

House Engrossed

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

# HOUSE BILL 2629

AN ACT

AMENDING SECTION 13-3102, ARIZONA REVISED STATUTES; 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, Arizona Revised Statutes, is amended to  
3 read:

4 13-3102. Misconduct involving weapons; defenses;  
5 classification; definitions

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

7 1. Carrying a deadly weapon without a permit pursuant to section  
8 13-3112 except a pocket knife concealed on his person; or

9 2. Carrying a deadly weapon without a permit pursuant to section  
10 13-3112 concealed within immediate control of any person in or on a means of  
11 transportation; or

12 3. Manufacturing, possessing, transporting, selling or transferring a  
13 prohibited weapon, except that if the violation involves dry ice, a person  
14 commits misconduct involving weapons by knowingly possessing the dry ice with  
15 the intent to cause injury to or death of another person or to cause damage  
16 to the property of another person; or

17 4. Possessing a deadly weapon or prohibited weapon if such person is a  
18 prohibited possessor; or

19 5. Selling or transferring a deadly weapon to a prohibited possessor;  
20 or

21 6. Defacing a deadly weapon; or

22 7. Possessing a defaced deadly weapon knowing the deadly weapon was  
23 defaced; or

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

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

29 10. Unless specifically authorized by law, entering any public  
30 establishment or attending any public event and carrying a deadly weapon on  
31 his person after a reasonable request by the operator of the establishment or  
32 the sponsor of the event or the sponsor's agent to remove his weapon and  
33 place it in the custody of the operator of the establishment or the sponsor  
34 of the event for temporary and secure storage of the weapon pursuant to  
35 section 13-3102.01; or

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

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

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

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

1        15. Using, possessing or exercising control over a deadly weapon in  
2 furtherance of any act of terrorism as defined in section 13-2301 or  
3 possessing or exercising control over a deadly weapon knowing or having  
4 reason to know that it will be used to facilitate any act of terrorism as  
5 defined in section 13-2301.

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

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

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

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

15        3. A warden, deputy warden, community correctional officer, detention  
16 officer, special investigator or correctional officer of the state department  
17 of corrections or the department of juvenile corrections; or

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

20        D. Subsection A, paragraphs 1 and 2 of this section shall not apply  
21 to:

22        1. A member of a sheriff's volunteer posse or reserve organization who  
23 has received and passed firearms training that is approved by the Arizona  
24 peace officer standards and training board and who is authorized by the  
25 sheriff to carry a concealed weapon pursuant to section 11-441.

26        2. A person who has honorably served as a law enforcement officer in  
27 the United States for at least ten consecutive years and who possesses a  
28 photographic identification or a letter from a law enforcement agency that  
29 states the person has served for at least ten consecutive years as a law  
30 enforcement officer in the United States. On request, the law enforcement  
31 agency that most recently employed the person or, if the person was employed  
32 outside of this state, the sheriff of the county in which the person resides  
33 shall issue a photographic identification or a letter that verifies the  
34 person meets the requirement of this paragraph.

35        3. A PERSON WHO HAS HONORABLY SERVED AS A LAW ENFORCEMENT OFFICER IN  
36 THIS STATE, WHO HAS MEDICALLY RETIRED FROM A POLICE DEPARTMENT OR LIMITED  
37 AUTHORITY STATE ENFORCEMENT AGENCY DUE TO A DISABILITY THAT IS NOT ASSOCIATED  
38 WITH A MENTAL DISORDER, WHO AT THE TIME OF MEDICAL RETIREMENT WAS CERTIFIED  
39 BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD TO CARRY A WEAPON  
40 IN THIS STATE AND WHO POSSESSES A PHOTOGRAPHIC IDENTIFICATION AND A LETTER  
41 FROM A LAW ENFORCEMENT AGENCY THAT STATES THE PERSON WAS A MEMBER IN GOOD  
42 STANDING AT THE TIME OF THE PERSON'S RETIREMENT.

1           E. Subsection A, paragraphs 3 and 7 of this section shall not apply  
2 to:

3           1. The possessing, transporting, selling or transferring of weapons by  
4 a museum as a part of its collection or an educational institution for  
5 educational purposes or by an authorized employee of such museum or  
6 institution, if:

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

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

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

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

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

25           G. Subsection A, paragraph 1 of this section shall not apply to a  
26 weapon or weapons carried in a belt holster that is wholly or partially  
27 visible, carried in a scabbard or case designed for carrying weapons that is  
28 wholly or partially visible or carried in luggage. Subsection A, paragraph 2  
29 of this section shall not apply to a weapon or weapons carried in a case,  
30 holster, scabbard, pack or luggage that is carried within a means of  
31 transportation or within a storage compartment, map pocket, trunk or glove  
32 compartment of a means of transportation.

33           H. Subsection A, paragraph 10 of this section shall not apply to  
34 shooting ranges or shooting events, hunting areas or similar locations or  
35 activities.

36           I. Subsection A, paragraph 3 of this section shall not apply to a  
37 weapon described in section 13-3101, subsection A, paragraph 8, subdivision  
38 (a), item (v), if such weapon is possessed for the purposes of preparing for,  
39 conducting or participating in lawful exhibitions, demonstrations, contests  
40 or athletic events involving the use of such weapon. Subsection A, paragraph  
41 12 of this section shall not apply to a weapon if such weapon is possessed  
42 for the purposes of preparing for, conducting or participating in hunter or  
43 firearm safety courses.

44           J. Subsection A, paragraph 12 of this section shall not apply to the  
45 possession of a:

1           1. Firearm that is not loaded and that is carried within a means of  
2 transportation under the control of an adult provided that if the adult  
3 leaves the means of transportation the firearm shall not be visible from the  
4 outside of the means of transportation and the means of transportation shall  
5 be locked.

6           2. Firearm for use on the school grounds in a program approved by a  
7 school.

8           K. The operator of the establishment or the sponsor of the event or  
9 the employee of the operator or sponsor or the agent of the sponsor,  
10 including a public entity or public employee, is not liable for acts or  
11 omissions pursuant to subsection A, paragraph 10 of this section unless the  
12 operator, sponsor, employee or agent intended to cause injury or was grossly  
13 negligent.

14           L. Misconduct involving weapons under subsection A, paragraph 15 of  
15 this section is a class 2 felony. Misconduct involving weapons under  
16 subsection A, paragraph 9 or 14 of this section is a class 3  
17 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8  
18 or 13 of this section is a class 4 felony. Misconduct involving weapons  
19 under subsection A, paragraph 12 of this section is a class 1 misdemeanor  
20 unless the violation occurs in connection with conduct that violates section  
21 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section  
22 13-3409 or section 13-3411, in which case the offense is a class 6 felony.  
23 Misconduct involving weapons under subsection A, paragraph 5, 6 or 7 of this  
24 section is a class 6 felony. Misconduct involving weapons under subsection  
25 A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

26           M. For the purposes of this section:

27           1. "Public establishment" means a structure, vehicle or craft that is  
28 owned, leased or operated by this state or a political subdivision of this  
29 state.

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

34           3. "School" means a public or nonpublic kindergarten program, common  
35 school or high school.

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