

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SENATE BILL 1251

AN ACT

AMENDING SECTIONS 13-3102.01 AND 13-3112, ARIZONA REVISED STATUTES; AMENDING SECTION 38-1102, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2007, CHAPTER 79, SECTION 1; RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3102.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-3102.01. Storage of deadly weapons; definitions

5 A. ~~If~~ An operator of a public establishment or a sponsor of a public  
6 event ~~requests~~ MAY REQUEST that a person WHO IS carrying a deadly weapon,  
7 remove the weapon, ~~ONLY IF~~ the operator or sponsor ~~shall provide~~ PROVIDES  
8 temporary and secure storage. The storage shall be readily accessible on  
9 entry into the establishment or event and allow for the immediate retrieval  
10 of the weapon on exit from the establishment or event. A WEAPON THAT IS  
11 REMOVED SHALL BE PLACED BY THE OWNER IN SECURE STORAGE UNDER THE SUPERVISION  
12 OF THE OPERATOR OR THE SPONSOR OR THE AGENT OF THE OPERATOR OR SPONSOR AND  
13 THE OWNER OF THE WEAPON SHALL RETAIN THE KEY. THE OPERATOR OR THE SPONSOR  
14 SHALL NOT REQUIRE OR RECORD:

15 1. THE SERIAL NUMBER OF ANY WEAPON THAT IS PLACED IN SECURE STORAGE.

16 2. THE IDENTITY OF THE PERSON PLACING THE WEAPON IN SECURE STORAGE,  
17 EXCEPT ON A TEMPORARY BASIS, IN ORDER TO VERIFY THE IDENTITY OF THE PERSON  
18 UPON THE RETURN OF THE WEAPON. ANY RECORDS USED FOR THIS PURPOSE MUST BE  
19 RETURNED TO THE PERSON ALONG WITH THE WEAPON.

20 B. IF THE OPERATOR OF A PUBLIC ESTABLISHMENT OR THE SPONSOR OF A  
21 PUBLIC EVENT, OR THE OPERATOR'S OR SPONSOR'S AGENT FAILS TO MEET THE  
22 REQUIREMENTS OF THIS SECTION, THE OPERATOR, SPONSOR OR AGENT SHALL NOT  
23 REQUEST OR DEMAND THAT A PERSON PLACE A WEAPON IN SECURE STORAGE. THE  
24 PRESENCE OF ANY SECURITY MEASURES DOES NOT RELIEVE AN OPERATOR OR A SPONSOR  
25 FROM THE REQUIREMENTS OF THIS SECTION.

26 ~~B.~~ C. This section does not apply to the licensed premises of any  
27 public establishment or public event with a license issued pursuant to  
28 title 4, OR TO A PUBLIC EVENT WHERE CONTROL OF SECURITY HAS BEEN TRANSFERRED  
29 TO THE UNITED STATES SECRET SERVICE PURSUANT TO 18 UNITED STATES CODE SECTION  
30 3056A.

31 ~~C.~~ D. The operator of the establishment or the sponsor of the event  
32 or the employee of the operator or sponsor or the agent of the sponsor,  
33 including a public entity or public employee, is not liable for acts or  
34 omissions pursuant to this section unless the operator, sponsor, employee or  
35 agent intended to cause injury or was grossly negligent.

36 ~~D.~~ E. ~~OR~~ FOR the purposes of this section: ~~;~~

37 1. "Public establishment" and "public event" have the same meanings  
38 prescribed in section 13-3102.

39 2. "READILY ACCESSIBLE" MEANS WITHIN CLOSE PROXIMITY TO THE MAIN  
40 PUBLIC ENTRANCE TO ANY PUBLIC ESTABLISHMENT OR PUBLIC EVENT.

1           Sec. 2. Section 13-3112, Arizona Revised Statutes, is amended to read:  
2           13-3112. Concealed weapons; qualification; application; permit  
3           to carry; certificate of firearms proficiency;  
4           training program; program instructors; report;  
5           applicability; violation; classification

6           A. The department of public safety shall issue a permit to carry a  
7           concealed weapon to a person who is qualified under this section. The person  
8           shall carry the permit at all times when the person is in actual possession  
9           of the concealed weapon and shall present the permit for inspection to any  
10          law enforcement officer on request.

11          B. A person who fails to carry the permit at all times that the person  
12          is in actual possession of a concealed weapon may have the permit suspended.  
13          The department of public safety shall be notified of all violations of this  
14          section and shall immediately suspend the permit. The permittee shall  
15          present the permit to the law enforcement agency or the court. On  
16          notification of the presentation of the permit, the department shall restore  
17          the permit.

18          C. The permit of a person who is arrested or indicted for an offense  
19          that would make the person unqualified under the provisions of section  
20          13-3101, subsection A, paragraph 6 or this section shall be immediately  
21          suspended and seized. The permit of a person who becomes unqualified on  
22          conviction of that offense shall be revoked. The permit shall be restored on  
23          presentation of documentation from the court if the permittee is found not  
24          guilty or the charges are dismissed. The permit shall be restored on  
25          presentation of documentation from the county attorney that the charges  
26          against the permittee were dropped or dismissed.

27          D. A person who fails to present a permit for inspection on the  
28          request of a law enforcement officer is guilty of a class 2 misdemeanor. A  
29          person shall not be convicted of a violation of this subsection if the person  
30          produces to the court a legible permit that is issued to the person and that  
31          was valid at the time the violation of this subsection occurred.

32          E. The department of public safety shall issue a permit to an  
33          applicant who meets all of the following conditions:

- 34           1. Is a resident of this state or a United States citizen.
- 35           2. Is twenty-one years of age or older.
- 36           3. Is not under indictment for and has not been convicted in any  
37          jurisdiction of a felony.
- 38           4. Does not suffer from mental illness and has not been adjudicated  
39          mentally incompetent or committed to a mental institution.
- 40           5. Is not unlawfully present in the United States.
- 41           6. Satisfactorily completes a firearms safety training program  
42          approved by the department of public safety pursuant to subsection 0 of this  
43          section. This paragraph does not apply to:

44           (a) A person who is an active duty Arizona peace officer standards and  
45          training board certified or federally credentialed peace officer or who is

1 honorably retired as a federal, state or local peace officer with a minimum  
2 of ten years of service.

3 (b) A person who is an active duty county detention officer and who  
4 has been weapons certified by the officer's employing agency.

5 (c) A person who is issued a certificate of firearms proficiency  
6 pursuant to subsection X of this section.

7 F. The application shall be completed on a form prescribed by the  
8 department of public safety. The form shall not require the applicant to  
9 disclose the type of firearm for which a permit is sought. The applicant  
10 shall attest under penalty of perjury that all of the statements made by the  
11 applicant are true. The applicant shall submit the application to the  
12 department with a certificate of completion from an approved firearms safety  
13 training program, two sets of fingerprints and a reasonable fee ~~determined by~~  
14 ~~the director of the department~~ OF NOT MORE THAN SIXTY-FIVE DOLLARS.

15 G. On receipt of a concealed weapon permit application, the department  
16 of public safety shall conduct a check of the applicant's criminal history  
17 record pursuant to section 41-1750. The department of public safety may  
18 exchange fingerprint card information with the federal bureau of  
19 investigation for federal criminal history record checks.

20 H. The department of public safety shall complete all of the required  
21 qualification checks within sixty days after receipt of the application and  
22 shall issue a permit within fifteen working days after completing the  
23 qualification checks if the applicant meets all of the conditions specified  
24 in subsection E of this section. If a permit is denied, the department of  
25 public safety shall notify the applicant in writing within fifteen working  
26 days after the completion of all of the required qualification checks and  
27 shall state the reasons why the application was denied. On receipt of the  
28 notification of the denial, the applicant has twenty days to submit any  
29 additional documentation to the department. On receipt of the additional  
30 documentation, the department shall reconsider its decision and inform the  
31 applicant within twenty days of the result of the reconsideration. If  
32 denied, the applicant shall be informed that the applicant may request a  
33 hearing pursuant to title 41, chapter 6, article 10.

34 I. On issuance, a permit is valid for five years, except a permit that  
35 is held by a member of the United States armed forces, including a member of  
36 the Arizona national guard or a member of the reserves of any military  
37 establishment of the United States, who is on federal active duty and who is  
38 deployed overseas shall be extended until ninety days after the end of the  
39 member's overseas deployment.

40 J. The department of public safety shall maintain a computerized  
41 permit record system that is accessible to criminal justice agencies for the  
42 purpose of confirming the permit status of any person who claims to hold a  
43 valid permit issued by this state. This information and any other records  
44 that are maintained regarding applicants, permit holders or instructors,

1 shall not be available to any other person or entity except on an order from  
2 a state or federal court.

3 K. Notwithstanding subsection J of this section, it is a defense to  
4 any charge for carrying a deadly weapon without a permit by a member of the  
5 United States armed forces, including a member of the Arizona national guard  
6 or a member of the reserves of any military establishment of the United  
7 States, if the member was on federal active duty at the time the permit  
8 expired and the member presents documentation indicating release from active  
9 duty or reassignment from overseas deployment within the preceding ninety  
10 days.

11 L. A permit issued pursuant to this section is renewable every five  
12 years. Before a permit may be renewed, a criminal history records check  
13 shall be conducted pursuant to section 41-1750 within sixty days after  
14 receipt of the application for renewal. For the purposes of the first permit  
15 renewal only, the permit holder is required to submit additional fingerprints  
16 pursuant to this subsection. For the purposes of the second or subsequent  
17 permit renewal, the permit holder is not required to submit additional  
18 fingerprints pursuant to this subsection.

19 M. Applications for renewal shall be accompanied by a fee ~~determined~~  
20 ~~by the director of the department of public safety~~ OF NOT MORE THAN  
21 SIXTY-FIVE DOLLARS.

22 N. The department of public safety shall suspend or revoke a permit  
23 issued under this section if the permit holder becomes ineligible pursuant to  
24 subsection E of this section. The department of public safety shall notify  
25 the permit holder in writing within fifteen working days after the revocation  
26 or suspension and shall state the reasons for the revocation or suspension.

27 O. An organization shall apply to the department of public safety for  
28 approval of its firearms safety training program. The department shall  
29 approve a program that meets the following requirements:

- 30 1. Is at least eight hours in length.
- 31 2. Is conducted on a pass or fail basis.
- 32 3. Addresses all of the following topics in a format approved by the  
33 director of the department:
  - 34 (a) Legal issues relating to the use of deadly force.
  - 35 (b) Weapon care and maintenance.
  - 36 (c) Mental conditioning for the use of deadly force.
  - 37 (d) Safe handling and storage of weapons.
  - 38 (e) Marksmanship.
  - 39 (f) Judgmental shooting.

40 4. Is conducted by instructors who submit to a background  
41 investigation, including a check for warrants and a criminal history records  
42 check.

43 P. If approved pursuant to subsection O of this section, the  
44 organization shall submit to the department of public safety two sets of  
45 fingerprints from each instructor and a fee to be determined by the director

1 of the department of public safety. On receipt of the fingerprints and fee,  
2 the department of public safety shall conduct a check of each instructor's  
3 criminal history record pursuant to section 41-1750. The department of  
4 public safety may exchange this fingerprint card information with the federal  
5 bureau of investigation for federal criminal history record checks.

6 Q. The proprietary interest of all approved instructors and programs  
7 shall be safeguarded, and the contents of any training program shall not be  
8 disclosed to any person or entity other than a bona fide criminal justice  
9 agency, except upon an order from a state or federal court.

10 R. If the department of public safety rejects a program, the rejected  
11 organization may request a hearing pursuant to title 41, chapter 6,  
12 article 10.

13 S. The department of public safety shall maintain information  
14 comparing the number of permits requested, the number of permits issued and  
15 the number of permits denied. The department shall annually report this  
16 information to the governor and the legislature.

17 T. The director of the department of public safety shall adopt rules  
18 for the purpose of implementing and administering the concealed weapons  
19 permit program including fees relating to permits and certificates that are  
20 issued pursuant to this section.

21 U. This state and any political subdivision of this state shall  
22 recognize a concealed weapon, firearm or handgun permit or license that is  
23 issued by another state or a political subdivision of another state if both:

24 1. The permit or license is recognized as valid in the issuing state.

25 2. The permit or license holder is all of the following:

26 (a) Not a resident of this state.

27 (b) Legally present in this state.

28 (c) Not legally prohibited from possessing a firearm in this state.

29 V. For the purpose of establishing mutual permit or license  
30 recognition with other states, the department of public safety shall enter  
31 into a written agreement if another state requires a written agreement.

32 W. Notwithstanding the provisions of this section, a person with a  
33 concealed weapons permit from another state may not carry a concealed weapon  
34 in this state if the person is under twenty-one years of age or is under  
35 indictment for, or has been convicted of, a felony offense in any  
36 jurisdiction, even if the person's rights have been restored and the  
37 conviction is expunged, set aside or vacated.

38 X. The department of public safety may issue certificates of firearms  
39 proficiency according to the Arizona peace officer standards and training  
40 board firearms qualification for the purposes of implementing the law  
41 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18  
42 United States Code sections 926B and 926C). A law enforcement agency shall  
43 issue to a law enforcement officer who has honorably retired a photographic  
44 identification that states that the officer has honorably retired from the  
45 agency. The chief law enforcement officer shall determine whether an officer

1 has honorably retired and the determination is not subject to review. A law  
2 enforcement agency has no obligation to revoke, alter or modify the honorable  
3 discharge photographic identification based on conduct that the agency  
4 becomes aware of or that occurs after the officer has separated from the  
5 agency.

6 Sec. 3. Section 38-1102, Arizona Revised Statutes, as added by Laws  
7 2007, chapter 79, section 1, is amended to read:

8 38-1102. Carrying of firearms by peace officers; exceptions;  
9 definitions

10 A. ~~This state, a county, a city or town or any other political~~  
11 ~~subdivision of this state shall not prohibit~~ NOTWITHSTANDING ANY OTHER LAW  
12 AND EXCEPT AS PROVIDED PURSUANT TO SUBSECTION B OF THIS SECTION, a peace  
13 officer SHALL NOT BE PROHIBITED from carrying a firearm if the peace officer  
14 is in compliance with the firearm requirements prescribed by the Arizona  
15 peace officer standards and training board.

16 B. A peace officer may be prohibited from carrying a firearm as  
17 follows:

18 1. In a jail, correctional facility or juvenile detention facility.

19 2. By order of:

20 (a) The presiding judge or justice when attending any court that is  
21 established pursuant to the constitution of this state or title 12, except if  
22 the peace officer is providing court security or responding to an emergency.

23 (b) A justice court when attending the justice court, except if the  
24 peace officer is providing court security or responding to an emergency.

25 (c) A municipal court when attending the municipal court, except if  
26 the peace officer is providing court security or responding to an emergency.

27 3. When the peace officer is relieved of the peace officer's duties  
28 and is under a criminal or administrative investigation.

29 4. When in a secured police facility.

30 5. When consuming alcohol at a licensed liquor establishment operated  
31 by this state, a county, a city or town, or any other political subdivision  
32 of this state, except if the peace officer's employing agency authorizes the  
33 consumption of alcohol in the performance of the peace officer's duties.

34 6. In a location prohibited by federal law.

35 7. Pursuant to court order.

36 8. Pursuant to any state or federal law that makes the officer a  
37 prohibited possessor.

38 9. When in the judgment of the department head, or the department  
39 head's designee, the peace officer exhibits any impairment, including any  
40 physical or mental impairment that would cause concern for the well-being and  
41 safety of the officer, the officer's law enforcement agency, law enforcement  
42 agency employees or the community.

43 C. A law enforcement agency that employs a peace officer may establish  
44 rules that are consistent with this section. The law enforcement agency may

1 determine the number, type, model, caliber and brand of firearm and the  
2 ammunition that is carried by its peace officers on or off duty.

3 D. This section does not create any civil liability for acting or  
4 failing to act.

5 E. For the purposes of this section:

6 1. "Firearm" has the same meaning prescribed in section 13-105.

7 2. "Peace officer" has the same meaning prescribed in section 1-215.

8 3. "Relieved of duty" means when a peace officer is no longer required  
9 to perform, either temporarily or permanently, the duties for which the  
10 officer was employed.

11 4. "Secured police facility" means a building or structure that is  
12 used primarily by a public agency and that is not accessible to the general  
13 public except by controlled access.