

REFERENCE TITLE: **firearm regulation; state preemption**

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2554

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 12-714 AND 13-3102, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3102.01, ARIZONA REVISED STATUTES; AMENDING SECTION 13-3108, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3118, ARIZONA REVISED STATUTES; AMENDING SECTIONS 13-4903, 13-4904 AND 15-515, 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 12-714, Arizona Revised Statutes, is amended to
3 read:

4 12-714. Actions against firearm manufacturers; prohibition;
5 findings; definitions

6 A. A political subdivision of this state shall not commence a
7 qualified civil liability action in any Arizona court.

8 B. The legislature finds that:

9 1. The citizens of this state have the right, under the second
10 amendment to the United States Constitution and article ~~2-~~ II, section 26 of
11 the Arizona Constitution, to keep and bear arms.

12 2. Lawsuits have been commenced against the manufacturers,
13 distributors, dealers and importers of nondefective firearms for the harm
14 caused by the misuse of firearms by third parties, including criminals.

15 3. Businesses in the United States that are engaged in the lawful sale
16 to the public of firearms or ammunition are not, and should not be liable for
17 the harm caused by those who unlawfully misuse firearms or ammunition.

18 4. The possibility of imposing liability on an entire industry for
19 harm that is the sole responsibility of others is an abuse of the legal
20 system, threatens the diminution of a basic constitutional right and
21 constitutes an unreasonable burden on the free enterprise system.

22 5. The liability actions commenced by political subdivisions are based
23 on theories without foundation in the common law and American jurisprudence.
24 Such an expansion of liability would constitute a deprivation of the rights,
25 privileges and immunities guaranteed to citizens of this state under both the
26 Constitution of Arizona and the United States Constitution.

27 C. ~~As used in~~ FOR THE PURPOSES OF this section:

28 1. "Manufacturer" means, with respect to a qualified product:

29 (a) A person who is engaged in a business to import, make, produce,
30 create or assemble a qualified product and who designs or formulates, or has
31 engaged another person to design or formulate, a qualified product.

32 (b) A seller of a qualified product, but only with respect to an
33 aspect of the product that is made or affected when the seller makes,
34 produces, creates or assembles and designs or formulates an aspect of the
35 product made by another person.

36 (c) Any seller of a qualified product who represents to a user of a
37 qualified product that the seller is a manufacturer of the qualified product.

38 2. "Qualified civil liability action" means a civil action brought by
39 a political subdivision against a manufacturer or seller of a qualified
40 product or a trade association, for damages resulting from the criminal or
41 unlawful misuse of a qualified product by a third party. Qualified civil
42 liability action does not include an action brought against a transferor
43 convicted under 18 United States Code section 924(h) or section 13-3102,
44 subsection A, paragraph ~~14-~~ 13 by a party directly harmed by the conduct of
45 which the transferee is convicted.

1 3. "Qualified product" means a nondefective firearm as defined in 18
2 United States Code section 921(a)(3) or nondefective ammunition as defined in
3 18 United States Code section 921(a)(17), or a component part of a firearm or
4 ammunition, that has been shipped or transported in interstate or foreign
5 commerce.

6 4. "Seller" means, with respect to a qualified product, a person who
7 either:

8 (a) In the course of a business conducted for that purpose sells,
9 distributes, rents, leases, prepares, blends, packages, labels or otherwise
10 is involved in placing a qualified product in the stream of commerce.

11 (b) Installs, repairs, refurbishes, reconditions or maintains an
12 aspect of a qualified product that is alleged to have resulted in damages.

13 5. "Trade association" means any association or business organization,
14 whether or not incorporated under federal or state law, two or more members
15 of which are manufacturers or sellers of a qualified product.

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

17 13-3102. Misconduct involving weapons; defenses;
18 classification; definitions

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

20 1. Carrying a deadly weapon except a pocket knife concealed on his
21 person or within his immediate control in or on a means of transportation:

22 (a) In the furtherance of a serious offense as defined in section
23 13-706, a violent crime as defined in section 13-901.03 or any other felony
24 offense; or

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

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

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

36 4. Possessing a deadly weapon or prohibited weapon if such person is a
37 prohibited possessor; or

38 5. Selling or transferring a deadly weapon to a prohibited possessor;
39 or

40 6. Defacing a deadly weapon; or

41 7. Possessing a defaced deadly weapon knowing the deadly weapon was
42 defaced; or

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

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

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

11 ~~11.~~ 10. Unless specifically authorized by law, entering an election
12 polling place on the day of any election carrying a deadly weapon; or

13 ~~12.~~ 11. Possessing a deadly weapon on school grounds; or

14 ~~13.~~ 12. Unless specifically authorized by law, entering a nuclear or
15 hydroelectric generating station carrying a deadly weapon on his person or
16 within the immediate control of any person; or

17 ~~14.~~ 13. Supplying, selling or giving possession or control of a
18 firearm to another person if the person knows or has reason to know that the
19 other person would use the firearm in the commission of any felony; or

20 ~~15.~~ 14. Using, possessing or exercising control over a deadly weapon
21 in furtherance of any act of terrorism as defined in section 13-2301 or
22 possessing or exercising control over a deadly weapon knowing or having
23 reason to know that it will be used to facilitate any act of terrorism as
24 defined in section 13-2301.

25 ~~16.~~ 15. Trafficking in weapons or explosives for financial gain in
26 order to assist, promote or further the interests of a criminal street gang,
27 a criminal syndicate or a racketeering enterprise.

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

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

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

36 3. A firearm that is carried in:

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

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

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

42 (d) Luggage.

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

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

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

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

7 3. A warden, deputy warden, community correctional officer, detention
8 officer, special investigator or correctional officer of the state department
9 of corrections or the department of juvenile corrections; or

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

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

14 1. The possessing, transporting, selling or transferring of weapons by
15 a museum as a part of its collection or an educational institution for
16 educational purposes or by an authorized employee of such museum or
17 institution, if:

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

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

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

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

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

36 ~~F. Subsection A, paragraph 10 of this section shall not apply to~~
37 ~~shooting ranges or shooting events, hunting areas or similar locations or~~
38 ~~activities.~~

39 ~~G.~~ F. Subsection A, paragraph 3 of this section shall not apply to a
40 weapon described in section 13-3101, subsection A, paragraph 8, subdivision
41 (a), item (v), if such weapon is possessed for the purposes of preparing for,
42 conducting or participating in lawful exhibitions, demonstrations, contests
43 or athletic events involving the use of such weapon. Subsection A, paragraph
44 ~~12~~ 11 of this section shall not apply to a weapon if such weapon is possessed
45 for the purposes of preparing for, conducting or participating in hunter or
46 firearm safety courses.

1 ~~H.~~ G. Subsection A, paragraph ~~12~~ 11 of this section shall not apply
2 to the possession of a:

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

8 2. Firearm for use on the school grounds in a program approved by a
9 school.

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

15 ~~I.~~ H. Subsection A, paragraphs 2, 3, 7 and ~~13~~ 12 of this section
16 shall not apply to commercial nuclear generating station armed nuclear
17 security guards during the performance of official duties or during any
18 security training exercises sponsored by the commercial nuclear generating
19 station or local, state or federal authorities.

20 ~~J. The operator of the establishment or the sponsor of the event or
21 the employee of the operator or sponsor or the agent of the sponsor,
22 including a public entity or public employee, is not liable for acts or
23 omissions pursuant to subsection A, paragraph 10 of this section unless the
24 operator, sponsor, employee or agent intended to cause injury or was grossly
25 negligent.~~

26 ~~K.~~ I. If a law enforcement officer contacts a person who is in
27 possession of a firearm, the law enforcement officer may take temporary
28 custody of the firearm for the duration of that contact.

29 ~~L.~~ J. Misconduct involving weapons under subsection A, paragraph ~~15~~
30 14 of this section is a class 2 felony. Misconduct involving weapons under
31 subsection A, paragraph 9, ~~14~~ 13 or ~~16~~ 15 of this section is a class 3
32 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8
33 or ~~13~~ 12 of this section is a class 4 felony. Misconduct involving weapons
34 under subsection A, paragraph ~~12~~ 11 of this section is a class 1 misdemeanor
35 unless the violation occurs in connection with conduct that violates section
36 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section
37 13-3409 or section 13-3411, in which case the offense is a class 6 felony.
38 Misconduct involving weapons under subsection A, paragraph 1, subdivision (a)
39 of this section or subsection A, paragraph 5, 6 or 7 of this section is a
40 class 6 felony. Misconduct involving weapons under subsection A, paragraph
41 1, subdivision (b) of this section or subsection A, paragraph 10 ~~or 11~~ of
42 this section is a class 1 misdemeanor. Misconduct involving weapons under
43 subsection A, paragraph 2 of this section is a class 3 misdemeanor.

44 ~~M.~~ K. For the purposes of this section:

45 1. "Contacted by a law enforcement officer" means a lawful traffic or
46 criminal investigation, arrest or detention or an investigatory stop by a law

1 enforcement officer that is based on reasonable suspicion that an offense has
2 been or is about to be committed.

3 ~~2. "Public establishment" means a structure, vehicle or craft that is~~
4 ~~owned, leased or operated by this state or a political subdivision of this~~
5 ~~state.~~

6 ~~3. "Public event" means a specifically named or sponsored event of~~
7 ~~limited duration that is either conducted by a public entity or conducted by~~
8 ~~a private entity with a permit or license granted by a public entity. Public~~
9 ~~event does not include an unsponsored gathering of people in a public place.~~

10 ~~4.~~ 2. "School" means a public or nonpublic kindergarten program,
11 common school or high school.

12 ~~5.~~ 3. "School grounds" means in, or on the grounds of, a school.

13 Sec. 3. Repeal

14 Section 13-3102.01, Arizona Revised Statutes, is repealed.

15 Sec. 4. Section 13-3108, Arizona Revised Statutes, is amended to read:

16 13-3108. Firearms regulated by state; state preemption;
17 violation; classification; definitions

18 A. Except as provided in ~~subsection~~ SUBSECTIONS F AND G of this
19 section, ~~a~~ THIS STATE AND ANY AGENCY OR political subdivision of this state
20 shall not enact any ordinance, rule or tax relating to the transportation,
21 possession, carrying, sale, transfer, purchase, acquisition, gift, devise,
22 storage, licensing, registration, discharge or use of firearms or ammunition
23 or any firearm or ammunition components or related accessories in this state.

24 B. ~~A~~ THIS STATE AND ANY AGENCY OR political subdivision of this state
25 shall not require the licensing or registration of firearms or ammunition or
26 any firearm or ammunition components or related accessories or prohibit the
27 ownership, purchase, sale or transfer of firearms or ammunition or any
28 firearm or ammunition components, or related accessories.

29 C. ~~A~~ THIS STATE AND ANY AGENCY OR political subdivision of this state
30 shall not require or maintain a record in any form, whether permanent or
31 temporary, including a list, log or database, of any of the following:

32 1. Any identifying information of a person who leaves a weapon in
33 temporary storage at any public establishment or public event, except that
34 the operator of the establishment or the sponsor of the event may require
35 that a person provide a government issued identification or a reasonable copy
36 of a government issued identification for the purpose of establishing
37 ownership of the weapon. The operator or sponsor shall store any provided
38 identification with the weapon and shall return the identification to the
39 person when the weapon is retrieved. The operator or sponsor shall not
40 retain records or copies of any identification provided pursuant to this
41 paragraph after the weapon is retrieved.

42 2. Except in the course of a law enforcement investigation OR AS
43 PROVIDED IN SUBSECTION G OF THIS SECTION, any identifying information of a
44 person who purchases, sells or transfers a firearm, unless the transaction
45 involves a federally licensed firearms dealer.

1 3. The description, including the serial number, of a weapon that is
2 left in temporary storage at any public establishment or public event.

3 D. ~~A THIS STATE AND ANY AGENCY OR~~ political subdivision of this state
4 shall not enact any rule or ordinance that relates to firearms and is more
5 prohibitive than or that has a penalty that is greater than any state law
6 penalty. A ~~political subdivision's~~ rule or ordinance that relates to
7 firearms and that is inconsistent with or more restrictive than state law,
8 whether enacted before or after ~~the effective date of the amendment to this~~
9 ~~section~~ JULY 29, 2010, is null and void.

10 E. A political subdivision of this state shall not enact any
11 ordinance, rule or regulation limiting the lawful taking of wildlife during
12 an open season established by the Arizona game and fish commission unless the
13 ordinance, rule or regulation is consistent with title 17 and rules and
14 orders adopted by the Arizona game and fish commission. This subsection does
15 not prevent a political subdivision from adopting an ordinance or rule
16 restricting the discharge of a firearm within one-fourth mile of an occupied
17 structure. For THE purposes of this subsection, "take" has the same meaning
18 prescribed in section 17-101.

19 F. This section does not prohibit ~~a THIS STATE AND ANY AGENCY OR~~
20 political subdivision of this state from enacting and enforcing any ordinance
21 or rule pursuant to state law or relating to any of the following:

22 1. Imposing any privilege or use tax on the retail sale, lease or
23 rental of, or the gross proceeds or gross income from the sale, lease or
24 rental of, firearms or ammunition or any firearm or ammunition components at
25 a rate that applies generally to other items of tangible personal property.

26 2. Prohibiting a minor who is unaccompanied by a parent, grandparent
27 or guardian or a certified hunter safety instructor or certified firearms
28 safety instructor acting with the consent of the minor's parent, grandparent
29 or guardian from knowingly possessing or carrying on the minor's person,
30 within the minor's immediate control or in or on a means of transportation a
31 firearm in any place that is open to the public or on any street or highway
32 or on any private property except private property that is owned or leased by
33 the minor or the minor's parent, grandparent or guardian. Any ordinance or
34 rule that is adopted pursuant to this paragraph shall not apply to a minor
35 who is fourteen, fifteen, sixteen or seventeen years of age and who is
36 engaged in any of the following:

37 (a) Lawful hunting or shooting events or marksmanship practice at
38 established ranges or other areas where the discharge of a firearm is not
39 prohibited.

40 (b) Lawful transportation of an unloaded firearm for the purpose of
41 lawful hunting.

42 (c) Lawful transportation of an unloaded firearm for the purpose of
43 attending shooting events or marksmanship practice at established ranges or
44 other areas where the discharge of a firearm is not prohibited.

1 (d) Any activity that is related to the production of crops,
2 livestock, poultry, livestock products, poultry products or ratites or
3 storage of agricultural commodities.

4 3. The regulation of land and structures, including a business
5 relating to firearms or ammunition or their components or a shooting range in
6 the same manner as other commercial businesses. Notwithstanding any other
7 law, this paragraph does not authorize ~~a-~~ THIS STATE AND ANY AGENCY OR
8 political subdivision OF THIS STATE to regulate the sale or transfer of
9 firearms on property it owns, leases, operates or controls in a manner that
10 is different than or inconsistent with state law. For the purposes of this
11 paragraph, a use permit or other contract that provides for the use of
12 property owned, leased, operated or controlled by ~~a-~~ THIS STATE AND ANY
13 AGENCY OR political subdivision OF THIS STATE shall not be considered a sale,
14 conveyance or disposition of property.

15 4. Regulating employees or independent contractors of ~~the~~ THIS STATE
16 AND ANY AGENCY OR political subdivision OF THIS STATE who are acting within
17 the course and scope of their employment or contract. THIS PARAGRAPH DOES
18 NOT PROHIBIT THE LAWFUL TRANSPORTING OR LAWFUL STORING OF ANY FIREARM
19 PURSUANT TO SECTION 12-781.

20 5. Limiting or prohibiting the discharge of firearms in parks and
21 preserves except:

22 (a) As allowed pursuant to chapter 4 of this title.

23 (b) On a properly supervised range as defined in section 13-3107.

24 (c) In an area approved as a hunting area by the Arizona game and fish
25 department. Any such area may be closed when deemed unsafe by the director
26 of the Arizona game and fish department.

27 (d) To control nuisance wildlife by permit from the Arizona game and
28 fish department or the United States fish and wildlife service.

29 (e) By special permit of the chief law enforcement officer of the
30 political subdivision.

31 (f) As required by an animal control officer in performing duties
32 specified in section 9-499.04 and title 11, chapter 7, article 6.

33 (g) In self-defense or defense of another person against an animal
34 attack ~~if a reasonable person would believe that deadly physical force~~
35 ~~against the animal is immediately necessary and reasonable under the~~
36 ~~circumstances to protect oneself or the other person.~~

37 6. LIMITING OR PROHIBITING THE INTENTIONAL POSSESSION OF FIREARMS IN A
38 PUBLIC ESTABLISHMENT OR AT A PUBLIC EVENT IF A SIGN IS CONSPICUOUSLY POSTED
39 PROHIBITING THE POSSESSION OF FIREARMS AT ALL PUBLIC ENTRANCES AND THE PUBLIC
40 ESTABLISHMENT OR PUBLIC EVENT IS EQUIPPED WITH SECURE FIREARM LOCKERS THAT
41 ARE IN REASONABLE PROXIMITY TO THE MAIN ENTRANCE AND ARE UNDER THE CONTROL OF
42 THE OPERATOR, OPERATOR'S DESIGNATED AGENT, SPONSOR OR SPONSOR'S DESIGNATED
43 AGENT AND THAT ALLOW FOR THE IMMEDIATE CHECKING OR RETRIEVAL, WHICH SHALL NOT
44 EXCEED FIVE MINUTES, OF THE WEAPON ON ENTRANCE OR EXIT FROM THE ESTABLISHMENT
45 OR EVENT. THE SIGN SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

46 1. STATE THE LOCATION OF THE NEAREST SECURE FIREARM LOCKER.

1 2. CONTAIN A PICTOGRAM THAT SHOWS A FIREARM WITHIN A RED CIRCLE AND A
2 DIAGONAL RED LINE ACROSS THE FIREARM.

3 3. BE COMPOSED OF BLOCK, CAPITAL LETTERS PRINTED IN BLACK ON WHITE
4 LAMINATED PAPER AT A MINIMUM WEIGHT OF ONE HUNDRED TEN POUND INDEX. THE
5 LETTERING AND PICTOGRAM SHALL FILL A SPACE THAT IS AT LEAST SIX INCHES BY
6 NINE INCHES. THE LETTERS COMPRISING THE WORDS SHALL BE AT LEAST
7 THREE-FOURTHS OF A VERTICAL INCH.

8 G. A POLITICAL SUBDIVISION OF THIS STATE MAY ENACT ANY RULE OR
9 ORDINANCE REQUIRING A BUSINESS THAT OBTAINS A SECONDHAND FIREARM BY PURCHASE,
10 TRADE OR CONSIGNMENT TO RETAIN THE FIREARM FOR A PERIOD OF NOT MORE THAN TEN
11 DAYS AT ITS PLACE OF BUSINESS OR ANOTHER STORAGE LOCATION THAT IS APPROVED BY
12 THE APPLICABLE LAW ENFORCEMENT AGENCY.

13 H. AN ORDINANCE OR RULE THAT IS ENACTED PURSUANT TO SUBSECTION F,
14 PARAGRAPH 6 OF THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

15 1. A PEACE OFFICER OR ANY PERSON SUMMONED BY A PEACE OFFICER TO ASSIST
16 AND WHILE ACTUALLY ASSISTING IN THE PERFORMANCE OF OFFICIAL DUTIES.

17 2. ANY SHOOTING RANGES OR SHOOTING EVENTS, HUNTING AREAS OR SIMILAR
18 LOCATIONS OR ACTIVITIES.

19 3. A COMMUNITY COLLEGE DISTRICT OR A UNIVERSITY UNDER THE JURISDICTION
20 OF THE ARIZONA BOARD OF REGENTS.

21 ~~G.~~ I. A violation of any ordinance ~~established~~ THAT IS ENACTED
22 pursuant to subsection F, paragraph 5 of this section is a class 2
23 misdemeanor unless the political subdivision designates a lesser
24 classification by ordinance. A VIOLATION OF ANY ORDINANCE THAT IS ENACTED
25 PURSUANT TO SUBSECTION F, PARAGRAPH 6 OF THIS SECTION IS A CLASS 3
26 MISDEMEANOR, EXCEPT IF THE PUBLIC ESTABLISHMENT OR PUBLIC EVENT IS A SECURED
27 FACILITY, IT IS A CLASS 1 MISDEMEANOR.

28 J. ANY ORDINANCE OR RULE THAT DOES NOT COMPLY WITH ALL OF THE
29 REQUIREMENTS OF SUBSECTION F, PARAGRAPH 6 OF THIS SECTION IS NULL AND VOID
30 AND NOT ENFORCEABLE.

31 ~~H.~~ K. For the purposes of this section: ~~—~~

32 1. "CONTROLLED ACCESS" MEANS ACCESS IS CONTROLLED OR RESTRICTED BY THE
33 PRESENCE OF EITHER OF THE FOLLOWING:

34 (a) A STATE OR FEDERAL CERTIFIED LAW ENFORCEMENT OFFICER.

35 (b) AN ARMED SECURITY OFFICER AND METAL DETECTION, X-RAY, SCREENING OR
36 OTHER WEAPON DETECTION EQUIPMENT.

37 2. "GOVERNMENTAL PURPOSE" MEANS USED OR INTENDED TO BE USED TO PERFORM
38 GOVERNMENT FUNCTIONS ON BEHALF OF THIS STATE OR ANY AGENCY OR POLITICAL
39 SUBDIVISION OF THIS STATE. GOVERNMENTAL PURPOSE DOES NOT INCLUDE THE
40 OPERATION OF A MULTIPURPOSE FACILITY.

41 3. "MULTIPURPOSE FACILITY" MEANS ANY FACILITY THAT IS SUITABLE TO BE
42 USED TO ACCOMMODATE PROFESSIONAL SPORTING FRANCHISES, MAJOR COLLEGE FOOTBALL
43 BOWL SPONSORS, OTHER SPORTING ACTIVITIES AND ENTERTAINMENT, CULTURAL, CIVIC,
44 MEETING, TRADE SHOW OR CONVENTION EVENTS OR ACTIVITIES AND MAY INCLUDE A
45 STADIUM AND ON-SITE INFRASTRUCTURE AND RELATED COMMERCIAL USES WITHIN THE
46 FACILITY.

1 4. "Political subdivision" includes MUNICIPALITIES, COUNTIES, SPECIAL
2 TAXING DISTRICTS, CONSERVATION DISTRICTS, AUTHORITIES, THE GOVERNING BODY OF
3 A POLITICAL SUBDIVISION AND ITS MEMBERS AND OFFICERS IN THEIR OFFICIAL
4 CAPACITY AND a political subdivision acting in any capacity, including under
5 police power, in a proprietary capacity or otherwise.

6 5. "PUBLIC ESTABLISHMENT" MEANS A STRUCTURE, VEHICLE OR CRAFT THAT IS
7 OWNED, LEASED, USED, OPERATED, CONTRACTED FOR OR CONTROLLED BY THIS STATE OR
8 ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE, WHEN USED BY A
9 GOVERNMENTAL ENTITY FOR A GOVERNMENTAL PURPOSE.

10 6. "PUBLIC EVENT" MEANS A SPECIFICALLY NAMED OR SPONSORED EVENT OF
11 LIMITED DURATION THAT IS EITHER CONDUCTED BY A GOVERNMENTAL ENTITY OR
12 CONDUCTED BY A PRIVATE ENTITY WITH A PERMIT OR LICENSE GRANTED BY A
13 GOVERNMENTAL ENTITY. PUBLIC EVENT DOES NOT INCLUDE AN EVENT AT A
14 MULTIPURPOSE FACILITY OR AN UNSPONSORED GATHERING OF PEOPLE IN A PUBLIC
15 PLACE.

16 7. "REASONABLE PROXIMITY" MEANS LOCATED WITHIN AN INDIVIDUAL BUILDING
17 OR STRUCTURE OR AN ADJACENT BUILDING, STRUCTURE OR LOCATION THAT IS NOT MORE
18 THAN TWO HUNDRED FEET AWAY FROM THE MAIN ENTRANCE.

19 8. "SECURED FACILITY" MEANS ANY PUBLIC ESTABLISHMENT, PUBLIC EVENT OR
20 PUBLIC BUILDING OR STRUCTURE OR ANY PORTION OF A BUILDING OR STRUCTURE THAT
21 IS USED PRIMARILY BY A PUBLIC AGENCY AND THAT IS NOT ACCESSIBLE TO THE
22 GENERAL PUBLIC EXCEPT BY CONTROLLED ACCESS.

23 Sec. 5. Repeal

24 Section 13-3118, Arizona Revised Statutes, is repealed.

25 Sec. 6. Section 13-4903, Arizona Revised Statutes, is amended to read:
26 13-4903. Use of force; armed nuclear security guards

27 A. An armed nuclear security guard is justified in using physical
28 force against another person at a commercial nuclear generating station or
29 structure or fenced yard of a commercial nuclear generating station if the
30 armed nuclear security guard reasonably believes that such force is necessary
31 to prevent or terminate the commission or attempted commission of criminal
32 damage under section 13-1602, subsection A, paragraph 3 and subsection B,
33 paragraph 1 or 2, misconduct involving weapons under section 13-3102,
34 subsection A, paragraph ~~13~~ 12 or criminal trespass on a commercial nuclear
35 generating station under section 13-4902.

36 B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408,
37 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in
38 using physical force up to and including deadly physical force against
39 another person at a commercial nuclear generating station or structure or
40 fenced yard of a commercial nuclear generating station if the armed nuclear
41 security guard reasonably believes that such force is necessary to:

42 1. Prevent the commission of manslaughter under section 13-1103,
43 second or first degree murder under section 13-1104 or 13-1105, aggravated
44 assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping
45 under section 13-1304, burglary in the second or first degree under section
46 13-1507 or 13-1508, arson of a structure or property under section 13-1703,

1 arson of an occupied structure under section 13-1704, armed robbery under
2 section 13-1904 or an act of terrorism under section 13-2308.01.

3 2. Defend oneself or a third person from the use or imminent use of
4 deadly physical force.

5 C. Notwithstanding any other provision of this chapter, an armed
6 nuclear security guard is justified in threatening to use physical or deadly
7 physical force if and to the extent a reasonable armed nuclear security guard
8 believes it necessary to protect oneself or others against another person's
9 potential use of physical force or deadly physical force.

10 D. An armed nuclear security guard is not subject to civil liability
11 for engaging in conduct that is otherwise justified pursuant to this chapter.

12 Sec. 7. Section 13-4904, Arizona Revised Statutes, is amended to read:
13 13-4904. Detention authority; armed nuclear security guards

14 A. An armed nuclear security guard, with reasonable belief, may detain
15 in or on a commercial nuclear generating station or a structure or fenced
16 yard of a commercial nuclear generating station in a reasonable manner and
17 for a reasonable time any person who is suspected of committing or attempting
18 to commit manslaughter under section 13-1103, second or first degree murder
19 under section 13-1104 or 13-1105, aggravated assault under section 13-1204,
20 subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in
21 the second or first degree under section 13-1507 or 13-1508, criminal damage
22 under section 13-1602, subsection A, paragraph 3 and subsection B, paragraph
23 1 or 2, arson of a structure or property under section 13-1703, arson of an
24 occupied structure under section 13-1704, armed robbery under section
25 13-1904, an act of terrorism under section 13-2308.01, misconduct involving
26 weapons under section 13-3102, subsection A, paragraph ~~13~~ 12 or criminal
27 trespass on a commercial nuclear generating station under section 13-4902 for
28 the purpose of summoning a law enforcement officer.

29 B. Reasonable belief of an armed nuclear security guard is a defense
30 to a civil or criminal action against an armed nuclear security guard for
31 false arrest, false or unlawful imprisonment or wrongful detention.

32 Sec. 8. Section 15-515, Arizona Revised Statutes, is amended to read:
33 15-515. Duty to report violations occurring on school premises

34 All school personnel who observe a violation of section 13-3102,
35 subsection A, paragraph ~~12~~ 11 or section 13-3111 on school premises shall
36 immediately report the violation to the school administrator. The
37 administrator shall immediately report the violation to a peace officer. The
38 peace officer shall report this violation to the department of public safety
39 for inclusion in the statewide and federal uniform crime reports prescribed
40 in section 41-1750, subsection A, paragraph 2.