

REFERENCE TITLE: firearms; state regulation; preemption

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SB 1479

Introduced by
Senators Gould; Antenori; Representative Crandell

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

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

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

33 3. A firearm that is carried in:

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

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

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

39 (d) Luggage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~G.~~ F. Subsection A, paragraph 3 of this section shall not apply to a
38 weapon described in section 13-3101, subsection A, paragraph 8, subdivision
39 (a), item (v), if such weapon is possessed for the purposes of preparing for,
40 conducting or participating in lawful exhibitions, demonstrations, contests
41 or athletic events involving the use of such weapon. Subsection A, paragraph
42 ~~12~~ 11 of this section shall not apply to a weapon if such weapon is possessed
43 for the purposes of preparing for, conducting or participating in hunter or
44 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 or ~~14~~ 13 of this section is a class 3 felony.
32 Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or ~~13~~ 12
33 of this section is a class 4 felony. Misconduct involving weapons under
34 subsection A, paragraph ~~12~~ 11 of this section is a class 1 misdemeanor unless
35 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.

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

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

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

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

13 ~~4.~~ 2. "School" means a public or nonpublic kindergarten program,
14 common school or high school.

15 ~~5.~~ 3. "School grounds" means in, or on the grounds of, a school.

16 Sec. 3. Repeal

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

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

19 13-3108. Firearms regulated by state; state preemption;
20 remedies; violation; classification; definitions

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

27 B. ~~A~~ EXCEPT AS PROVIDED IN SUBSECTIONS F AND G OF THIS SECTION, THIS
28 STATE AND ANY AGENCY OR political subdivision of this state shall not require
29 the licensing or registration of firearms or ammunition or any firearm or
30 ammunition components or related accessories or prohibit the ownership,
31 purchase, sale or transfer of firearms or ammunition or any firearm or
32 ammunition components, or related accessories.

33 C. ~~A~~ EXCEPT AS PROVIDED IN SUBSECTIONS F AND G OF THIS SECTION, THIS
34 STATE AND ANY AGENCY OR political subdivision of this state shall not require
35 or maintain a record in any form, whether permanent or temporary, including a
36 list, log or database, of any of the following:

37 1. Any identifying information of a person who leaves a weapon in
38 temporary storage at any public establishment or public event, except that
39 the operator of the establishment or the sponsor of the event may require
40 that a person provide a government issued identification or a reasonable copy
41 of a government issued identification for the purpose of establishing
42 ownership of the weapon. The operator or sponsor shall store any provided
43 identification with the weapon and shall return the identification to the
44 person when the weapon is retrieved. The operator or sponsor shall not

1 retain records or copies of any identification provided pursuant to this
2 paragraph after the weapon is retrieved.

3 2. Except in the course of a law enforcement investigation, any
4 identifying information of a person who purchases, sells or transfers a
5 firearm, unless the transaction involves a federally licensed firearms
6 dealer.

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

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

16 E. ~~A~~ EXCEPT AS PROVIDED IN SUBSECTIONS F AND G OF THIS SECTION, THIS
17 STATE AND ANY AGENCY OR political subdivision of this state shall not enact
18 any ordinance, rule or regulation limiting the lawful taking of wildlife
19 during an open season established by the Arizona game and fish commission
20 unless the ordinance, rule or regulation is consistent with title 17 and
21 rules and orders adopted by the Arizona game and fish commission. This
22 subsection does not prevent ~~a political subdivision from adopting~~ THE
23 ADOPTION OF an ordinance or rule restricting the discharge of a firearm
24 within one-fourth mile of an occupied structure. For THE purposes of this
25 subsection, "take" has the same meaning prescribed in section 17-101.

26 F. This section does not prohibit ~~a~~ THIS STATE OR ANY AGENCY OR
27 political subdivision of this state from enacting and enforcing any ordinance
28 or rule pursuant to SECTION 13-2911 OR ANY OTHER state law or relating to any
29 of the following:

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

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

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

4 (b) Lawful transportation of an unloaded firearm for the purpose of
5 lawful hunting.

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

9 (d) Any activity that is related to the production of crops,
10 livestock, poultry, livestock products, poultry products or ratites or
11 storage of agricultural commodities.

12 3. The regulation of land and structures, including a business
13 relating to firearms or ammunition or their components or a shooting range in
14 the same manner as other commercial businesses. Notwithstanding any other
15 law, this paragraph does not authorize a political subdivision to regulate
16 the sale or transfer of firearms on property it owns, leases, operates or
17 controls in a manner that is different than or inconsistent with state law.
18 For the purposes of this paragraph, a use permit or other contract that
19 provides for the use of property owned, leased, operated or controlled by a
20 political subdivision shall not be considered a sale, conveyance or
21 disposition of property.

22 4. Regulating employees or independent contractors of the political
23 subdivision who are acting within the course and scope of their employment or
24 contract.

25 5. Limiting or prohibiting the discharge of firearms in parks and
26 preserves except:

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

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

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

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

34 (e) By special permit of the chief law enforcement officer of the
35 political subdivision.

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

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

42 6. LIMITING OR PROHIBITING THE INTENTIONAL POSSESSION OF FIREARMS IN A
43 PUBLIC ESTABLISHMENT OR AT A PUBLIC EVENT IF A SIGN IS CONSPICUOUSLY POSTED
44 PROHIBITING THE POSSESSION OF FIREARMS AT ALL PUBLIC ENTRANCES AND THE PUBLIC
45 ESTABLISHMENT OR PUBLIC EVENT IS EQUIPPED WITH SECURE FIREARM LOCKERS THAT

1 ARE IN REASONABLE PROXIMITY TO THE MAIN ENTRANCE AND ARE UNDER THE CONTROL OF
2 THE OPERATOR, OPERATOR'S DESIGNATED AGENT, SPONSOR OR SPONSOR'S DESIGNATED
3 AGENT AND THAT ALLOW FOR THE IMMEDIATE RETRIEVAL OF THE WEAPON ON EXIT FROM
4 THE ESTABLISHMENT OR EVENT.

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

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

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

14 2. ANY SHOOTING RANGES OR SHOOTING EVENTS, HUNTING AREAS OR SIMILAR
15 LOCATIONS OR ACTIVITIES.

16 3. A COMMUNITY COLLEGE DISTRICT OR A UNIVERSITY UNDER THE JURISDICTION
17 OF THE ARIZONA BOARD OF REGENTS.

18 I. A PERSON MAY FILE SUIT IN AN APPROPRIATE COURT FOR DECLARATIVE AND
19 INJUNCTIVE RELIEF AND FOR ACTUAL AND CONSEQUENTIAL DAMAGES IF ANY ORDINANCE,
20 REGULATION, MEASURE, DIRECTIVE, RULE, ENACTMENT, ORDER OR POLICY IS ENACTED
21 OR ENFORCED IN VIOLATION OF THIS SECTION. THE COURT SHALL AWARD THE
22 PREVAILING PARTY ATTORNEY FEES AND COSTS IN THE TRIAL AND APPELLATE COURTS.
23 IF THE COURT FINDS THAT AN ENTITY HAS KNOWINGLY VIOLATED THIS SECTION, THE
24 COURT SHALL ORDER THE ENTITY TO PAY A CIVIL PENALTY OF NOT MORE THAN FIVE
25 THOUSAND DOLLARS.

26 J. EXCEPT AS REQUIRED BY ARTICLE II, SECTION 24, CONSTITUTION OF
27 ARIZONA OR THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION, THIS STATE
28 OR ANY AGENCY OR POLITICAL SUBDIVISION OF THIS STATE MAY BE REIMBURSED FOR
29 ANY PUBLIC MONIES THAT WERE SPENT TO DEFEND ANY PERSON WHO IS FOUND TO HAVE
30 KNOWINGLY VIOLATED THIS SECTION.

31 ~~G.~~ K. A violation of any ordinance established pursuant to subsection
32 F, paragraph 5 of this section is a class 2 misdemeanor unless the political
33 subdivision designates a lesser classification by ordinance. A VIOLATION OF
34 ANY ORDINANCE ENACTED PURSUANT TO SUBSECTION F, PARAGRAPH 6 OF THIS SECTION
35 IS A PETTY OFFENSE, EXCEPT IF THE PUBLIC ESTABLISHMENT OR PUBLIC EVENT IS A
36 SECURED FACILITY, IT IS A CLASS 1 MISDEMEANOR.

37 ~~H.~~ L. For the purposes of this section: ~~—~~

38 1. "CONTROLLED ACCESS" MEANS ACCESS IS CONTROLLED OR RESTRICTED BY THE
39 PRESENCE OF BOTH OF THE FOLLOWING:

40 (a) A STATE OR FEDERAL CERTIFIED LAW ENFORCEMENT OFFICER OR AN ARMED
41 SECURITY OFFICER.

42 (b) METAL DETECTION, X-RAY, SCREENING OR OTHER WEAPON DETECTION
43 EQUIPMENT.

44 2. "GOVERNMENTAL PURPOSE" MEANS USED OR INTENDED TO BE USED TO PERFORM
45 GOVERNMENT FUNCTIONS ON BEHALF OF THIS STATE OR ANY AGENCY OR POLITICAL

1 SUBDIVISION OF THIS STATE. GOVERNMENTAL PURPOSE DOES NOT INCLUDE THE
2 OPERATION OF A MULTIPURPOSE FACILITY.

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

9 4. "Political subdivision" includes MUNICIPALITIES, COUNTIES, SPECIAL
10 TAXING DISTRICTS, CONSERVATION DISTRICTS, AUTHORITIES, THE GOVERNING BODY OF
11 A POLITICAL SUBDIVISION AND ITS MEMBERS AND OFFICERS IN THEIR OFFICIAL
12 CAPACITY AND a political subdivision acting in any capacity, including under
13 police power, in a proprietary capacity or otherwise. POLITICAL SUBDIVISION
14 DOES NOT INCLUDE ANY ENTITY THAT OPERATES A FEDERAL RECLAMATION PROJECT.

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

19 6. "PUBLIC EVENT" MEANS A SPECIFICALLY NAMED OR SPONSORED EVENT OF
20 LIMITED DURATION THAT IS EITHER CONDUCTED BY A GOVERNMENTAL ENTITY OR
21 CONDUCTED BY A PRIVATE ENTITY WITH A PERMIT OR LICENSE FOR THE EVENT THAT IS
22 GRANTED BY A GOVERNMENTAL ENTITY. PUBLIC EVENT DOES NOT INCLUDE AN EVENT AT
23 A MULTIPURPOSE FACILITY OR A PRIVATE BUSINESS OR AN UNSPONSORED GATHERING OF
24 PEOPLE IN A PUBLIC PLACE.

25 7. "SECURED FACILITY" MEANS ANY PUBLIC ESTABLISHMENT, PUBLIC EVENT OR
26 PUBLIC BUILDING OR STRUCTURE OR ANY PORTION OF A BUILDING OR STRUCTURE THAT
27 IS USED PRIMARILY BY A PUBLIC AGENCY AND THAT IS NOT ACCESSIBLE TO THE
28 GENERAL PUBLIC EXCEPT BY CONTROLLED ACCESS.

29 Sec. 5. Repeal

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

31 Sec. 6. Section 13-4903, Arizona Revised Statutes, is amended to read:

32 13-4903. Use of force; armed nuclear security guards

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

42 B. Notwithstanding sections 13-403, 13-404, 13-405, 13-406, 13-408,
43 13-409, 13-410 and 13-411, an armed nuclear security guard is justified in
44 using physical force up to and including deadly physical force against
45 another person at a commercial nuclear generating station or structure or

1 fenced yard of a commercial nuclear generating station if the armed nuclear
2 security guard reasonably believes that such force is necessary to:

3 1. Prevent the commission of manslaughter under section 13-1103,
4 second or first degree murder under section 13-1104 or 13-1105, aggravated
5 assault under section 13-1204, subsection A, paragraph 1 or 2, kidnapping
6 under section 13-1304, burglary in the second or first degree under section
7 13-1507 or 13-1508, arson of a structure or property under section 13-1703,
8 arson of an occupied structure under section 13-1704, armed robbery under
9 section 13-1904 or an act of terrorism under section 13-2308.01.

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

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

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

19 Sec. 7. Section 13-4904, Arizona Revised Statutes, is amended to read:

20 13-4904. Detention authority; armed nuclear security guards

21 A. An armed nuclear security guard, with reasonable belief, may detain
22 in or on a commercial nuclear generating station or a structure or fenced
23 yard of a commercial nuclear generating station in a reasonable manner and
24 for a reasonable time any person who is suspected of committing or attempting
25 to commit manslaughter under section 13-1103, second or first degree murder
26 under section 13-1104 or 13-1105, aggravated assault under section 13-1204,
27 subsection A, paragraph 1 or 2, kidnapping under section 13-1304, burglary in
28 the second or first degree under section 13-1507 or 13-1508, criminal damage
29 under section 13-1602, subsection A, paragraph 3 and subsection B, paragraph
30 1 or 2, arson of a structure or property under section 13-1703, arson of an
31 occupied structure under section 13-1704, armed robbery under section
32 13-1904, an act of terrorism under section 13-2308.01, misconduct involving
33 weapons under section 13-3102, subsection A, paragraph ~~13~~ 12 or criminal
34 trespass on a commercial nuclear generating station under section 13-4902 for
35 the purpose of summoning a law enforcement officer.

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

39 Sec. 8. Section 15-515, Arizona Revised Statutes, is amended to read:

40 15-515. Duty to report violations occurring on school premises

41 All school personnel who observe a violation of section 13-3102,
42 subsection A, paragraph ~~12~~ 11 or section 13-3111 on school premises shall
43 immediately report the violation to the school administrator. The
44 administrator shall immediately report the violation to a peace officer. The
45 peace officer shall report this violation to the department of public safety

1 for inclusion in the statewide and federal uniform crime reports prescribed
2 in section 41-1750, subsection A, paragraph 2.

3 Sec. 9. Application

4 This act does not apply to any public establishment or public event as
5 defined in section 13-3108, Arizona Revised Statutes, as amended by this act,
6 if its application would violate a term in a lease or contract that was
7 entered into before January 1, 2013.

8 Sec. 10. Effective date

9 This act is effective from and after December 31, 2012.