

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

## **Senate Bill 608**

By Senators Trump and Deeds

[Passed March 11, 2023; in effect 90 days from  
passage]

1 AN ACT to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating  
2 to dangerous weapons; correcting the partial list of items which are considered deadly  
3 weapons; and removing certain age restrictions relating to pepper spray.

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

**ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-2. Definitions.**

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

5 (1) "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 replica  
9 is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is  
10 no longer manufactured in the United States and which is not readily available in the ordinary  
11 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 not include any  
15 weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-  
16 loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed  
17 ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

18 (2) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece  
19 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) "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) "Controlled substance" has the same meaning as is ascribed to that term in §60A-1-  
29 101(e) of this code.

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

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

46 (7) "Firearm" means any weapon which will expel a projectile by action of an explosion:  
47 *Provided*, That it does not mean an antique firearm as defined in subdivision (1) of this subsection  
48 except for the purposes of §48-27-502 of this code.

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

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

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

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

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

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

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

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