



Arizona State Senate Issue Brief

August 30, 2010

Note to Reader:

The Senate Research Staff provides nonpartisan, objective legislative research, policy analysis and related assistance to the members of the Arizona State Senate. The *Research Briefs* series is intended to introduce a reader to various legislatively related issues and provide useful resources to assist the reader in learning more on a given topic. Because of frequent legislative and executive activity, topics may undergo frequent changes. Additionally, nothing in the *Brief* should be used to draw conclusions on the legality of an issue.

Arizona's Concealed Carry Weapons Laws

INTRODUCTION

The second amendment to the U.S. Constitution provides the right of the people to keep and bear arms. Similarly, the Arizona Constitution states that “the right of the individual citizen to bear arms in defense of himself or the state shall not be impaired.” States differ on the extent to which they regulate gun ownership and practices, such as issuing a permit to carry a concealed weapon (CCW). While federal law places certain restrictions on gun possession and operation, state laws may be enforced to the extent that they do not conflict with federal law.

One example of federal gun ownership regulation is the Brady Handgun Violence Prevention Act (Brady Act) of 1993. The Brady Act requires a background check on any individual purchasing a gun from a licensed dealer to ensure that the person may lawfully possess a firearm. Federal law places restrictions on the purchase of firearms for reasons of age, criminal history and mental incompetence. If the purchaser already holds a permit that requires a background check, such as a CCW permit, the person is exempted from the background check under the Brady Act. Arizona passed its concealed carry law in 1994, the year following the Brady Act.

ARIZONA CCW PERMIT REQUIREMENTS

Previously, persons in Arizona were only able to carry weapons without a permit if the weapon was visible. Furthermore, if the weapon was contained in a holster or similar carrying case, the possessor did not need a CCW permit so long as the holster was completely or partially visible. As of July 29, 2010, Arizona law allows those persons legally able to carry a weapon openly to carry a concealed weapon *without* a CCW permit, subject to certain restrictions.

A person may still choose to obtain a CCW permit for various reasons, which may include reciprocity, carrying concealed in a bar or restaurant that does not prohibit doing so by a posting or carrying concealed in certain non-secure public buildings. If a person chooses to apply for a CCW permit, Arizona law requires applicants to: be residents of Arizona or

U.S. citizens, be lawfully present in the U.S., be at least 21 years old, and satisfactorily complete a firearms safety training program or otherwise demonstrate competency with a firearm and provide adequate documentation of completion. Adequate documentation includes any one of the following: 1) a document of completion from an authorized training program that is dated not more than five years earlier than the application date and has affixed to it the stamp, signature or seal of the instructor or organization that conducted the program, or a current or expired CCW permit issued by DPS; 2) a certificate, card or document showing the applicant has completed any course or class that meets the requirements described in the section below relating to safety training and competency with firearms; 3) A U.S. Department of Defense Form 214 indicating honorable or general discharge under honorable conditions, a certificate of basic training completion, or any other document demonstrating the applicant's service in the U.S. Armed Forces; or 4) a concealed weapon, firearm or handgun permit or license issued by another state or political subdivision for which training was required for issuance.

Arizona is a "shall issue" state, meaning that the agency issuing the permit, the Arizona Department of Public Safety (DPS), may not deny a CCW permit application if the person meets all statutory requirements. Applicants must not be under indictment for, or convicted of, any felony in any jurisdiction, mentally ill or adjudicated mentally incompetent. However, as of September 26, 2008, persons who have been convicted of a felony may obtain a CCW permit if either the conviction has been expunged, set aside or vacated or the person's rights have been restored and the person is not a state or federal prohibited possessor.

Firearms Safety Training Programs and Competency With Firearms

CCW permit applicants must provide documentation that they have received firearms safety training that demonstrates their competency with firearms. This includes any of the following: 1) a firearms training program

approved by DPS and conducted by instructors who possess current National Rifle Association instructor certifications in pistol and personal protection and who submit to a background investigation; 2) a firearms safety or training class available to the general public by a law enforcement agency, a postsecondary institution, academy, organization or training school approved by DPS; 3) any hunter education or safety course approved by Arizona Game and Fish or a similar agency of another state; 4) any NRA firearms safety or training course; 5) any law enforcement firearms class or course offered for security guards, investigators, special deputies or other divisions of law enforcement or security enforcement approved by DPS; 6) evidence of current military service or honorable discharge from the U.S. Armed Forces; 7) a valid concealed weapon, firearm or handgun permit or license issued by another state that mandates testing or training for initial issuance; 8) any governmental police agency firearms course and qualification to carry a firearm in the course of police duties; or 9) any other firearms training deemed acceptable by DPS.

Initial Applications

To apply for a CCW permit, a person must submit to DPS a completed application, a certificate of completion from an authorized firearms safety training course or documentation demonstrating the applicant's competency with a firearm, fingerprints and an application fee. In addition, applicants must sign a statement attesting to the truth of the statements made and that they have been provided with, and are knowledgeable about, statutes relating to justification defenses and weapons and explosives. Arizona law requires the Director of DPS to determine the fee that must accompany an initial, and renewal, application for a CCW permit.

Arizona law requires DPS to check the criminal history of every applicant against the Central State Repository for criminal records in the State of Arizona within 60 days of receiving an application. DPS may exchange fingerprint information with the Federal Bureau of

Investigation (FBI) for federal criminal history checks. If the applicant qualifies for a CCW permit, Arizona law requires DPS to issue the permit within 15 working days of completing the background checks.

Renewals

An Arizona-issued CCW permit, with certain exceptions for the armed forces, is valid for five years upon issuance and may be renewed every five years. Permits issued prior to August 12, 2005, expire after four years, but once renewed are valid for five years. In the past, a person who applied for renewal of his or her CCW permit was required to take a refresher training course, covering the same topics as the initial training course. In 2006, the Legislature eliminated this requirement, allowing a person to renew his or her CCW permit without attending the refresher course.

The Concealed Weapons Permit Unit (CWPU) at DPS mails renewal packets to permit holders approximately 60-90 days before the permit is set to expire. The renewal application is also available on the CWPU website. Prior to January 1, 2008, a person applying for the first renewal of his or her CCW permit was required to resubmit two sets of fingerprints to DPS along with the application and a renewal fee. Fingerprints are no longer required for any CCW permit renewals.

Upon receiving an application for renewal, DPS must perform another criminal history check on the applicant within 60 days. If the applicant is no longer eligible for a CCW permit, DPS must suspend or revoke the permit and notify the applicant in writing. If a renewal application is received 60 days or more after the date of expiration of the CCW permit, DPS must deny the application and the applicant must complete an initial CCW application to obtain a permit.

PENALTIES, RESTRICTIONS AND EXCEPTIONS

A law enforcement officer may take temporary custody of a firearm during a lawful contact with a possessor. Furthermore, a person who carries a concealed weapon and who is required by any other law to have a CCW permit

must present the permit to a law enforcement officer upon request. Failure to do so may result in a civil penalty not to exceed \$300.

Arizona and federal law prohibit firearms in certain situations, regardless of whether a person possesses a CCW permit. Firearms are prohibited in the following locations, with some exceptions for peace officers: polling places on election day; nuclear power plants or hydroelectric generating stations; military installations; Indian reservations; federal buildings; airports, except that firearms may be transported subject to federal rules; correctional facilities; national parks, unless they are permitted under state law (Sec. 512 of P.L. 111-24), and game preserves. Furthermore, individuals may be prohibited from possessing firearms on the premises of a business that serves alcohol. This prohibition must be indicated by a sign that meets requirements prescribed in A.R.S. §4-229. If such an establishment allows firearms on its premises, individuals in possession of a firearm must have a CCW permit and are prohibited from consuming alcohol.

Firearms are prohibited in public buildings and events if the owner or sponsor requests that a person carrying a weapon place the weapon in storage. In addition, the owner of a private establishment may request a person carrying a firearm to remove the gun from the premises; a person who refuses to comply may be charged with criminal trespassing. Furthermore, firearms are not allowed on school grounds, with the following exceptions: a firearm carried by an adult in a vehicle, provided that the firearm is not loaded and, if the adult leaves the vehicle, it must be locked and the firearm may not be visible from the outside; a firearm that is used in a program approved by the school; or a firearm carried by a person possessing a certificate of firearms proficiency and who is authorized under the Law Enforcement Officers Safety Act to carry a concealed firearm.

Law Enforcement Officers

In Arizona, persons who are active duty Arizona Peace Officer Standards and Training

Board (AzPOST) certified, federally credentialed peace officers, honorably retired federal, state or local peace officers with a minimum of ten years of service or active duty county detention officers who have been weapons certified are exempt from the initial firearms safety training requirement to obtain a CCW permit.

The Law Enforcement Officers Safety Act, which was passed by Congress in 2004, allows qualified law enforcement officers to carry a concealed weapon nationwide; however, law enforcement officers must also carry: 1) a photo ID issued by the agency for which they work or from which they retired, indicating the individual has, within the past year, been tested and meets state qualifications to carry a firearm; or 2) a photo ID issued by the agency for which they work or from which they retired, and a certification issued by the state in which they reside indicating the individual has, within the past year, been tested and meets state qualifications to carry a firearm.

In 2005, Arizona took steps to implement the Law Enforcement Officers Safety Act by allowing DPS to issue firearm proficiency certificates. In 2006, the Legislature exempted qualified law enforcement officers who obtain this proficiency certificate from the initial training course required to obtain a CCW permit.

RECIPROCITY

A person holding a CCW permit from another state must meet specified statutory requirements in order to use the permit in Arizona. The permit holder must be legally present in Arizona but is not required to be an Arizona resident, and the person must not be legally prohibited from possessing a firearm under Arizona law. In addition, the CCW permit must be recognized as valid in the issuing state.

In order for a person with an Arizona-issued CCW permit to carry concealed in another state, the person must be in compliance with that particular state's laws. Some states require a written reciprocal agreement in order to recognize CCW permits issued by other states. Arizona recognizes all other states' valid permits and has written reciprocal agreements with the states of Alaska, Arkansas, Idaho, Ohio, Pennsylvania,

South Dakota, Texas and West Virginia. The following 26 states recognize Arizona-issued CCW permits without a written reciprocal agreement: Alabama, Colorado, Delaware, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, South Carolina, Tennessee, Utah, Virginia, Wisconsin and Wyoming. The remaining 17 states do not recognize Arizona CCW permits. It is recommended that persons who wish to carry a concealed weapon in another state using an Arizona CCW permit contact that state directly, as changes may occur.

ADDITIONAL RESOURCES

- Weapons and Explosives statutes: Arizona Revised Statutes, Title 13, Chapter 31
- Arizona Department of Public Safety, Concealed Weapons Permit Unit: <http://www.azdps.gov/ccw/>
- Arizona Administrative Rules R13-9-101 through R13-9-603
- Law Enforcement Officers Safety Act of 2004, Public Law 108-277 (HR218)
- FBI National Instant Criminal Check System: <http://www.fbi.gov/hq/cjisd/nics.htm>
- Laws 2010, Chapter 59 (S.B. 1108) <http://www.azleg.gov/>