

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5669

By Delegate Linville

[Introduced February 13, 2024; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to
 2 removing prohibitions against persons carrying guns in state or municipal buildings where
 3 security is inadequate.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-14. Right of certain persons to limit possession of firearms on premises.

1 This section may be referred to as "The Business and Public Area Liability Protection Act".

2 (a) As used in this section:

3 (1) "Adequate security measures" means the use of electronic equipment and armed
 4 personnel at public entrances to detect and restrict the carrying of any weapons into the state or
 5 municipal building, or any public area thereof, including, but not limited to, metal detectors, metal
 6 detector wands or any other equipment used for similar purposes to ensure that weapons are not
 7 permitted to be carried into such building or public area by members of the public. Adequate
 8 security measures for storing and securing lawfully carried weapons, including, but not limited to,
 9 the use of gun lockers or other similar storage options may be provided at the public entrances.

10 (2) "Authorized personnel" means employees of a state agency or municipality and any
 11 person granted authorization to enter a state or municipal building through a restricted access
 12 entrance.

13 (3) "Legally qualified" means any individual not prohibited and meet the conditions set forth
 14 in §61-7-3, §61-7-4, and §61-7-4a of this code for carrying a firearm or other deadly weapon.

15 (4) "Public area" means any portion of a state or municipal building that is open to and
 16 accessible by the public or which is otherwise designated as a public area by the governing body
 17 or the chief administrative office, if no governing body exists, of such building.

18 (4)(5) "Parking lot" means any property that is used for parking motor vehicles and is
 19 available to customers, employees, or invitees for temporary or long-term parking or storage of
 20 motor vehicles: *Provided*, That for purposes of this section, parking lot does not include the private

21 parking area at a business located at the primary residence of the property owner.

22 ~~(2)(6)~~ "Motor vehicle" means any privately-owned automobile, truck, minivan, sports utility
23 vehicle, motor home, recreational vehicle, motorcycle, motor scooter, or any other vehicle
24 operated on the roads of this state and, which is required to be registered under state law:
25 *Provided*, That for purposes of this section, motor vehicle does not mean vehicles owned, rented,
26 or leased by an employer and used by the employee in the course of employment.

27 ~~(3)(7)~~ "Employee" means any person, who is over 18 years of age, not prohibited from
28 possessing firearms by the provisions of this code or federal law, and

29 (A) Works for salary, wages, or other remuneration;

30 (B) Is an independent contractor; or

31 (C) Is a volunteer, intern, or other similar individual for an employer.

32 ~~(4)(8)~~ "Employer" means any business that is a sole proprietorship, partnership,
33 corporation, limited liability company, professional association, cooperative, joint venture, trust,
34 firm, institution, association, or public-sector entity, that has employees.

35 (9) "Public employer" means any state or municipal entity, except the term "public
36 employer" shall not include school districts.

37 ~~(5)(10)~~ "Invitee" means any business invitee, including a customer or visitor, who is lawfully
38 on the premises of a public or private employer.

39 ~~(6)(11)~~ "Locked inside or locked to" means

40 (A) The vehicle is locked; or

41 (B) The firearm is in a locked trunk, glove box, or other interior compartment, or

42 (C) The firearm is in a locked container securely fixed to the vehicle; or

43 (D) The firearm is secured and locked to the vehicle itself by the use of some form of
44 attachment and lock.

45 (b) Notwithstanding the provisions of this article, any owner, lessee or other person
46 charged with the care, custody, and control of real property may prohibit the carrying openly or

47 concealing of any firearm or deadly weapon on property under his or her domain: *Provided*, That
48 for purposes of this section "person" means an individual or any entity which may acquire title to
49 real property: *Provided, however*, That for purposes of this section "natural person" means an
50 individual human being.

51 (c) Any natural person carrying or possessing a firearm or other deadly weapon on the
52 property of another who refuses to temporarily relinquish possession of the firearm or other deadly
53 weapon, upon being requested to do so, or to leave the premises, while in possession of the
54 firearm or other deadly weapon, is guilty of a misdemeanor and, upon conviction thereof, shall be
55 fined not more than \$1,000 or confined in jail not more than six months, or both: *Provided*, That the
56 provisions of this section do not apply to a natural person as set forth in §61-7-6(a)(5) through §61-
57 7-6(a)(7) and §61-7-6(a)(9) through §61-7-6(a)(10) of this code while acting in his or her official
58 capacity or to a natural person as set forth in §61-7-6(b)(1) through §61-7-6(b)(8) of this code,
59 while acting in his or her official capacity: *Provided, however*, That under no circumstances, except
60 as provided for by the provisions of §61-7-11a(b)(2)(A) through (I) of this code, may any natural
61 person possess or carry or cause the possession or carrying of any firearm or other deadly
62 weapon on the premises of any primary or secondary educational facility in this state unless the
63 natural person is a law-enforcement officer or he or she has the express written permission of the
64 county school superintendent.

65 (d) Public Employers:

66 (1) The carrying of a handgun or other deadly weapon by a legally qualified person, shall
67 not be prohibited in any public area of any state or municipal building unless such public area has
68 adequate security measures to ensure that no weapons are permitted to be carried into such
69 public area.

70 (2) The carrying of a handgun or other deadly weapon shall not be prohibited for any
71 authorized personnel throughout any state or municipal building in its entirety unless such building
72 has adequate security measures at all public access entrances to ensure that no weapons are

73 permitted to be carried into such building.

74 (3) No public employer shall prohibit an employee, who is legally qualified, from carrying a
75 handgun or other deadly weapon at the employee's workplace unless the building has adequate
76 security measures at all public access entrances to ensure that no weapons are permitted to be
77 carried into such building.

78 (4) No public employer shall restrict or otherwise prohibit by personnel policies any
79 employee, who is legally qualified, from carrying a handgun or other deadly weapon while
80 engaged in the duties of such employee's employment outside of the employee's place of
81 business, including while in a means of conveyance.

82 ~~(d)~~(e) Prohibited acts. – Notwithstanding the provisions of subsections (b), (c) and ~~(e)~~(d) of
83 this section:

84 (1) No owner, lessee, public employer, or other person charged with the care, custody, and
85 control of real property or public area may prohibit any customer, employee, or invitee from
86 possessing any legally owned firearm, when the firearm is

87 (A) Lawfully possessed;

88 (B) Out of view;

89 (C) Locked inside or locked to a motor vehicle in a parking lot; and

90 (D) When the customer, employee, or invitee is lawfully allowed to be present in that area.

91 (2) No owner, lessee, or other person charged with the care, custody, and control of real
92 property may violate the privacy rights of a customer, employee, or invitee either

93 (A) By verbal or written inquiry, regarding the presence or absence of a firearm locked
94 inside or locked to a motor vehicle in a parking lot; or

95 (B) By conducting an actual search of a motor vehicle in a parking lot to ascertain the
96 presence of a firearm within the vehicle: *Provided*, That a search of a motor vehicle in a parking lot
97 to ascertain the presence of a firearm within that motor vehicle may only be conducted by on-duty,
98 law enforcement personnel, in accordance with statutory and constitutional protections.

99 (C) No owner, lessee, or other person charged with the care, custody, and control of real
100 property may take any action against a customer, employee, or invitee based upon verbal or
101 written statements of any party concerning possession of a firearm stored inside a motor vehicle in
102 a parking lot for lawful purposes, except upon statements made pertaining to unlawful purposes or
103 threats of unlawful actions involving a firearm made in violation of §61-6-24 of this code.

104 (3) No employer may condition employment upon either:

105 (A) The fact that an employee or prospective employee holds or does not hold a license
106 issued pursuant to §61-7-4 or §61-7-4a of this code; or

107 (B) An agreement with an employee or a prospective employee prohibiting that natural
108 person from keeping a legal firearm locked inside or locked to a motor vehicle in a parking lot when
109 the firearm is kept for lawful purposes.

110 (4) No owner, lessee, or other person charged with the care, custody, and control of real
111 property may prohibit or attempt to prevent any customer, employee, or invitee from entering the
112 parking lot of the person's place of business because the customer's, employee's, or invitee's
113 motor vehicle contains a legal firearm being carried for lawful purposes that is out of view within
114 the customer's, employee's, or invitee's motor vehicle.

115 (e) Limitations on duty of care; immunity from civil liability. —

116 (1) When subject to the provisions of subsection (d) of this section, an employer, public
117 employer, owner, lessee, or other person charged with the care, custody, and control of real
118 property has no duty of care related to the acts prohibited under said subsection.

119 (2) An employer, public employer, owner, lessee, or other person charged with the care,
120 custody, and control of real property is not liable in a civil action for money damages based upon
121 any actions or inactions taken in compliance with subsection (d) of this section. The immunity
122 provided in this subdivision does not extend to civil actions based on actions or inactions of
123 employers, owners, lessees, or other persons charged with the care, custody, and control of real
124 property unrelated to subsection (d) of this section.

125 (3) Nothing contained in this section may be interpreted to expand any existing duty or
126 create any additional duty on the part of an employer, owner, lessee, or other person charged with
127 the care, custody, and control of real property.

128 (f) Enforcement. – The Attorney General is authorized to enforce the provisions of
129 subsection (d) of this section and may bring an action seeking either:

130 (1) Injunctive or other appropriate equitable relief to protect the exercise or enjoyment of
131 the rights secured in subsection (d) of any customer, employee, or invitee;

132 (2) Civil penalties of no more than \$5,000 for each violation of subsection (d) and all costs
133 and attorney's fees associated with bringing the action; or

134 (3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this
135 section, including costs and attorney's fees. This action must be brought in the name of the state
136 and instituted in the Circuit Court of Kanawha County. The Attorney General may negotiate a
137 settlement with any alleged violator in the course of his or her enforcement of subsection (d) of this
138 section.

139 (4) Notwithstanding any other provision in this section to the contrary, the authority granted
140 to the Attorney General in this subsection does not affect the right of a customer, employee, or
141 invitee aggrieved under the authority of subsection (d) of this section to bring an action for violation
142 of the rights protected under this section in his or her own name and instituted in the circuit court
143 for the county where the alleged violator resides, has a principal place of business, or where the
144 alleged violation occurred. In any successful action brought by a customer, employee, or invitee
145 aggrieved under the authority of subsection (d) of this section, the court may award injunctive or
146 other appropriate equitable relief and civil penalties as set forth in subdivisions one, two and three
147 of this subsection. In any action brought by a customer, employee, or invitee aggrieved under the
148 authority of subsection (d) of this section, the court shall award all court costs and attorney's fees
149 to the prevailing party.

NOTE: The purpose of this bill is to remove prohibitions against persons carrying guns in

state or municipal buildings where security is inadequate.

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