

**Title 9A. Washington Criminal Code****Chapter 9A.56. Theft and Robbery****9A.56.300. Theft of a firearm.**

(1) A person is guilty of theft of a firearm if he or she commits a theft of any firearm.

(2) This section applies regardless of the value of the firearm taken in the theft.

(3) Each firearm taken in the theft under this section is a separate offense.

(4) The definition of "theft" and the defense allowed against the prosecution for theft under RCW 9A.56.020 shall apply to the crime of theft of a firearm.

(5) As used in this section, "firearm" means any firearm as defined in RCW 9.41.010.

(6) Theft of a firearm is a class B felony.

**9A.56.310. Possessing a stolen firearm.**

(1) A person is guilty of possessing a stolen firearm if he or she possesses, carries, delivers, sells, or is in control of a stolen firearm.

(2) This section applies regardless of the stolen firearm's value.

(3) Each stolen firearm possessed under this section is a separate offense.

(4) The definition of "possessing stolen property" and the defense allowed against the prosecution for possessing stolen property under RCW 9A.56.140 shall apply to the crime of possessing a stolen firearm.

(5) As used in this section, "firearm" means any firearm as defined in RCW 9.41.010.

(6) Possessing a stolen firearm is a class B felony.

**[Current through 2003 3<sup>rd</sup> Special Session, including 2003 Wash. Laws 53 (HB 5758)]**

section, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel; or

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess

the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(8) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(9) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(10) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

(11) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

**9.41.310. Information pamphlet.** After a public hearing, the department of fish and wildlife shall publish a pamphlet on firearms safety and the legal limits of the use of firearms. The pamphlet shall include current information on firearms laws and regulations and state preemption of local firearms laws. This pamphlet may be used in the department's hunter safety education program and shall be provided to the department of licensing for distribution to firearms dealers and persons authorized to issue concealed pistol licenses. The department of fish and wildlife shall reimburse the department of licensing for costs associated with distribution of the pamphlet.

**9.41.810. Penalty.** Any violation of any provision of this chapter, except as otherwise provided, shall be a misdemeanor and punishable accordingly.

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## WEST VIRGINIA W. VA. CODE

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**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, dirk, bowie knife, razor, slingshot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character; ....

**8-12-5a. Limitations upon municipalities' power to restrict the purchase, possession, transfer, ownership, carrying, transport, sale and storage 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 may limit the right of any person to purchase, possess, transfer, own, carry, transport, sell or store 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 the 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(16)] of this article or from enforcing any such ordinance or resolution: Provided, That any municipal ordinance in place as of the effective date of this section shall be excepted from the provisions of this section: Provided, however, That no provision in this section may be construed to limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinances.

**Chapter 27. Mentally Ill Persons**

**27-12-3. Miscellaneous offenses.** If any person shall entice any patient from any state hospital who has been legally committed thereto, or attempt to do so; or shall counsel, cause, influence or assist, or attempt to do so, any such patient to escape or attempt to escape therefrom, or harbor or conceal any such patient who has escaped therefrom; or shall, without the permission of the superintendent of any such hospital, give or sell to any such patient, whether on the

premises thereof or elsewhere, any ... firearms, ... or any other article whatsoever; or shall receive from the hands of any such patient anything of value, whether belonging to the state or not; or shall cause or influence, or attempt to cause or influence, any such patient to violate any rule or to rebel against the government or discipline of such hospital; or shall tease, pester, annoy, or molest any such patient, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than ten nor more than one hundred dollars, or imprisoned not exceeding six months, or, in the discretion of the court, both fined and imprisoned. If any person shall aid or abet the commission of any of the foregoing offenses or aid or abet an attempt to commit the same, he shall be guilty of the same as if he were the principal, and be punished as above provided. In the trial of an indictment for committing any of the above-named offenses, the accused may be found guilty of an attempt to commit the same, or of aiding or abetting another in committing or in an attempt to commit the same. If any person, not her husband, shall have sexual intercourse with any female patient who is a patient of any of said state hospitals, he shall be guilty of a felony, and, on conviction thereof, shall be confined in the penitentiary not less than ten nor more than fifteen years; and if such female patient be under sixteen years of

age, he shall be imprisoned not less than ten nor more than twenty years.

## Chapter 28. State Correctional and Penal Institutions

**28-1-8. Offenses relating to youth facilities; penalties; escape; arrest and return.** If any person shall entice or attempt to entice away from any youth facility any youth legally committed to the same, or shall aid or abet any youth to escape therefrom, or shall harbor, conceal or aid or abet in harboring or concealing, any youth who shall have escaped therefrom, or shall, without the permission of the superintendent, give or sell, or aid or abet any other person to give or sell, to any youth in the youth facility, whether on the premises of such institution or otherwise, any ... firearms, ... or other articles whatsoever, or shall in any way cause or influence, or attempt to cause or influence or aid or abet therein, any youth in the youth facility to violate any rule of the institution or to rebel against the government of said facility in any particular, or shall receive by the hands of any such youth anything of value, whether belonging to the state or otherwise, such person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten, nor more than one hundred dollars, or be confined not more than twelve months in the county jail, or, in the discretion of the court, both fined and imprisoned. The superintendent, or any of his assistants, or any one authorized in writing by him, or any sheriff, constable, policeman or other peace officer, shall have power, and it is hereby made his duty, to arrest any youth, when in his power to do so, who shall have escaped from said facility, and return him thereto.

## Chapter 61. Crimes and Their Punishment

### Article 3E. Offenses Involving Explosives.

**61-3E-1. Definitions.** As used in this article, unless the context otherwise requires:

(a) "Destructive device" means any bomb, grenade, mine, rocket, missile, pipe bomb or similar device containing an explosive, incendiary, explosive gas or expanding gas which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts, either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled.

"Destructive device" does not include a firearm as such is defined in section two, article seven of this chapter or model rockets and their components as defined in section twenty-three, article three, chapter twenty-nine of this code.

(b) "Explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packaging that an ignition by fire, by friction, by concussion, by percussion, by detonator or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, powders for blasting, high or low explosives, blasting materials, blasting agents, blasting emulsions, blasting fuses other than electric circuit breakers, detonators, blasting caps and other detonating agents and black or smokeless

powders not manufactured or used for lawful sporting purposes or fireworks defined in section twenty-three, article three, chapter twenty-nine of this code which are not used in violation of this article. Also included are all explosive materials listed annually by the office of the state fire marshal and published in the state register, said publication being hereby mandated.

(c) "Hoax bomb" means any device or object that by its design, construction, content or characteristics appears to be, or is represented to be or to contain a destructive device, explosive material or incendiary device as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a destructive device, explosive material or incendiary device.

(d) "Incendiary device" means a container containing gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material: Provided, That no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be an incendiary device.

(e) "Legal authority" means that right as expressly stated by statute or law.

(f) "Person" shall mean an individual, corporation, company, association, firm, partnership, society or joint stock company.

(g) "Storage magazine" is defined to mean any building or structure, other than an explosives manufacturing building, approved by the legal authority for the storage of explosive materials.

**61-3E-3. Illegal possession of destructive devices, explosive materials or incendiary devices; penalty.** Any person who possesses or manufactures any explosive material without first obtaining a permit to use explosives from the office of the state fire marshal or who possesses or manufactures any destructive device or incendiary device shall be guilty of a felony and, upon conviction thereof, shall be committed to the custody of the division of corrections for not less than one nor more than ten years or fined not more than five thousand dollars, or both.

**61-3E-7. Manufacture, purchase, sale, advertising for sale, transporting or possession or use of a hoax bomb; possession or use in commission of a felony; penalty.**

(a) Any person who knowingly manufactures, purchases, sells, advertises for sale, transports or possesses a hoax bomb with intent to violate any provision of this code shall be guilty of a misdemeanor. Any person convicted of a violation of this section shall be incarcerated in a county or regional jail for not less than six months nor more than one year, or fined five thousand dollars, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who possesses or uses a hoax bomb to commit or attempt to commit any felony shall be guilty of a felony and, upon conviction thereof, shall be committed to the custody of the division of corrections for not less than one nor more than ten years, or fined not more than ten thousand dollars, or both.

**61-3E-11. Exemptions.**

(a) Unless specifically prohibited by any provision of this code or the laws of the United States, nothing in this article shall prohibit the authorized manufacture, sale, transportation, distribution, use or possession of any explosive

material by any person holding a permit for such issued by the office of the state fire marshal. Any person performing a lawful activity pursuant to or regulated by the terms of a permit issued by the division of environmental protection, or any office thereof, shall be exempt from the provisions of this article.

(b) Unless specifically prohibited by any other provision of this code or the laws of the United States, nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or possession of any explosive, destructive device or incendiary device by a member of the armed forces or law-enforcement officers whenever such persons are acting lawfully and in the line of duty; nor shall it prohibit the manufacture, transportation, distribution, use or possession of any explosive material, destructive device or incendiary device to be used solely for lawful scientific research or lawful educational purposes. Any person engaged in otherwise lawful blasting activities failing to obtain a permit or in possession of an expired permit issued by the office of the state fire marshal shall not be construed to be in violation of the article.

**61-3E-12. Contraband, seizure, forfeiture.** Any destructive device, explosive material, incendiary device or hoax bomb possessed, involved in, used or intended to be used in a violation of this article or any violation of any criminal law or regulation of this state are hereby declared to be contraband and any property interest therein shall be vested in the state of West Virginia. Said contraband may be seized by the office of the state fire marshal or other law-enforcement agency conducting said investigation and upon application to the circuit court of the county in which said contraband is seized be forfeited to the state of West Virginia for destruction or for training purposes by the office of the state fire marshal or other law-enforcement agency.

### 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), inclusive, of this section, or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of section one-a [§ 18A-5-1a], article five, chapter eighteen-a of this code and section eleven-a [§ 61-7-11a], article seven of this chapter, in addition to the definition of "knife" set forth in subdivision (3) of this section, the term "deadly weapon" also in-

cludes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of section one-a, article five, chapter eighteen-a of this code and section eleven-a, article seven of this chapter, the term "deadly weapon" includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.

(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 weapon was being carried.

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

**61-7-3. Carrying deadly weapon without license or other authorization; penalties.**

(a) Any person who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, 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 and may be imprisoned in the county jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than five years and fined not less than one thousand dollars nor more than five thousand dollars. ....

**61-7-6. Exceptions as to prohibitions against carrying concealed deadly weapons.** The licensure provisions set forth in this article do not apply to:

(1) Any person carrying a deadly weapon upon his or her own premises; nor shall anything herein prevent a person from carrying any firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business, nor shall anything herein prohibit a person from possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(3) Any law-enforcement officer or law-enforcement official as defined in section one [§ 30-29-1], article twenty-nine, chapter thirty of this code;

(4) Any employee of the West Virginia division of corrections duly appointed pursuant to the provisions of section five [§ 28-5-5], article five,

chapter twenty-eight of this code while the employee is on duty;

(5) Any member of the armed forces of the United States or the militia of this state while the member is on duty;

(6) Any circuit judge, including any retired circuit judge designated senior status by the supreme court of appeals of West Virginia, prosecuting attorney, assistant prosecuting attorney or a duly appointed investigator employed by a prosecuting attorney;

(7) Any resident of another state who has been issued a license to carry a concealed weapon by a state or a political subdivision which has entered into a reciprocity agreement with this state. The governor may execute reciprocity agreements on behalf of the state of West Virginia with states or political subdivisions which have similar gun permitting laws and which recognize and honor West Virginia licenses issued pursuant to section four [§ 61-7-4] of this article;

(8) Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

(9) Any Hatfield-McCoy regional recreation authority ranger while the ranger is on duty.

**61-7-7. Persons prohibited from possessing firearms; classifications; reinstatement of rights to possess; offenses; penalties.**

(a) Except as provided for in this section, no person shall possess a firearm as such is defined in section two [§ 61-7-2] of this article who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is addicted to alcohol;

(3) Is an unlawful user of or addicted to any controlled substance;

(4) Has been adjudicated as a mental defective or who has been involuntarily committed to a mental institution;

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

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted in any court of a misdemeanor crime of domestic violence.

Any person who violates the provisions of this subsection 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.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of vio-

lence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a schedule I controlled substance other than marijuana, a schedule II or a schedule III controlled substance as such are defined in sections two hundred four, two hundred five and two hundred six [§§ 60A-2-204, 60A-2-205 and 60A-2-206], article two, chapter sixty-a of this code and who possesses a firearm as such is defined in section two [§ 61-7-2] of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than five thousand dollars, or both. The provisions of subsection (c) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law.

**61-7-8. Possession of deadly weapons by minors; prohibitions.** Notwithstanding any other provision of this article to the contrary, a person under the age of eighteen years who is not married or otherwise emancipated shall not possess or carry concealed or openly any deadly weapon: Provided, That a minor may possess a firearm upon premises owned by said minor or his family or on the premises of another with the permission of his or her parent or guardian and in the case of property other than his or her own or that of his family, with the permission of the owner or lessee of such property: Provided, however, That nothing in this section shall prohibit a minor from possessing a firearm while hunting in a lawful manner or while traveling from a place where he or she may lawfully possess a deadly weapon, to a hunting site, and returning to a place where he or she may lawfully possess such weapon.

A violation of this section by a person under the age of eighteen years shall subject the child to the jurisdiction of the circuit court under the provisions of article five [§§ 49-5-1 et seq.], chapter forty-nine of this code, and such minor may be proceeded against in the same manner as if he or she had committed an act which if committed by an adult would be a crime, and may be adjudicated delinquent.

**61-7-9. Possession of machine guns, penalties.** It shall be unlawful for any person to carry, transport, or have in his possession, any machine gun, submachine gun, 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, or more than one year, or both.

**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, machine gun, submachine gun 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.

**61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver license; possessing deadly weapons on premises housing courts of law and in offices of family law master.**

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

(b)(1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any school bus as defined in section one [§ 17A-1-1], article one, chapter seventeen-a of this code, or in or on any public or private primary or secondary education building, structure, facility or grounds thereof, including any vocational education building, structure, facility or grounds thereof where secondary vocational education programs are conducted or at any school-sponsored function.

(2) This subsection shall not apply to:

(A) A law-enforcement officer acting in his or her official capacity;

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

(C) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle, or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(D) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms; or

(E) The official mascot of West Virginia University, commonly known as "The Mountaineer", acting in his or her official capacity.

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

(c) It shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the state superintendent of schools within seventy-two hours after such violation occurs. The state board of education shall keep and maintain such reports and may prescribe rules establishing policy and procedures for the making and delivery of the same as required by this subsection. In addition, it shall be the duty of the principal of each school subject to the authority of the state board of education to report any violation of subsection (b) of this section discovered by such principal to the appropriate local office of the division of public safety within seventy-two hours after such violation occurs.

(d) In addition to the methods of disposition provided by article five [§§ 49-5-1 et seq.], chapter forty-nine of this code, any court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may, in its discretion, order the division of motor vehicles to suspend any driver's license or instruction permit issued to such person for such period of time as the court may deem appropriate, such suspension, however, not to extend beyond such person's nineteenth birthday; or, where such person has not been issued a driver's license or instruction permit by this state, order the division of motor vehicles to deny such person's application for the same for such period of time as the court may deem appropriate, such denial, however, not to extend beyond such person's nineteenth birthday. Any suspension ordered by the court pursuant to this subsection shall be effective upon the date of entry of such order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward the same to the division of motor vehicles.

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

(2) The clerk of the court in which the person is convicted as described in subdivision (1) of this subsection shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward such transcript when the person convicted has not requested an appeal within twenty days of

the sentencing for such conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward such transcript when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within thirty days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner shall determine that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking such person's license or privilege to operate a motor vehicle in this state for a period of one year, or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two [§ 17C-5A-2], article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. Such request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing shall be for the person requesting the hearing to present evidence that he or she is not the person named in the notice. In the event the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

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

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

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

(g)(1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any premises which houses a court of law or in the offices of a family law master.

(2) This subsection shall not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over such premises or offices.

(3) Any person violating this subsection shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or shall be confined in jail not more than one year, or both.

(h)(1) It shall be unlawful for any person to possess any firearm or any other deadly weapon on any premises which houses a court of law or in the offices of a family law master with the intent to commit a crime.

(2) Any person violating this subsection shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of this

state for a definite term of years of not less than two years nor more than ten years, or fined not more than five thousand dollars, or both.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law. [Current through 2003 2<sup>nd</sup> Special Session]

## WISCONSIN Wis. STAT.

### Chapter 66. General Municipality Law

#### 66.0409. Local regulation of firearms.

(1) In this section:

(a) "Firearm" has the meaning given in s. 167.31(1)(c).

(b) "Political subdivision" means a city, village, town or county.

(c) "Sport shooting range" means an area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.

(2) Except as provided in subs. (3) and (4), no political subdivision may enact an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(3)(a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subchapter V of chapter 77 on any firearm or part of a firearm, including ammunition and reloader components, sold in the county.

(b) Nothing in this section prohibits a city, village or town that is authorized to exercise village powers under s. 60.22(3) from enacting an ordinance or adopting a resolution that restricts the discharge of a firearm.

(4)(a) Nothing in this section prohibits a political subdivision from continuing to enforce an ordinance or resolution that is in effect on November 18, 1995, and that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, if the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

(am) Nothing in this section prohibits a political subdivision from continuing to enforce until November 30, 1998, an ordinance or resolution that is in effect on November 18, 1995, and that requires a waiting period of not more than 7 days for the purchase of a handgun.

(b) If a political subdivision has in effect on November 17, 1995, an ordinance or resolution that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, and the ordinance or resolution is not the same as or similar to a state statute, the ordinance or resolution shall have no legal effect and the political subdivision may not enforce the ordinance or resolution on or after November 18, 1995.

(c) Nothing in this section prohibits a political subdivision from enacting and enforcing a zoning ordinance that regulates the new construction of a sport shooting range or when the expansion of an existing sport shooting range would impact public health and safety.

(5) A county ordinance that is enacted or a county resolution that is adopted by a county un-

der sub. (2) or a county ordinance or resolution that remains in effect under sub. (4)(a) or (am) applies only in those towns in the county that have not enacted an ordinance or adopted a resolution under sub. (2) or that continue to enforce an ordinance or resolution under sub. (4) (a) or (am), except that this subsection does not apply to a sales or use tax that is imposed under subchapter V of chapter 77.

### Chapter 175. Miscellaneous Police Provisions

**175.30. Purchase of firearms in contiguous states permitted.** It is lawful for a resident of this state or a corporation or other business entity maintaining a place of business in this state to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state if the transfer complies with federal law and the laws of both states.

**175.35. Waiting period for purchase of handguns.**

(1) In this section:

(ag) "Criminal history record" includes information reported to the department under s. 938.396(8) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

(ar) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

(at) "Firearms restrictions record search" means a search of department of justice records to determine whether a person seeking to purchase a handgun is prohibited from possessing a firearm under s. 941.29. "Firearms restriction record search" includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20(13)(cv), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12(1)(e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247(3), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.125(4m).

(b) "Handgun" means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

(c) "Working day" means each day except Saturday, Sunday or a legal holiday under s. 895.20.

(2) When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun to any other person until all of the following have occurred:

(a) The transferee has provided identification as required by rule under sub. (2g)(a).

(b) The transferee has completed the notification form described in sub. (2g)(b).

(c) The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g)(b) and requested a firearms restrictions record search.

(d) Forty-eight hours, subject to extension under sub. (2g)(c)4.c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the firearms restrictions record search under sub. (2g)(c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29.

(2e) When a transferee completes the notification form described in sub. (2g)(b), the transferee shall provide truthful information.

(2f) When a firearms dealer requests that the department of justice provide a firearms restrictions record search under sub. (2g), he or she shall provide truthful information about his or her status as a firearms dealer and shall provide an accurate firearms dealer identification number obtained under sub. (2h). A person may request that the department provide a firearms restrictions record search under sub. (2g) only if he or she is a firearms dealer.

(2g)(a) The department of justice shall promulgate rules prescribing procedures for a transferee to provide and a firearms dealer to inspect identification containing a photograph of the transferee.

(b) The department of justice shall promulgate rules prescribing a notification form for use under sub. (2) requiring the transferee to provide his or her name, date of birth, gender, race and social security number and other identification necessary to permit an accurate firearms restrictions record search under par. (c)3. and the required notification under par. (c)4. The department of justice shall make the forms available at locations throughout the state.

(c) The department of justice shall promulgate rules for firearms restrictions record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll-free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subdivision 1.

3. The department to conduct the firearms restrictions record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction information for management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the fire-