

West Virginia State Law  
WV Code

**Chapter 8. Municipal Corporations**

**8-12-5. General powers of every municipality and the governing body thereof.**

In addition to the powers and authority granted by

- (i) the constitution of this State,
- (ii) other provisions of this chapter,
- (iii) other general law, and
- (iv) any charter,

and to the extent not inconsistent or in conflict with any of the foregoing except special legislative charters, every municipality and the governing body thereof shall have plenary power and authority therein by ordinance or resolution, as the case may require, and by appropriate action based thereon:

\* \* \* \*

(16) To arrest, convict and punish any individual for carrying about his person any revolver or other pistol, \* \* \* or any other dangerous or other deadly weapon of like kind or character \* \* \* \*

**8-12-5a. Limitations upon municipalities' power to restrict ownership of certain weapons and ammunition.**

The provisions of section five [§ 8-12-5] of this article notwithstanding, neither a municipality nor the governing body of any municipality shall have the power to limit the right of any person to own any revolver, pistol, rifle or shotgun or any ammunition or ammunition components to be used therewith nor to so regulate the keeping of gunpowder so as to directly or indirectly prohibit the ownership of such ammunition. Nothing herein shall in any way impair the authority of any municipality, or the governing body thereof, to enact any ordinance or resolution respecting the power to arrest, convict and punish any individual under the provisions of subdivision (16), section five [§ 8-12-5] of this article or from enforcing any such ordinance or resolution.

**Chapter 61. Crimes and Punishment**

**Article 7. Dangerous Weapons**

**61-7-1. Legislative findings.** The Legislature finds that the overwhelming support of the citizens of West Virginia for article three, section twenty-two of the Constitution of this State, commonly known as the "Right to Keep and Bear Arms Amendment", combined with the obligation of the state to reasonably regulate the right of persons to keep and bear arms for self-defense requires the reenactment of this article.

**61-7-2. Definitions.** As used in this article, unless the context otherwise requires: \* \* \* \*

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

(8) "**Revolver**" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged,

designed to be aimed and fired by the use of a single hand.

(9) "**Deadly weapon**" means an instrument which is designed to be used to produce serious bodily injury or death, or is readily adaptable to such use. The term "deadly weapon" shall include, but not be limited to, the instruments defined in subdivisions (1) through (8) of this section, or other deadly weapons of like kind or character which may be easily concealed on or about the person.

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

(11) "**Firearm**" means any weapon which will expel a projectile by action of an explosion. \* \* \* \*

**61-7-7. Persons prohibited from possession of deadly weapons.** Notwithstanding any provision of this code to the contrary, no person who:

(1) Has been convicted of a felony in this state or in any other jurisdiction;

(2) has been discharged under less than honorable conditions from the armed forces of the United States;

(3) has been adjudicated as a mental incompetent or has been committed involuntarily to a mental institution;

(4) is an alien illegally or unlawfully in the United States; or

(5) is addicted to alcohol, a controlled substance or a drug, or is an unlawful user thereof shall have in his or her possession any firearm or other deadly weapon: **Provided**, That any person prohibited from possessing a firearm or other deadly weapon by the provisions of this section may petition the circuit court of the county in which he or she resides and if the court finds by clear and convincing evidence that such person is competent and capable of exercising the responsibility concomitant with the possession of a firearm or other deadly weapon the court may enter an order allowing such person to possess such weapon if such would not violate any federal statute.

Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or confined in the county jail for not less than ninety days nor more than one year, or both.

**61-7-9. Possession of machineguns, penalties.** It shall be unlawful for any person to carry, transport, or have in his possession, any machinegun, submachinegun, or any other fully automatic weapon unless he or she has fully complied with applicable federal statutes and all applicable rules and regulations of the secretary of the treasury of the United States relating to such firearms.

Any person who violates the provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars, or shall be confined in the county jail for not less than ninety days nor more than one year, or both.

**Publisher's Note:**

**1. An individual in West Virginia must obtain a State permit or State license in order to transport machineguns [§ 61-7-9]. WV State advisory 11-19-79.**

**61-7-10. Display of deadly weapons for sale or hire; sale to prohibited persons; penalties.**

**(a)(1)** It shall be unlawful for any person to publicly display and offer for rent or sale, or, where the person is other than a natural person, to knowingly permit an employee thereof to publicly display and offer for rent or sale, to any passersby on any street, road or alley, any deadly weapon, machinegun, submachinegun or other fully automatic weapon, any rifle, shotgun or ammunition for same.

**(2)** Any person violating the provisions of this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars or shall be confined in the county jail for not more than one year, or both fined and confined, except that where the person violating the provisions of this subsection is other than a natural person, such person shall be fined not more than ten thousand dollars.

**(b)(1)** It shall be unlawful for any person to knowingly sell, rent, give or lend, or, where the person is other than a natural person, to knowingly permit an employee thereof to knowingly sell, rent, give or lend, any deadly weapon to a person prohibited from possessing same by any provision of this article.

**(2)** Any person violating the provisions of this subsection shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than twenty-five thousand dollars or shall be imprisoned in the penitentiary of this state for a definite term of years of not less than three years nor more than ten years, or both fined and imprisoned, except that where the person violating the provisions of this subsection is other than a natural person, such person shall be fined not more than fifty thousand dollars.

**61-7-11. Brandishing deadly weapons; threatening or causing breach of the peace; penalties.** It shall be unlawful for any person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, to carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. Any person violating this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one thousand dollars, or shall be confined in the county jail not less than ninety days nor more than one year, or both.

**67-7-12. Wanton endangerment involving a firearm.** Any person who wantonly performs any act with a firearm which creates a substantial risk of death or serious bodily injury to another shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary for a definite term of years of not less than one year nor more than five years, or, in the discretion of the court, confined in the county jail for not more than one year, or fined not less than two hundred fifty dollars nor more than two thousand five hundred dollars, or both.

For purposes of this section, the term "firearm" shall have the same meaning ascribed to such term as set forth in section two [§ 61-7-2] of this article.