

House Engrossed

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HOUSE BILL 2146

AN ACT

AMENDING SECTIONS 13-3102 AND 13-3112, 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 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 except a pocket knife concealed on his  
8 person or within his immediate control in or on a means of transportation:

9 (a) In the furtherance of a serious offense as defined in section  
10 13-706, a violent crime as defined in section 13-901.03 or any other felony  
11 offense; or

12 (b) When contacted by a law enforcement officer and failing to  
13 accurately answer the officer if the officer asks whether the person is  
14 carrying a concealed deadly weapon; or

15 2. Carrying a deadly weapon except a pocket knife concealed on his  
16 person or concealed within his immediate control in or on a means of  
17 transportation if the person is under twenty-one years of age; or

18 3. Manufacturing, possessing, transporting, selling or transferring a  
19 prohibited weapon, except that if the violation involves dry ice, a person  
20 commits misconduct involving weapons by knowingly possessing the dry ice with  
21 the intent to cause injury to or death of another person or to cause damage  
22 to the property of another person; or

23 4. Possessing a deadly weapon or prohibited weapon if such person is a  
24 prohibited possessor; or

25 5. Selling or transferring a deadly weapon to a prohibited possessor;  
26 or

27 6. Defacing a deadly weapon; or

28 7. Possessing a defaced deadly weapon knowing the deadly weapon was  
29 defaced; or

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

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

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

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

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

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

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

7       15. Using, possessing or exercising control over a deadly weapon in  
8 furtherance of any act of terrorism as defined in section 13-2301 or  
9 possessing or exercising control over a deadly weapon knowing or having  
10 reason to know that it will be used to facilitate any act of terrorism as  
11 defined in section 13-2301.

12       B. Subsection A, paragraph 2 of this section shall not apply to:

13       1. A person in his dwelling, on his business premises or on real  
14 property owned or leased by that person or that person's parent, grandparent  
15 or legal guardian.

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

20       3. A firearm that is carried in:

21       (a) A manner where any portion of the firearm or holster in which the  
22 firearm is carried is visible.

23       (b) A holster that is wholly or partially visible.

24       (c) A scabbard or case designed for carrying weapons that is wholly or  
25 partially visible.

26       (d) Luggage.

27       (e) A case, holster, scabbard, pack or luggage that is carried within  
28 a means of transportation or within a storage compartment, map pocket, trunk  
29 or glove compartment of a means of transportation.

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

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

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

36       3. A warden, deputy warden, community correctional officer, detention  
37 officer, special investigator or correctional officer of the state department  
38 of corrections or the department of juvenile corrections; or

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

41       D. Subsection A, paragraphs 3 and 7 of this section shall not apply  
42 to:

43       1. The possessing, transporting, selling or transferring of weapons by  
44 a museum as a part of its collection or an educational institution for

1 educational purposes or by an authorized employee of such museum or  
2 institution, if:

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

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

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

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

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

21 F. Subsection A, paragraph 10 of this section shall not apply to  
22 shooting ranges or shooting events, hunting areas or similar locations or  
23 activities.

24 G. Subsection A, paragraph 3 of this section shall not apply to a  
25 weapon described in section 13-3101, subsection A, paragraph 8, subdivision  
26 (a), item (v), if such weapon is possessed for the purposes of preparing for,  
27 conducting or participating in lawful exhibitions, demonstrations, contests  
28 or athletic events involving the use of such weapon. Subsection A, paragraph  
29 ~~10~~ 12 of this section shall not apply to a weapon if such weapon is  
30 possessed for the purposes of preparing for, conducting or participating in  
31 hunter or firearm safety courses.

32 H. Subsection A, paragraph 12 of this section shall not apply to the  
33 possession of a:

34 1. Firearm that is not loaded and that is carried within a means of  
35 transportation under the control of an adult provided that if the adult  
36 leaves the means of transportation the firearm shall not be visible from the  
37 outside of the means of transportation and the means of transportation shall  
38 be locked.

39 2. Firearm for use on the school grounds in a program approved by a  
40 school.

41 3. Firearm by a person who possesses a certificate of firearms  
42 proficiency pursuant to section 13-3112, subsection ~~W~~ T and who is  
43 authorized to carry a concealed firearm pursuant to the law enforcement  
44 officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States  
45 Code sections 926B and 926C).

1 I. The operator of the establishment or the sponsor of the event or  
2 the employee of the operator or sponsor or the agent of the sponsor,  
3 including a public entity or public employee, is not liable for acts or  
4 omissions pursuant to subsection A, paragraph 10 of this section unless the  
5 operator, sponsor, employee or agent intended to cause injury or was grossly  
6 negligent.

7 J. If a law enforcement officer contacts a person who is in possession  
8 of a firearm, the law enforcement officer may take temporary custody of the  
9 firearm for the duration of that contact.

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

25 L. For the purposes of this section:

26 1. "Contacted by a law enforcement officer" means a lawful traffic or  
27 criminal investigation, arrest or detention or an investigatory stop by a law  
28 enforcement officer that is based on reasonable suspicion that an offense has  
29 been or is about to be committed.

30 2. "Public establishment" means a structure, vehicle or craft that is  
31 owned, leased or operated by this state or a political subdivision of this  
32 state.

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

37 4. "School" means a public or nonpublic kindergarten program, common  
38 school or high school.

39 5. "School grounds" means in, or on the grounds of, a school.

40 Sec. 2. Section 13-3112, Arizona Revised Statutes, is amended to read:

41 13-3112. Concealed weapons; qualification; application; permit  
42 to carry; civil penalty; report; applicability

43 A. The department of public safety shall issue a permit to carry a  
44 concealed weapon to a person who is qualified under this section. The person  
45 shall carry the permit at all times when the person is in actual possession

1 of the concealed weapon and is required by ~~any other law~~ SECTION 4-229 OR  
2 4-244 to carry the permit. If the person is in actual possession of the  
3 concealed weapon and is required by ~~any other law~~ SECTION 4-229 OR 4-244 to  
4 carry the permit, the person shall present the permit for inspection to any  
5 law enforcement officer on request.

6 B. The permit of a person who is arrested or indicted for an offense  
7 that would make the person unqualified under section 13-3101, subsection A,  
8 paragraph 7 or this section shall be immediately suspended and seized. The  
9 permit of a person who becomes unqualified on conviction of that offense  
10 shall be revoked. The permit shall be restored on presentation of  
11 documentation from the court if the permittee is found not guilty or the  
12 charges are dismissed. The permit shall be restored on presentation of  
13 documentation from the county attorney that the charges against the permittee  
14 were dropped or dismissed.

15 C. A permittee who carries a concealed weapon, who is required by ~~any~~  
16 ~~other law~~ SECTION 4-229 OR 4-244 to carry a permit and who fails to present  
17 the permit for inspection on the request of a law enforcement officer commits  
18 a violation of this subsection and is subject to a civil penalty of not more  
19 than three hundred dollars. The department of public safety shall be  
20 notified of all violations of this subsection and shall immediately suspend  
21 the permit. A permittee shall not be convicted of a violation of this  
22 ~~section~~ SUBSECTION if the permittee produces to the court a legible permit  
23 that is issued to the permittee and that was valid at the time the permittee  
24 failed to present the permit for inspection.

25 D. A law enforcement officer shall not confiscate or forfeit a weapon  
26 that is otherwise lawfully possessed by a permittee whose permit is suspended  
27 pursuant to subsection C of this section, except that a law enforcement  
28 officer may take temporary custody of a firearm during an investigatory stop  
29 of the permittee.

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

- 32 1. Is a resident of this state or a United States citizen.
- 33 2. Is twenty-one years of age or older.
- 34 3. Is not under indictment for and has not been convicted in any  
35 jurisdiction of a felony unless that conviction has been expunged, set aside  
36 or vacated or the applicant's rights have been restored and the applicant is  
37 currently not a prohibited possessor under state or federal law.
- 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. Has ~~ever satisfactorily completed a firearms safety training~~  
42 ~~program authorized by the department of public safety pursuant to subsection~~  
43 ~~N, paragraph 1 of this section or has~~ ever demonstrated competence with a  
44 firearm as prescribed by subsection N, ~~paragraph 2, 3, 4, 5, 6, 7, 8 or 9~~ of  
45 this section and provides adequate documentation that the person has

1 satisfactorily completed a training program or demonstrated competence with a  
2 firearm in any state or political subdivision in the United States. For the  
3 purposes of this paragraph, "adequate documentation" means:

4 (a) A ~~certificate, card or document of completion from a firearms~~  
5 ~~safety training program authorized pursuant to subsection N, paragraph 1 of~~  
6 ~~this section, dated not more than five years earlier than the date of~~  
7 ~~application, that has affixed to it the stamp, signature or seal of the~~  
8 ~~instructor or organization that conducted the program, or a~~ current or  
9 expired permit issued by the department of public safety pursuant to this  
10 section.

11 (b) An original or copy of a certificate, card or document that shows  
12 the applicant has EVER completed any course or class prescribed by subsection  
13 ~~N, paragraph 2, 3, 4, 5, 8 or 9~~ of this section or an affidavit from the  
14 instructor, school, club or organization that conducted or taught the course  
15 or class attesting to the applicant's completion of the course or class.

16 (c) An original or a copy of a United States department of defense  
17 form 214 (DD-214) indicating an honorable discharge or general discharge  
18 under honorable conditions, a certificate of completion of basic training or  
19 any other document demonstrating proof of the applicant's current or former  
20 service in the United States armed forces as prescribed by subsection N,  
21 paragraph ~~6~~ 5 of this section.

22 (d) An original or a copy of a concealed weapon, firearm or handgun  
23 permit or a license as prescribed by subsection N, paragraph ~~7~~ 6 of this  
24 section.

25 F. The application shall be completed on a form prescribed by the  
26 department of public safety. The form shall not require the applicant to  
27 disclose the type of firearm for which a permit is sought. The applicant  
28 shall attest under penalty of perjury that all of the statements made by the  
29 applicant are true, that the applicant has been furnished a copy of ~~chapters~~  
30 ~~4 and 31~~ THIS CHAPTER AND CHAPTER 4 of this title and that the applicant is  
31 knowledgeable about the provisions contained in those chapters. The  
32 applicant shall submit the application to the department with any  
33 documentation prescribed by subsection E of this section, two sets of  
34 fingerprints and a reasonable fee determined by the director of the  
35 department.

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

41 H. The department of public safety shall complete all of the required  
42 qualification checks within sixty days after receipt of the application and  
43 shall issue a permit within fifteen working days after completing the  
44 qualification checks if the applicant meets all of the conditions specified  
45 in subsection E of this section. If a permit is denied, the department of

1 public safety shall notify the applicant in writing within fifteen working  
2 days after the completion of all of the required qualification checks and  
3 shall state the reasons why the application was denied. On receipt of the  
4 notification of the denial, the applicant has twenty days to submit any  
5 additional documentation to the department. On receipt of the additional  
6 documentation, the department shall reconsider its decision and inform the  
7 applicant within twenty days of the result of the reconsideration. If  
8 denied, the applicant shall be informed that the applicant may request a  
9 hearing pursuant to title 41, chapter 6, article 10. For the purposes of  
10 this subsection, "receipt of the application" means the first day that the  
11 department has physical control of the application and that is presumed to be  
12 on the date of delivery as evidenced by proof of delivery by the United  
13 States postal service or a written receipt, which shall be provided by the  
14 department on request of the applicant.

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

21 J. The department of public safety shall maintain a computerized  
22 permit record system that is accessible to criminal justice agencies for the  
23 purpose of confirming the permit status of any person who is contacted by a  
24 law enforcement officer and who claims to hold a valid permit issued by this  
25 state. This information and any other records that are maintained regarding  
26 applicants, permit holders or instructors shall not be available to any other  
27 person or entity except on an order from a state or federal court. A  
28 criminal justice agency ~~or other entity~~ shall not use the computerized permit  
29 record system to conduct inquiries on whether a person is a concealed weapons  
30 permit holder unless the criminal justice agency ~~or other entity~~ has  
31 reasonable suspicion to believe the person is carrying a concealed weapon and  
32 the person is subject to a lawful criminal investigation, arrest, detention  
33 or an investigatory stop.

34 K. A permit issued pursuant to this section is renewable every five  
35 years. Before a permit may be renewed, a criminal history records check  
36 shall be conducted pursuant to section 41-1750 within sixty days after  
37 receipt of the application for renewal. For the purposes of permit renewal,  
38 the permit holder is not required to submit additional fingerprints.

39 L. Applications for renewal shall be accompanied by a fee determined  
40 by the director of the department of public safety.

41 M. The department of public safety shall suspend or revoke a permit  
42 issued under this section if the permit holder becomes ineligible pursuant to  
43 subsection E of this section. The department of public safety shall notify  
44 the permit holder in writing within fifteen working days after the revocation  
45 or suspension and shall state the reasons for the revocation or suspension.



1 N. An applicant shall demonstrate competence with a firearm through  
2 any of the following:

3 ~~1. Completion of any firearms training program that is approved by the~~  
4 ~~department of public safety and that is conducted by instructors who are~~  
5 ~~authorized by the department of public safety or who possess current national~~  
6 ~~rifle association instructor certifications in pistol and personal protection~~  
7 ~~and who submit to a background investigation, including a check for warrants~~  
8 ~~and a criminal history records check.~~

9 ~~2.~~ 1. Completion of any firearms safety or training course or class  
10 that is available to the general public, that is offered by a law enforcement  
11 agency, a junior college, a college or a private or public institution,  
12 academy, organization or firearms training school and that is approved by the  
13 department of public safety OR THAT USES INSTRUCTORS WHO ARE CERTIFIED BY THE  
14 NATIONAL RIFLE ASSOCIATION.

15 ~~3.~~ 2. Completion of any hunter education or hunter safety course  
16 approved by the Arizona game and fish department or a similar agency of  
17 another state.

18 ~~4.~~ 3. Completion of any national rifle association firearms safety or  
19 training course.

20 ~~5.~~ 4. Completion of any law enforcement firearms safety or training  
21 course or class that is offered for security guards, investigators, special  
22 deputies or other divisions or subdivisions of law enforcement or security  
23 enforcement and that is approved by the department of public safety.

24 ~~6.~~ 5. Evidence of current military service or proof of honorable  
25 discharge or general discharge under honorable conditions from the United  
26 States armed forces.

27 ~~7.~~ 6. A valid current or expired concealed weapon, firearm or handgun  
28 permit or license that is issued by another state or a political subdivision  
29 of another state and that has a training or testing requirement for initial  
30 issuance.

31 ~~8.~~ 7. Completion of any governmental police agency firearms training  
32 course and qualification to carry a firearm in the course of normal police  
33 duties.

34 ~~9.~~ 8. Completion of any other firearms SAFETY OR training COURSE OR  
35 CLASS that the IS CONDUCTED BY A department of public safety ~~deems acceptable~~  
36 APPROVED OR NATIONAL RIFLE ASSOCIATION CERTIFIED FIREARMS INSTRUCTOR.

37 ~~0. If authorized pursuant to subsection N, paragraph 1 of this~~  
38 ~~section, the organization on behalf of each of its instructors shall submit~~  
39 ~~to the department of public safety two sets of fingerprints and a fee to be~~  
40 ~~determined by the director of the department of public safety. On receipt of~~  
41 ~~the fingerprints and fee, the department of public safety shall conduct a~~  
42 ~~check of each instructor's criminal history record pursuant to section~~  
43 ~~41-1750. The department of public safety may exchange this fingerprint card~~  
44 ~~information with the federal bureau of investigation for federal criminal~~  
45 ~~history record checks.~~

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

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

~~R.~~ O. The department of public safety shall maintain information comparing the number of permits requested, the number of permits issued and the number of permits denied. The department shall annually report this information to the governor and the legislature.

~~S.~~ P. The director of the department of public safety shall adopt rules for the purpose of implementing and administering this section including fees relating to permits that are issued pursuant to this section.

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

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

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

(a) Legally present in this state.

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

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

~~V.~~ S. Notwithstanding the provisions of this section, a person with a concealed weapons permit from another state may not carry a concealed weapon in this state if the person is under twenty-one years of age or is under indictment for, or has been convicted of, a felony offense in any jurisdiction, unless that conviction is expunged, set aside or vacated or the person's rights have been restored and the person is currently not a prohibited possessor under state or federal law.

~~W.~~ T. The department of public safety may issue certificates of firearms proficiency according to the Arizona peace officer standards and training board firearms qualification for the purposes of implementing the law enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States Code sections 926B and 926C). A law enforcement agency shall issue to a law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement agency has no obligation to revoke, alter or modify the honorable discharge photographic identification based on conduct that the agency becomes aware of or that occurs after the officer has separated from the agency.