 from any point of entry onto the premises and readable from a
7 distance of at least thirty feet.

8 (c) Any sign regulated by this section must expressly
9 declare whether persons licensed or otherwise authorized by law
10 to carry concealed handguns are exempt from the restriction or
11 prohibition. Failure to state that a person licensed or
12 otherwise authorized by law to carry concealed handguns
13 constitutes an exception from the prohibition or restriction for
14 persons licensed or otherwise authorized by law to carry
15 concealed handguns.

16 (d) Except as otherwise provided by a more specific
17 provision of this code, it is a defense to any criminal offense
18 under this code prohibiting or restricting the possession or
19 carrying of deadly weapons in specified locations or to an
20 adverse action other than a criminal prosecution taken against a
21 person violating any restriction or prohibition on where weapons
22 may be possessed or carried that the defendant was licensed or
23 otherwise authorized by law to carry concealed handguns, that
24 the person was not carrying any deadly weapons other than

1 handguns and that the signage required to be posted under this
2 section was not properly posted.

NOTE: The purpose of this bill is to regulate the manner in which property owners may prohibit or restrict the possession or carrying of deadly weapons on their property and restrict the ability of state institutions of higher education to prohibit the otherwise lawful carrying of concealed weapons.

Strike-throughs indicate language which would be eliminated; underscoring indicates new language which would be added. §18B-14-12 is new; therefore, strikethroughs and underscoring have been omitted.

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