

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1242

AN ACT

AMENDING SECTIONS 11-441, 13-3102, 13-3112 AND 38-1102, ARIZONA REVISED
STATUTES; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-441, Arizona Revised Statutes, is amended to
3 read:

4 11-441. Powers and duties

5 A. The sheriff shall:

6 1. Preserve the peace.

7 2. Arrest and take before the nearest magistrate for examination all
8 persons who attempt to commit or who have committed a public offense.

9 3. Prevent and suppress all affrays, breaches of the peace, riots and
10 insurrections which may come to the knowledge of the sheriff.

11 4. Attend all courts, except justice and municipal courts, when an
12 element of danger is anticipated and attendance is requested by the presiding
13 judge, and obey lawful orders and directions issued by the judge.

14 5. Take charge of and keep the county jail, including a county jail
15 under the jurisdiction of a county jail district, and the prisoners in the
16 county jail.

17 6. Endorse upon all process and notices the year, month, day, hour and
18 minute of reception, and issue to the person delivering it, on payment of
19 fees, a certificate showing the names of the parties, title of paper and time
20 of reception.

21 7. Serve process and notices in the manner prescribed by law and
22 certify under the sheriff's hand upon the process or notices the manner and
23 time of service, or if the sheriff fails to make service, the reasons for
24 failure, and return them without delay. When returnable to another county,
25 the sheriff may enclose such process or notices in an envelope, addressed to
26 the officer from whom received, and deposit it postage prepaid in the post
27 office. The return of the sheriff is prima facie evidence of the facts
28 stated in the return.

29 8. Secure, as soon as possible, the home of a deceased person located
30 outside the boundaries of an incorporated city or town if the sheriff is
31 unable to determine or locate the heirs or executor of the deceased person.

32 B. The sheriff may in the execution of the duties prescribed in
33 subsection A, paragraphs 1 through 4 command the aid of as many inhabitants
34 of the county as the sheriff deems necessary.

35 C. The sheriff shall conduct or coordinate within the county search or
36 rescue operations involving the life or health of any person, or may assist
37 in such operations in another county at the request of that county's sheriff,
38 and may request assistance from any persons or agencies in the fulfillment of
39 duties under this subsection.

40 D. The sheriff, in the execution of the duties prescribed in this
41 section, may request the aid of volunteer posse and reserve organizations
42 located in the county.

1 E. The sheriff may assist in the execution of the duties prescribed in
2 this section in another county at the request of that county's sheriff.

3 F. The sheriff may require any prisoner who is on work release to
4 reimburse the county for reasonable expenses incurred in connection with the
5 release.

6 G. The board of supervisors of a county bordering the Republic of
7 Mexico may adopt an ordinance pursuant to chapter 2 of this title allowing
8 the sheriff to prevent the entry from this state into the republic of Mexico
9 at the border by any resident of this state who is under eighteen years of
10 age if the minor is unaccompanied by a parent or guardian or does not have
11 written consent for entry from a parent or guardian. The authority of the
12 sheriff is only to prevent entry and not to otherwise detain the minor. This
13 subsection shall not be construed to limit the authority of the sheriff
14 pursuant to any other law. A county is not civilly or criminally liable for
15 not adopting an ordinance pursuant to this subsection.

16 H. NOTWITHSTANDING SECTION 13-3112, THE SHERIFF MAY AUTHORIZE MEMBERS
17 OF THE SHERIFF'S VOLUNTEER POSSE WHO HAVE RECEIVED FIREARMS TRAINING THAT IS
18 APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD TO CARRY A
19 DEADLY WEAPON WITHOUT A PERMIT WHILE ON DUTY.

20 Sec. 2. Section 13-3102, Arizona Revised Statutes, is amended to read:

21 13-3102. Misconduct involving weapons; defenses;
22 classification; definitions

23 A. A person commits misconduct involving weapons by knowingly:

24 1. Carrying a deadly weapon without a permit pursuant to section
25 13-3112 except a pocket knife concealed on his person; or

26 2. Carrying a deadly weapon without a permit pursuant to section
27 13-3112 concealed within immediate control of any person in or on a means of
28 transportation; or

29 3. Manufacturing, possessing, transporting, selling or transferring a
30 prohibited weapon, except that if the violation involves dry ice, a person
31 commits misconduct involving weapons by knowingly possessing the dry ice with
32 the intent to cause injury to or death of another person or to cause damage
33 to the property of another person; or

34 4. Possessing a deadly weapon or prohibited weapon if such person is a
35 prohibited possessor; or

36 5. Selling or transferring a deadly weapon to a prohibited possessor;
37 or

38 6. Defacing a deadly weapon; or

39 7. Possessing a defaced deadly weapon knowing the deadly weapon was
40 defaced; or

41 8. Using or possessing a deadly weapon during the commission of any
42 felony offense included in chapter 34 of this title; or

43 9. Discharging a firearm at an occupied structure in order to assist,
44 promote or further the interests of a criminal street gang, a criminal
45 syndicate or a racketeering enterprise; or

1 10. Unless specifically authorized by law, entering any public
2 establishment or attending any public event and carrying a deadly weapon on
3 his person after a reasonable request by the operator of the establishment or
4 the sponsor of the event or the sponsor's agent to remove his weapon and
5 place it in the custody of the operator of the establishment or the sponsor
6 of the event for temporary and secure storage of the weapon pursuant to
7 section 13-3102.01; or

8 11. Unless specifically authorized by law, entering an election polling
9 place on the day of any election carrying a deadly weapon; or

10 12. Possessing a deadly weapon on school grounds; or

11 13. Unless specifically authorized by law, entering a nuclear or
12 hydroelectric generating station carrying a deadly weapon on his person or
13 within the immediate control of any person; or

14 14. Supplying, selling or giving possession or control of a firearm to
15 another person if the person knows or has reason to know that the other
16 person would use the firearm in the commission of any felony; or

17 15. Using, possessing or exercising control over a deadly weapon in
18 furtherance of any act of terrorism as defined in section 13-2301 or
19 possessing or exercising control over a deadly weapon knowing or having
20 reason to know that it will be used to facilitate any act of terrorism as
21 defined in section 13-2301.

22 B. Subsection A, paragraph 1 of this section shall not apply to a
23 person in his dwelling, on his business premises or on real property owned or
24 leased by that person.

25 C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this
26 section shall not apply to:

27 1. A peace officer or any person summoned by any peace officer to
28 assist and while actually assisting in the performance of official duties; or

29 2. A member of the military forces of the United States or of any
30 state of the United States in the performance of official duties; or

31 3. A warden, deputy warden, **COMMUNITY CORRECTIONAL OFFICER, DETENTION**
32 **OFFICER, SPECIAL INVESTIGATOR** or correctional officer of the state department
33 of corrections **OR THE DEPARTMENT OF JUVENILE CORRECTIONS**; or

34 4. A person specifically licensed, authorized or permitted pursuant to
35 a statute of this state or of the United States.

36 **D. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION SHALL NOT APPLY**
37 **TO:**

38 **1. A MEMBER OF A SHERIFF'S VOLUNTEER POSSE OR RESERVE ORGANIZATION WHO**
39 **HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER**
40 **STANDARDS AND TRAINING BOARD AND WHO IS AUTHORIZED BY THE SHERIFF TO CARRY A**
41 **CONCEALED WEAPON PURSUANT TO SECTION 11-441.**

42 **2. A PERSON WHO HAS HONORABLY SERVED AS A LAW ENFORCEMENT OFFICER IN**
43 **THE UNITED STATES FOR AT LEAST TEN CONSECUTIVE YEARS AND WHO POSSESSES A**
44 **PHOTOGRAPHIC IDENTIFICATION FROM A LAW ENFORCEMENT AGENCY THAT STATES THE**
45 **PERSON HAS SERVED FOR AT LEAST TEN CONSECUTIVE YEARS AS A LAW ENFORCEMENT**

1 OFFICER IN THE UNITED STATES. ON REQUEST, THE LAW ENFORCEMENT AGENCY THAT
2 MOST RECENTLY EMPLOYED THE PERSON OR, IF THE PERSON WAS EMPLOYED OUTSIDE OF
3 THIS STATE, THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES SHALL ISSUE
4 A PHOTOGRAPHIC IDENTIFICATION THAT VERIFIES THE PERSON MEETS THE REQUIREMENT
5 OF THIS PARAGRAPH.

6 ~~D.~~ E. Subsection A, paragraphs 3 and 7 of this section shall not
7 apply to:

8 1. The possessing, transporting, selling or transferring of weapons by
9 a museum as a part of its collection or an educational institution for
10 educational purposes or by an authorized employee of such museum or
11 institution, if:

12 (a) Such museum or institution is operated by the United States or
13 this state or a political subdivision of this state, or by an organization
14 described in 26 United States Code section 170(c) as a recipient of a
15 charitable contribution; and

16 (b) Reasonable precautions are taken with respect to theft or misuse
17 of such material.

18 2. The regular and lawful transporting as merchandise; or

19 3. Acquisition by a person by operation of law such as by gift, devise
20 or descent or in a fiduciary capacity as a recipient of the property or
21 former property of an insolvent, incapacitated or deceased person.

22 ~~E.~~ F. Subsection A, paragraph 3 of this section shall not apply to
23 the merchandise of an authorized manufacturer of or dealer in prohibited
24 weapons, when such material is intended to be manufactured, possessed,
25 transported, sold or transferred solely for or to a dealer, a regularly
26 constituted or appointed state, county or municipal police department or
27 police officer, a detention facility, the military service of this or another
28 state or the United States, a museum or educational institution or a person
29 specifically licensed or permitted pursuant to federal or state law.

30 ~~F.~~ G. Subsection A, paragraph 1 of this section shall not apply to a
31 weapon or weapons carried in a belt holster that is wholly or partially
32 visible, ~~or~~ carried in a scabbard or case designed for carrying weapons that
33 is wholly or partially visible or carried in luggage. Subsection A,
34 paragraph 2 of this section shall not apply to a weapon or weapons carried in
35 a case, holster, scabbard, pack or luggage that is carried within a means of
36 transportation or within a storage compartment, map pocket, trunk or glove
37 compartment of a means of transportation.

38 ~~G.~~ H. Subsection A, paragraph 10 of this section shall not apply to
39 shooting ranges or shooting events, hunting areas or similar locations or
40 activities.

41 ~~H.~~ I. Subsection A, paragraph 3 of this section shall not apply to a
42 weapon described in section 13-3101, subsection A, paragraph 8, subdivision
43 (a), item (v), if such weapon is possessed for the purposes of preparing for,
44 conducting or participating in lawful exhibitions, demonstrations, contests
45 or athletic events involving the use of such weapon. Subsection A, paragraph

1 12 of this section shall not apply to a weapon if such weapon is possessed
2 for the purposes of preparing for, conducting or participating in hunter or
3 firearm safety courses.

4 ~~I.~~ J. Subsection A, paragraph 12 of this section shall not apply to
5 the possession of a:

6 1. Firearm that is not loaded and that is carried within a means of
7 transportation under the control of an adult provided that if the adult
8 leaves the means of transportation the firearm shall not be visible from the
9 outside of the means of transportation and the means of transportation shall
10 be locked.

11 2. Firearm for use on the school grounds in a program approved by a
12 school.

13 ~~J.~~ K. The operator of the establishment or the sponsor of the event
14 or the employee of the operator or sponsor or the agent of the sponsor,
15 including a public entity or public employee, is not liable for acts or
16 omissions pursuant to subsection A, paragraph 10 of this section unless the
17 operator, sponsor, employee or agent intended to cause injury or was grossly
18 negligent.

19 ~~K.~~ L. MISCONDUCT INVOLVING WEAPONS UNDER SUBSECTION A, PARAGRAPH 15
20 OF THIS SECTION IS A CLASS 2 FELONY. Misconduct involving weapons under
21 subsection A, paragraph 9, ~~OR 14 or 15~~ of this section is a class 3
22 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8
23 or 13 of this section is a class 4 felony. Misconduct involving weapons
24 under subsection A, paragraph 12 of this section is a class 1 misdemeanor
25 unless the violation occurs in connection with conduct that violates section
26 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
27 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
28 Misconduct involving weapons under subsection A, paragraph 5, 6 or 7 of this
29 section is a class 6 felony. Misconduct involving weapons under subsection
30 A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

31 ~~L.~~ M. For the purposes of this section:

32 1. "Public establishment" means a structure, vehicle or craft that is
33 owned, leased or operated by this state or a political subdivision of this
34 state.

35 2. "Public event" means a specifically named or sponsored event of
36 limited duration that is either conducted by a public entity or conducted by
37 a private entity with a permit or license granted by a public entity. Public
38 event does not include an unsponsored gathering of people in a public place.

39 3. "School" means a public or nonpublic kindergarten program, common
40 school or high school.

41 4. "School grounds" means in, or on the grounds of, a school.

1 Sec. 3. 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 section 13-3101, subsection A,
20 paragraph 7 or this section shall be immediately suspended and seized. The
21 permit of a person who becomes unqualified on conviction of that offense
22 shall be revoked. The permit shall be restored on presentation of
23 documentation from the court if the permittee is found not guilty or the
24 charges are dismissed. The permit shall be restored on presentation of
25 documentation from the county attorney that the charges against the permittee
26 were dropped or dismissed.

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

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

- 35 1. Is a resident of this state or a United States citizen.
- 36 2. Is twenty-one years of age or older.
- 37 3. Is not under indictment for and has not been convicted in any
38 jurisdiction of a felony unless that conviction has been expunged, set aside
39 or vacated or the applicant's rights have been restored and the applicant is
40 currently not a prohibited possessor under state or federal law.
- 41 4. Does not suffer from mental illness and has not been adjudicated
42 mentally incompetent or committed to a mental institution.
- 43 5. Is not unlawfully present in the United States.
- 44 6. Has ever satisfactorily completed a firearms safety training
45 program authorized by the department of public safety pursuant to subsection

1 0 of this section and provides adequate documentation that the authorized
2 training program was satisfactorily completed. For the purposes of this
3 paragraph, "adequate documentation" means a certificate, card or document of
4 completion from ~~an authorized~~ A firearms safety training program AUTHORIZED
5 pursuant to subsection 0 of this section, dated not more than five years
6 earlier than the date of application, that has affixed to it the stamp,
7 signature or seal of the instructor or organization that conducted the
8 program, or a current or expired permit issued by the department of public
9 safety pursuant to this section. This paragraph does not apply to:

10 (a) A person who is an active duty Arizona peace officer standards and
11 training board certified or federally credentialed peace officer or who is
12 honorably retired as a federal, state or local peace officer with a minimum
13 of ten years of service.

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

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

18 (d) A PERSON WHO IS AN ARIZONA PEACE OFFICER STANDARDS AND TRAINING
19 BOARD CERTIFIED FULL AUTHORITY PEACE OFFICER AND WHO VOLUNTEERS IN A LAW
20 ENFORCEMENT AGENCY'S RESERVE PROGRAM.

21 F. The application shall be completed on a form prescribed by the
22 department of public safety. The form shall not require the applicant to
23 disclose the type of firearm for which a permit is sought. The applicant
24 shall attest under penalty of perjury that all of the statements made by the
25 applicant are true. The applicant shall submit the application to the
26 department with a certificate of completion from an authorized firearms
27 safety training program, two sets of fingerprints and a reasonable fee
28 determined by the director of the department.

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

34 H. The department of public safety shall complete all of the required
35 qualification checks within sixty days after receipt of the application and
36 shall issue a permit within fifteen working days after completing the
37 qualification checks if the applicant meets all of the conditions specified
38 in subsection E of this section. If a permit is denied, the department of
39 public safety shall notify the applicant in writing within fifteen working
40 days after the completion of all of the required qualification checks and
41 shall state the reasons why the application was denied. On receipt of the
42 notification of the denial, the applicant has twenty days to submit any
43 additional documentation to the department. On receipt of the additional
44 documentation, the department shall reconsider its decision and inform the
45 applicant within twenty days of the result of the reconsideration. If

1 denied, the applicant shall be informed that the applicant may request a
2 hearing pursuant to title 41, chapter 6, article 10.

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

9 J. The department of public safety shall maintain a computerized
10 permit record system that is accessible to criminal justice agencies for the
11 purpose of confirming the permit status of any person who claims to hold a
12 valid permit issued by this state. This information and any other records
13 that are maintained regarding applicants, permit holders or instructors shall
14 not be available to any other person or entity except on an order from a
15 state or federal court.

16 K. Notwithstanding subsection J of this section, it is a defense to
17 any charge for carrying a deadly weapon without a permit by a member of the
18 United States armed forces, including a member of the Arizona national guard
19 or a member of the reserves of any military establishment of the United
20 States, if the member was on federal active duty at the time the permit
21 expired and the member presents documentation indicating release from active
22 duty or reassignment from overseas deployment within the preceding ninety
23 days.

24 L. A permit issued pursuant to this section is renewable every five
25 years. Before a permit may be renewed, a criminal history records check
26 shall be conducted pursuant to section 41-1750 within sixty days after
27 receipt of the application for renewal. For the purposes of permit renewal,
28 the permit holder is not required to submit additional fingerprints.

29 M. Applications for renewal shall be accompanied by a fee determined
30 by the director of the department of public safety.

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

36 O. An organization shall apply to the department of public safety for
37 authorization to provide firearms safety training. The department shall
38 authorize an organization to provide firearms safety training if the training
39 meets the following requirements:

- 40 1. Is at least eight hours in length.
- 41 2. Is conducted on a pass or fail basis.
- 42 3. Addresses all of the following topics in a format approved by the
43 director of the department:
 - 44 (a) Legal issues relating to the use of deadly force.
 - 45 (b) Weapon care and maintenance.

- 1 (c) Mental conditioning for the use of deadly force.
- 2 (d) Safe handling and storage of weapons.
- 3 (e) Marksmanship.
- 4 (f) Judgmental shooting.

5 4. Is conducted by instructors who are authorized by the department of
6 public safety or who possess current national rifle association instructor
7 certifications in pistol and personal protection and who submit to a
8 background investigation, including a check for warrants and a criminal
9 history records check.

10 P. If authorized pursuant to subsection 0 of this section, the
11 organization on behalf of each of its instructors shall submit to the
12 department of public safety two sets of fingerprints and a fee to be
13 determined by the director of the department of public safety. On receipt of
14 the fingerprints and fee, the department of public safety shall conduct a
15 check of each instructor's criminal history record pursuant to section
16 41-1750. The department of public safety may exchange this fingerprint card
17 information with the federal bureau of investigation for federal criminal
18 history record checks.

19 Q. The proprietary interest of all authorized instructors and programs
20 shall be safeguarded, and the contents of any training program shall not be
21 disclosed to any person or entity other than a bona fide criminal justice
22 agency, except on an order from a state or federal court.

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

26 S. The department of public safety shall maintain information
27 comparing the number of permits requested, the number of permits issued and
28 the number of permits denied. The department shall annually report this
29 information to the governor and the legislature.

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

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

- 37 1. The permit or license is recognized as valid in the issuing state.
- 38 2. The permit or license holder is all of the following:
 - 39 (a) Not a resident of this state.
 - 40 (b) Legally present in this state.
 - 41 (c) Not legally prohibited from possessing a firearm in this state.

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

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

5 6. In a location prohibited by federal law.

6 7. Pursuant to court order.

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

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

14 C. A law enforcement agency that employs a peace officer may establish
15 rules that are consistent with this section. The law enforcement agency may
16 determine the number, type, model, caliber and brand of firearm and the
17 ammunition that is carried by its peace officers on or off duty.

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

20 E. For the purposes of this section:

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

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

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

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

29 Sec. 5. Emergency

30 This act is an emergency measure that is necessary to preserve the
31 public peace, health or safety and is operative immediately as provided by
32 law.