

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HOUSE BILL 2339

AN ACT

AMENDING SECTION 13-3102, 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; OR ~~—~~

12 16. Trafficking in weapons or explosives for financial gain in order to  
13 assist, promote or further the interests of a criminal street gang, a  
14 criminal syndicate or a racketeering enterprise.

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

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

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

23 3. A firearm that is carried in:

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

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

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

29 (d) Luggage.

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

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

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

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

39 3. A warden, deputy warden, community correctional officer, detention  
40 officer, special investigator or correctional officer of the state department  
41 of corrections or the department of juvenile corrections **IN THE PERFORMANCE**  
42 **OF OFFICIAL DUTIES**; or

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

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

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

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

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

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

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

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

25 F. Subsection A, paragraph 10 of this section shall not apply to:

26 1. Shooting ranges or shooting events, hunting areas or similar  
27 locations or activities.

28 2. A PERSON WHO IS IN A PUBLIC ESTABLISHMENT OTHER THAN A VEHICLE OR  
29 CRAFT OR AT A PUBLIC EVENT AND WHO POSSESSES A VALID PERMIT ISSUED PURSUANT  
30 TO SECTION 13-3112. THIS PARAGRAPH DOES NOT:

31 (a) APPLY TO A PUBLIC ESTABLISHMENT OR PUBLIC EVENT THAT HAS SECURITY  
32 PERSONNEL AND ELECTRONIC WEAPONS SCREENING DEVICES IN PLACE AT EACH ENTRANCE  
33 TO THE PUBLIC ESTABLISHMENT OR PUBLIC EVENT OR THAT HAS SECURITY PERSONNEL  
34 ELECTRONICALLY SCREEN EACH PERSON WHO ENTERS THE PUBLIC ESTABLISHMENT OR  
35 PUBLIC EVENT TO DETERMINE IF THE PERSON IS CARRYING A DEADLY WEAPON AND THE  
36 SECURITY PERSONNEL REQUIRE EACH PERSON WHO IS CARRYING A DEADLY WEAPON TO  
37 LEAVE THE WEAPON IN POSSESSION OF THE SECURITY PERSONNEL PURSUANT TO SECTION  
38 13-3102.01 WHILE THE PERSON IS IN THE PUBLIC ESTABLISHMENT OR AT A PUBLIC  
39 EVENT.

40 (b) APPLY TO A COMMUNITY COLLEGE DISTRICT IN THIS STATE OR A  
41 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

42 (c) APPLY TO THE LICENSED PREMISES OF ANY PUBLIC ESTABLISHMENT OR  
43 PUBLIC EVENT WITH A LICENSE ISSUED PURSUANT TO TITLE 4.

44 (d) RELIEVE OR LIMIT AN OPERATOR OF A PUBLIC ESTABLISHMENT OR A  
45 SPONSOR OF A PUBLIC EVENT FROM THE REQUIREMENTS OF SECTION 13-3102.01.

1 (e) APPLY TO AN EDUCATIONAL INSTITUTION AS DEFINED IN SECTION 13-2911.

2 (f) LIMIT, RESTRICT OR PROHIBIT THE EXISTING RIGHTS OF A PRIVATE  
3 PROPERTY OWNER, PRIVATE TENANT, PRIVATE EMPLOYER OR PRIVATE BUSINESS ENTITY.

4 G. Subsection A, paragraph 3 of this section shall not apply to a  
5 weapon described in section 13-3101, subsection A, paragraph 8, subdivision  
6 (a), item (v), if such weapon is possessed for the purposes of preparing for,  
7 conducting or participating in lawful exhibitions, demonstrations, contests  
8 or athletic events involving the use of such weapon. Subsection A, paragraph  
9 12 of this section shall not apply to a weapon if such weapon is possessed  
10 for the purposes of preparing for, conducting or participating in hunter or  
11 firearm safety courses.

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

14 1. Firearm that is not loaded and that is carried within a means of  
15 transportation under the control of an adult provided that if the adult  
16 leaves the means of transportation the firearm shall not be visible from the  
17 outside of the means of transportation and the means of transportation shall  
18 be locked.

19 2. Firearm for use on the school grounds in a program approved by a  
20 school.

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

26 I. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall not  
27 apply to commercial nuclear generating station armed nuclear security guards  
28 during the performance of official duties or during any security training  
29 exercises sponsored by the commercial nuclear generating station or local,  
30 state or federal authorities.

31 J. The operator of the establishment or the sponsor of the event or  
32 the employee of the operator or sponsor or the agent of the sponsor,  
33 including a public entity or public employee, is not liable for acts or  
34 omissions pursuant to subsection A, paragraph 10 of this section unless the  
35 operator, sponsor, employee or agent intended to cause injury or was grossly  
36 negligent.

37 K. If a law enforcement officer contacts a person who is in possession  
38 of a firearm, the law enforcement officer may take temporary custody of the  
39 firearm for the duration of that contact.

40 L. Misconduct involving weapons under subsection A, paragraph 15 of  
41 this section is a class 2 felony. Misconduct involving weapons under  
42 subsection A, paragraph 9, 14 or 16 of this section is a class 3 felony.  
43 Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13 of  
44 this section is a class 4 felony. Misconduct involving weapons under  
45 subsection A, paragraph 12 of this section is a class 1 misdemeanor unless

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

10 M. For the purposes of this section:

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

15 2. "Public establishment" means a structure, vehicle or craft that is  
16 owned, leased or operated by this state or a political subdivision of this  
17 state.

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

22 4. "School" means a public or nonpublic kindergarten program, common  
23 school or high school.

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