

## Document: C.R.S. 18-12-101

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### C.R.S. 18-12-101

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**Colorado Revised Statutes Annotated    Title 18. Criminal Code (Arts. 1 – 26)    Article 12. Offenses Relating to Firearms and Weapons (Pts. 1 – 5)    Part 1. Firearms and Weapons - General (§§ 18-12-101 – 18-12-114)**

#### 18-12-101. Peace officer affirmative defense - definitions.

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**(1)** As used in this article 12, unless the context otherwise requires:

**(a)** "Adult" means any person eighteen years of age or older.

**(a.3)** "Ballistic knife" means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

**(a.5)** "Blackjack" includes any billy, sand club, sandbag, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

**(b)** "Bomb" means any explosive or incendiary device or molotov cocktail as defined in section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

**(b.5)** "Bureau" means the Colorado bureau of investigation created in section 24-33.5-401, C.R.S.

**(c)** "Firearm silencer" means any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

**(d)** "Gas gun" means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such a device.

**(e)** Repealed.

**(e.5)** "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including

any revolving, detachable, or magazine breech, does not exceed twelve inches.

**(e.7)** "Juvenile" means any person under the age of eighteen years.

**(f)** "Knife" means any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds, but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

**(f.5)** "Locking device" means a device that prohibits the operation or discharge of a firearm and that can only be disabled with the use of a key, combination, or biometric data.

**(g)** "Machine gun" means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger.

**(g.5)** "Personalized firearm" means a firearm that has, as part of its original manufacture, incorporated design technology that allows the firearm to be fired only by the authorized user and prevents any of the safety characteristics of the firearm from being readily deactivated by anyone other than the authorized user. The technology limiting the firearm's operational use may include, but is not limited to, fingerprint verification, magnetic encoding, radio frequency tagging, and other automatic user identification systems utilizing biometric, mechanical, or electronic systems.

**(h)** "Short rifle" means a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches.

**(i)** "Short shotgun" means a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

**(i.5)** "Stun gun" means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

**(j)** Repealed.

**(2)** It shall be an affirmative defense to any provision of this article that the act was committed by a peace officer in the lawful discharge of his duties.

## History

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**Source:** L. 71:R&RE, p. 481, § 1. **C.R.S. 1963:**§ 40-12-101. L. 73:P. 540, § 12. L. 87:(1)(a) R&RE and (1)(a.5) and (1)(i.5) added, p. 674, §§ 1, 2, effective May 16. L. 91:(1)(b) amended, p. 407, § 17, effective June 6. L. 93, 1st Ex. Sess.:(1)(a) amended and (1)(a.3), (1)(e.5), and (1)(e.7) added, p. 1, § 1, effective September 13. L. 2007:(1)(e) amended, p. 1688, § 6, effective July 1. L. 2013:(1)(b.5) added,(HB 13-1229), ch. 47, p. 137, § 6, effective March 20. L. 2017:IP(1) amended and (1)(e) and (1)(j) repealed,(SB 17-008), ch. 74, p. 234, § 1, effective August 9. L. 2021:(1)(f.5) and (1)(g.5) added, (HB 21-1106), ch. 39, p. 146, § 3, effective July 1.

## ▼ Annotations

### Research References & Practice Aids

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#### Hierarchy Notes:

C.R.S. Title 18

C.R.S. Title 18, Art. 12

### State Notes

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### Notes

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#### Editor's note:

Section 8 of chapter 39 (HB 21-1106), Session Laws of Colorado 2021, provides that the act changing this section applies to offenses committed on or after July 1, 2021.

### ANNOTATION

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#### **Definition of "knife" in subsection (1)(f) is not void for vagueness or overbreadth.**

Where defendant possessed a screwdriver with specific intent to use it as a weapon, elements of crime defined in § 18-12-108 were present. *People v. Gross*, 830 P.2d 933 (Colo. 1992).

#### **Defendant's intent to use an object as a weapon is not established by the object's appearance alone,**

even if the appearance demonstrates that its primary use is as a weapon; this test does not follow *Gross* and is contrary to the plain language of the concealed weapons statute. *A.P.E. v. People*, 20 P.3d 1179 (Colo. 2001).

#### **The definition of "knife" in subsection (1)(f) is sufficiently specific to give fair warning of the proscribed conduct and is therefore constitutional.**

In applying the definition under § 18-12-108, the prosecution must prove that one of the intended uses of the instrument by the defendant was as a weapon. *People v. Gross*, 830 P.2d 933 (Colo. 1992).

#### **As the term "knife" is not specifically defined in the deadly weapons statute, the meaning of "knife" anywhere it is used in this article is specifically limited by the definition contained in subsection (1)(f) regardless of cross reference to the broader deadly weapons statute.**

People ex rel. J.W.T., 93 P.3d 580 (Colo. App. 2004).

### **Applied**

in Miller v. District Court, 193 Colo. 404, 566 P.2d 1063 (1977).

## Research References & Practice Aids

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### **Cross references:**

(1) For affirmative defenses generally, see §§ 18-1-407, 18-1-710, and 18-1-805.

(2) For the short title ("Promoting Child Safety Through Responsible Firearm Storage Act") and the legislative declaration in HB 21-1106, see sections 1 and 2 of chapter 39, Session Laws of Colorado 2021.

Colorado Revised Statutes Annotated

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