

REFERENCE TITLE: nunchaku prohibition; repeal

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2042

Introduced by
Representative Finchem, Senator Burges: Representatives Borrelli, Lawrence

AN ACT

AMENDING SECTIONS 13-3101, 13-3102 AND 13-3110, ARIZONA REVISED STATUTES;
RELATING TO PROHIBITED WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3101, Arizona Revised Statutes, is amended to
3 read:

4 13-3101. Definitions

5 A. In this chapter, unless the context otherwise requires:

6 1. "Deadly weapon" means anything that is designed for lethal use.
7 The term includes a firearm.

8 2. "Deface" means to remove, alter or destroy the manufacturer's
9 serial number.

10 3. "Explosive" means any dynamite, nitroglycerine, black powder, or
11 other similar explosive material, including plastic explosives. Explosive
12 does not include ammunition or ammunition components such as primers,
13 percussion caps, smokeless powder, black powder and black powder substitutes
14 used for hand loading purposes.

15 4. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
16 rifle, shotgun or other weapon that will expel, is designed to expel or may
17 readily be converted to expel a projectile by the action of an explosive.
18 Firearm does not include a firearm in permanently inoperable condition.

19 5. "Improvised explosive device" means a device that incorporates
20 explosives or destructive, lethal, noxious, pyrotechnic or incendiary
21 chemicals and that is designed to destroy, disfigure, terrify or harass.

22 6. "Occupied structure" means any building, object, vehicle,
23 watercraft, aircraft or place with sides and a floor that is separately
24 securable from any other structure attached to it, that is used for lodging,
25 business, transportation, recreation or storage and in which one or more
26 human beings either are or are likely to be present or so near as to be in
27 equivalent danger at the time the discharge of a firearm occurs. Occupied
28 structure includes any dwelling house, whether occupied, unoccupied or
29 vacant.

30 7. "Prohibited possessor" means any person:

31 (a) Who has been found to constitute a danger to self or to others or
32 to have A persistent or acute ~~disabilities~~ DISABILITY or grave ~~disabilities~~
33 DISABILITY pursuant to court order pursuant to section 36-540, and whose
34 right to possess a firearm has not been restored pursuant to section 13-925.

35 (b) Who has been convicted within or without this state of a felony or
36 who has been adjudicated delinquent for a felony and whose civil right to
37 possess or carry a gun or firearm has not been restored.

38 (c) Who is at the time of possession serving a term of imprisonment in
39 any correctional or detention facility.

40 (d) Who is at the time of possession serving a term of probation
41 pursuant to a conviction for a domestic violence offense as defined in
42 section 13-3601 or a felony offense, parole, community supervision, work
43 furlough, home arrest or release on any other basis or who is serving a term
44 of probation or parole pursuant to the interstate compact under title 31,
45 chapter 3, article 4.1.

1 (e) Who is an undocumented alien or a nonimmigrant alien traveling
2 with or without documentation in this state for business or pleasure or who
3 is studying in this state and who maintains a foreign residence abroad. This
4 subdivision does not apply to:

5 (i) Nonimmigrant aliens who possess a valid hunting license or permit
6 that is lawfully issued by a state in the United States.

7 (ii) Nonimmigrant aliens who enter the United States to participate in
8 a competitive target shooting event or to display firearms at a sports or
9 hunting trade show that is sponsored by a national, state or local firearms
10 trade organization devoted to the competitive use or other sporting use of
11 firearms.

12 (iii) Certain diplomats.

13 (iv) Officials of foreign governments or distinguished foreign
14 visitors who are designated by the United States department of state.

15 (v) Persons who have received a waiver from the United States attorney
16 general.

17 (f) Who has been found incompetent pursuant to rule 11, Arizona rules
18 of criminal procedure, and who subsequently has not been found competent.

19 (g) Who is found guilty except insane.

20 8. "Prohibited weapon":

21 (a) Includes the following:

22 (i) An item that is a bomb, grenade, rocket having a propellant charge
23 of more than four ounces or mine and that is explosive, incendiary or poison
24 gas.

25 (ii) A device that is designed, made or adapted to muffle the report
26 of a firearm.

27 (iii) A firearm that is capable of shooting more than one shot
28 automatically, without manual reloading, by a single function of the trigger.

29 (iv) A rifle with a barrel length of less than sixteen inches, or
30 shotgun with a barrel length of less than eighteen inches, or any firearm
31 that is made from a rifle or shotgun and that, as modified, has an overall
32 length of less than twenty-six inches.

33 ~~(v) An instrument, including a nunchaku, that consists of two or more~~
34 ~~sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,~~
35 ~~wire or chain, in the design of a weapon used in connection with the practice~~
36 ~~of a system of self-defense.~~

37 ~~(vi)~~ (v) A breakable container that contains a flammable liquid with
38 a flash point of one hundred fifty degrees Fahrenheit or less and that has a
39 wick or similar device capable of being ignited.

40 ~~(vii)~~ (vi) A chemical or combination of chemicals, compounds or
41 materials, including dry ice, that is possessed or manufactured for the
42 purpose of generating a gas to cause a mechanical failure, rupture or
43 bursting or an explosion or detonation of the chemical or combination of
44 chemicals, compounds or materials.

- 1 4. Possessing a deadly weapon or prohibited weapon if such person is a
2 prohibited possessor; or
- 3 5. Selling or transferring a deadly weapon to a prohibited possessor;
4 or
- 5 6. Defacing a deadly weapon; or
- 6 7. Possessing a defaced deadly weapon knowing the deadly weapon was
7 defaced; or
- 8 8. Using or possessing a deadly weapon during the commission of any
9 felony offense included in chapter 34 of this title; or
- 10 9. Discharging a firearm at an occupied structure in order to assist,
11 promote or further the interests of a criminal street gang, a criminal
12 syndicate or a racketeering enterprise; or
- 13 10. Unless specifically authorized by law, entering any public
14 establishment or attending any public event and carrying a deadly weapon on
15 his person after a reasonable request by the operator of the establishment or
16 the sponsor of the event or the sponsor's agent to remove his weapon and
17 place it in the custody of the operator of the establishment or the sponsor
18 of the event for temporary and secure storage of the weapon pursuant to
19 section 13-3102.01; or
- 20 11. Unless specifically authorized by law, entering an election polling
21 place on the day of any election carrying a deadly weapon; or
- 22 12. Possessing a deadly weapon on school grounds; or
- 23 13. Unless specifically authorized by law, entering a nuclear or
24 hydroelectric generating station carrying a deadly weapon on his person or
25 within the immediate control of any person; or
- 26 14. Supplying, selling or giving possession or control of a firearm to
27 another person if the person knows or has reason to know that the other
28 person would use the firearm in the commission of any felony; or
- 29 15. Using, possessing or exercising control over a deadly weapon in
30 furtherance of any act of terrorism as defined in section 13-2301 or
31 possessing or exercising control over a deadly weapon knowing or having
32 reason to know that it will be used to facilitate any act of terrorism as
33 defined in section 13-2301; or
- 34 16. Trafficking in weapons or explosives for financial gain in order to
35 assist, promote or further the interests of a criminal street gang, a
36 criminal syndicate or a racketeering enterprise.
- 37 B. Subsection A, paragraph 2 of this section shall not apply to:
 - 38 1. A person in his dwelling, on his business premises or on real
39 property owned or leased by that person or that person's parent, grandparent
40 or legal guardian.
 - 41 2. A member of the sheriff's volunteer posse or reserve organization
42 who has received and passed firearms training that is approved by the Arizona
43 peace officer standards and training board and who is authorized by the
44 sheriff to carry a concealed weapon pursuant to section 11-441.

- 1 3. A firearm that is carried in:
- 2 (a) A manner where any portion of the firearm or holster in which the
- 3 firearm is carried is visible.
- 4 (b) A holster that is wholly or partially visible.
- 5 (c) A scabbard or case designed for carrying weapons that is wholly or
- 6 partially visible.
- 7 (d) Luggage.
- 8 (e) A case, holster, scabbard, pack or luggage that is carried within
- 9 a means of transportation or within a storage compartment, map pocket, trunk
- 10 or glove compartment of a means of transportation.
- 11 C. Subsection A, paragraphs 2, 3, 7, 10, 11, 12 and 13 of this section
- 12 shall not apply to:
- 13 1. A peace officer or any person summoned by any peace officer to
- 14 assist and while actually assisting in the performance of official duties; or
- 15 2. A member of the military forces of the United States or of any
- 16 state of the United States in the performance of official duties; or
- 17 3. A warden, deputy warden, community correctional officer, detention
- 18 officer, special investigator or correctional officer of the state department
- 19 of corrections or the department of juvenile corrections; or
- 20 4. A person specifically licensed, authorized or permitted pursuant to
- 21 a statute of this state or of the United States.
- 22 D. Subsection A, paragraph 10 of this section does not apply to an
- 23 elected or appointed judicial officer in the court facility where the
- 24 judicial officer works if the judicial officer has demonstrated competence
- 25 with a firearm as prescribed in section 13-3112, subsection N, except that
- 26 the judicial officer shall comply with any rule or policy adopted by the
- 27 presiding judge of the superior court while in the court facility. For the
- 28 purposes of this subsection, appointed judicial officer does not include a
- 29 hearing officer or a judicial officer pro tempore ~~that~~ WHO is not a full-time
- 30 officer.
- 31 E. Subsection A, paragraphs 3 and 7 of this section shall not apply
- 32 to:
- 33 1. The possessing, transporting, selling or transferring of weapons by
- 34 a museum as a part of its collection or an educational institution for
- 35 educational purposes or by an authorized employee of such museum or
- 36 institution, if:
- 37 (a) Such museum or institution is operated by the United States or
- 38 this state or a political subdivision of this state, or by an organization
- 39 described in 26 United States Code section 170(c) as a recipient of a
- 40 charitable contribution; and
- 41 (b) Reasonable precautions are taken with respect to theft or misuse
- 42 of such material.
- 43 2. The regular and lawful transporting as merchandise; or

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

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

12 G. Subsection A, paragraph 10 of this section shall not apply to
13 shooting ranges or shooting events, hunting areas or similar locations or
14 activities.

15 H. ~~Subsection A, paragraph 3 of this section shall not apply to a~~
16 ~~weapon described in section 13-3101, subsection A, paragraph 8, subdivision~~
17 ~~(a), item (v), if such weapon is possessed for the purposes of preparing for,~~
18 ~~conducting or participating in lawful exhibitions, demonstrations, contests~~
19 ~~or athletic events involving the use of such weapon.~~ Subsection A, paragraph
20 12 of this section shall not apply to a weapon if such weapon is possessed
21 for the purposes of preparing for, conducting or participating in hunter or
22 firearm safety courses.

23 I. Subsection A, paragraph 12 of this section shall not apply to the
24 possession of a:

25 1. Firearm that is not loaded and that is carried within a means of
26 transportation under the control of an adult provided that if the adult
27 leaves the means of transportation the firearm shall not be visible from the
28 outside of the means of transportation and the means of transportation shall
29 be locked.

30 2. Firearm for use on the school grounds in a program approved by a
31 school.

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

37 J. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall not
38 apply to commercial nuclear generating station armed nuclear security guards
39 during the performance of official duties or during any security training
40 exercises sponsored by the commercial nuclear generating station or local,
41 state or federal authorities.

42 K. The operator of the establishment or the sponsor of the event or
43 the employee of the operator or sponsor or the agent of the sponsor,
44 including a public entity or public employee, is not liable for acts or
45 omissions pursuant to subsection A, paragraph 10 of this section unless the

1 operator, sponsor, employee or agent intended to cause injury or was grossly
2 negligent.

3 L. If a law enforcement officer contacts a person who is in possession
4 of a firearm, the law enforcement officer may take temporary custody of the
5 firearm for the duration of that contact.

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

21 N. For the purposes of this section:

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

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

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

33 4. "School" means a public or nonpublic kindergarten program, common
34 school or high school.

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

36 Sec. 3. Section 13-3110, Arizona Revised Statutes, is amended to read:

37 13-3110. Misconduct involving simulated explosive devices;
38 classification; definition

39 A. A person commits misconduct involving simulated explosive devices
40 by intentionally giving or sending to another person or placing in a private
41 or public place a simulated explosive device with the intent to terrify,
42 intimidate, threaten or harass.

43 B. The placing or sending of a simulated explosive device without
44 written notice attached to the device in a conspicuous place that the device
45 has been rendered inert and is possessed for the purpose of curio or relic

1 collection, display or other similar purpose is prima facie evidence of
2 intent to terrify, intimidate, threaten or harass.

3 C. Misconduct involving simulated explosive devices is a class 5
4 felony.

5 D. For the purposes of this section, "simulated explosive device"
6 means a simulation of a prohibited weapon described in section 13-3101,
7 subsection A, paragraph 8, subdivision (a), item (i), ~~(vi) or (viii)~~ (v) OR
8 (vii) that a reasonable person would believe is such a prohibited weapon.