

# WEST VIRGINIA CODE: §15-5-19A

## §15-5-19a. Possession of firearms during a declared state of emergency.

(a) During a federal or state declared state of emergency, no state agency, county, or municipality, or any elected or appointed official or employee thereof, may:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, sale, display, or other lawful use of a firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms;

(2) Seize, confiscate, or authorize the seizure or confiscation of any otherwise lawfully possessed firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms unless:

(A) The person acting on behalf of or under the authority of the state, a county, or municipality is:

(i) Defending himself or herself or another from an assault; or

(ii) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or

(B) The firearm or ammunition is being seized or confiscated as evidence of a crime;

(3) Require registration of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms;

(4) Suspend or revoke a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon issued pursuant to §61-7-1 *et seq.* of this code except as expressly authorized in that article;

(5) Willfully refuse to accept an application for a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon, provided the application has been properly completed in accordance with §61-7-1 *et seq.* of this code;

(6) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, ammunition reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies generally within the jurisdiction of commerce;

(7) Close or limit the operating hours of any indoor or outdoor shooting range; or

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms.

(b) The prohibitions of subdivision (1), subsection (a) of this section do not prohibit the state or an authorized state or local authority from ordering and enforcing an evacuation or general closure of businesses in the affected area during a declared state of emergency.

(c) Any individual adversely affected by a violation of this section may seek relief in an action at law or in equity for redress against any state agency, county, municipality, or any elected or appointed official or employee of this state, a county, or municipality that subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.

(d) In addition to any other remedy at law or in equity, an individual adversely affected by the seizure or confiscation of any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms in violation of this section may bring an action for the return of the seized or confiscated property in the circuit court of the county in which that individual resides or in which the seized or confiscated property is located.

(e) A prevailing plaintiff in an action under this section is entitled to recover the following:

- (1) Actual damages, including consequential damages;
- (2) Court costs and fees; and
- (3) Reasonable attorney's fees.