

KAVANAGH FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2474

I move the following SUBSTITUTE amendment to the Rules Committee amendment to HOUSE BILL 2474 (Reference to printed bill)

1 Page 1, strike lines 2 and 3, insert:

2 "Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended  
3 by adding article 18, to read:

4 ARTICLE 18. FIREARMS STORAGE LIABILITY"

5 Line 4, strike "13-3114" insert "12-781"

6 Line 5, after "liability" insert "; employer liability; affirmative defense;  
7 notice"

8 Line 9 strike "THAT" insert "IF THE MOTOR VEHICLE"

9 Line 10, after "VEHICLES" insert "AND THE FIREARM IS NOT VISIBLE FROM THE  
10 OUTSIDE OF THE MOTOR VEHICLE"

11 Strike lines 11 through 22, insert:

12 "B. A PERSON WHO IS INJURED OR THE SURVIVORS OF A PERSON WHO IS KILLED  
13 AS A PROXIMATE RESULT OF A VIOLATION OF SUBSECTION A IF THE VIOLATION OF  
14 SUBSECTION A IS THE RESULT OF AN OFFICIALLY ADOPTED POLICY PROMULGATED BY AN  
15 OWNER OR HIGH MANAGERIAL AGENT OF THE PROPERTY OWNER, TENANT, PUBLIC OR  
16 PRIVATE EMPLOYER OR BUSINESS ENTITY MAY BRING A CIVIL ACTION AGAINST A  
17 PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS ENTITY THAT  
18 KNOWINGLY COMMITTED OR KNOWINGLY CAUSED THE VIOLATION.

19 C. ANY PERSON WHO IS ENTITLED TO TRANSPORT OR STORE A FIREARM PURSUANT  
20 TO THIS SECTION AND WHO IS PROHIBITED FROM TRANSPORTING OR STORING A FIREARM  
21 BY A PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS ENTITY IN  
22 VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION TO ENJOIN THE PROPERTY  
23 OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS ENTITY FROM VIOLATING  
24 SUBSECTION A.

25 D. A PUBLIC OR PRIVATE EMPLOYER OR BUSINESS ENTITY THAT VIOLATES  
26 SUBSECTION A IS CIVILLY LIABLE TO AN EMPLOYEE WHO IS DISCHARGED FOR LAWFULLY  
27 POSSESSING A FIREARM THAT IS TRANSPORTED OR STORED IN A MOTOR VEHICLE  
28 PURSUANT TO SUBSECTION A, AND THE EMPLOYEE IS ENTITLED TO:

1           1. REINSTATEMENT TO THE SAME POSITION HELD AT THE TIME OF THE  
2 EMPLOYEE'S DISCHARGE OR TO AN EQUIVALENT POSITION.

3           2. REINSTATEMENT OF THE EMPLOYEE'S FULL FRINGE BENEFITS AND SENIORITY  
4 RIGHTS, AS APPROPRIATE.

5           3. COMPENSATION, IF APPROPRIATE, FOR LOST WAGES, BENEFITS OR OTHER  
6 LOST REMUNERATION BECAUSE OF THE DISCHARGE.

7           4. PAYMENT OF REASONABLE ATTORNEY FEES AND COSTS.

8           E. IT IS AN AFFIRMATIVE DEFENSE TO ANY CIVIL ACTION FOR DAMAGES,  
9 INJURY OR DEATH THAT ARISES OUT OF OR RESULTS FROM AN ACT INVOLVING A FIREARM  
10 THAT IS TRANSPORTED OR STORED PURSUANT TO THIS SECTION IF, AT THE TIME OF THE  
11 ACT THAT GAVE RISE TO THE ACTION, EITHER OF THE FOLLOWING APPLIES:

12           1. THE PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS  
13 ENTITY OR ANY AGENT OR EMPLOYEE OF A PROPERTY OWNER, TENANT, PUBLIC OR  
14 PRIVATE EMPLOYER OR BUSINESS ENTITY WAS NOT IN VIOLATION OF SUBSECTION A, WAS  
15 NOT COMMITTING ANY CRIMINAL ACT AND HAD DONE BOTH OF THE FOLLOWING:

16           (a) ADOPTED A POLICY THAT REQUIRES UNATTENDED MOTOR VEHICLES PARKED IN  
17 A PARKING LOT, PARKING GARAGE OR OTHER AREA DESIGNATED FOR PARKING MOTOR  
18 VEHICLES TO REMAIN LOCKED.

19           (b) CLEARLY AND CONSPICUOUSLY POSTED THE ADOPTED POLICY ON THE  
20 PREMISES.

21           2. A PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS  
22 ENTITY OR ANY AGENT OR EMPLOYEE OF A PROPERTY OWNER, TENANT, PUBLIC OR  
23 PRIVATE EMPLOYER OR BUSINESS ENTITY IS EXEMPT PURSUANT TO SUBSECTION G AND  
24 WAS NOT COMMITTING ANY CRIMINAL ACT.

25           F. IN ANY CIVIL ACTION FILED PURSUANT TO THIS SECTION, THE COURT SHALL  
26 AWARD THE PREVAILING PARTY REASONABLE COSTS AND ATTORNEY FEES.

27           G. A CLAIM FOR RELIEF PURSUANT TO SUBSECTION C OR D MAY ONLY COMMENCE  
28 TEN BUSINESS DAYS AFTER THE PLAINTIFF SERVES THE DEFENDANT BY PERSONAL  
29 SERVICE OR CERTIFIED MAIL NOTICE THAT THE PLAINTIFF INTENDS TO SEEK RELIEF  
30 PURSUANT TO SUBSECTION C OR D."

31 Reletter to conform

1 Page 1, after line 31, insert:

2 "3. THE PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS  
3 ENTITY PROVIDES A SECURED AND GATED OR FENCED PARKING LOT, PARKING GARAGE OR  
4 OTHER AREA DESIGNATED FOR PARKING MOTOR VEHICLES, SEARCHES ALL VEHICLES AND  
5 OCCUPANTS OF THE VEHICLE ON EACH ENTRY TO THE PARKING AREA AND PROVIDES  
6 TEMPORARY AND SECURE FIREARM STORAGE. THE STORAGE SHALL BE READILY  
7 ACCESSIBLE ON ENTRY INTO THE PREMISES AND ALLOW FOR THE IMMEDIATE RETRIEVAL  
8 OF THE FIREARM ON EXIT FROM THE PREMISES.

9 4. THE PROPERTY OWNER'S, TENANT'S, PUBLIC OR PRIVATE EMPLOYER'S OR  
10 BUSINESS ENTITY'S COMPLIANCE WITH THIS SECTION NECESSITATES THE VIOLATION OF  
11 ANOTHER APPLICABLE FEDERAL OR STATE LAW OR REGULATION.

12 5. THE PROPERTY OWNER, TENANT, PUBLIC OR PRIVATE EMPLOYER OR BUSINESS  
13 ENTITY IS A NUCLEAR GENERATING STATION THAT PROVIDES A SECURED AND GATED OR  
14 FENCED PARKING LOT, PARKING GARAGE OR OTHER AREA DESIGNATED FOR PARKING MOTOR  
15 VEHICLES AND PROVIDES TEMPORARY AND SECURE FIREARM STORAGE. THE STORAGE  
16 SHALL BE READILY ACCESSIBLE ON ENTRY INTO THE PREMISES AND ALLOW FOR THE  
17 IMMEDIATE RETRIEVAL OF THE FIREARM ON EXIT FROM THE PREMISES.

18 6. THE PARKING LOT, PARKING GARAGE OR OTHER AREA DESIGNATED FOR PARKING  
19 MOTOR VEHICLES IS ON AN OWNER OCCUPIED SINGLE FAMILY DETACHED RESIDENCE OR A  
20 TENANT OCCUPIED SINGLE FAMILY DETACHED RESIDENCE."

21 Amend title to conform

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JOHN KAVANAGH

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5/7/09  
12:01 PM  
H:jjb

2474jk1  
04/30/2009  
12:11 PM  
C: sp