

REFERENCE TITLE: **firearms; state preemption; penalties**

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

HB 2517

Introduced by

Representatives Smith, Barton, Borrelli, Boyer, Gowan, Kwasman,
Livingston, Montenegro, Petersen, Pierce J, Seel, Stevens, Thorpe, Tobin,
Townsend, Senators Murphy, Ward: Representatives Allen, Forese, Gray,
Kavanagh, Lovas, Mitchell, Pratt, Shope, Ugenti, Senators Burges,
Crandell, Farnsworth D, Griffin, Melvin, Shooter, Yarbrough

AN ACT

AMENDING SECTION 13-3108, 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 13-3108, Arizona Revised Statutes, is amended to
3 read:

4 13-3108. Firearms regulated by state; state preemption;
5 injunction; civil penalty; cause of action;
6 violation; classification; definition

7 A. Except as provided in subsection G of this section, a political
8 subdivision of this state shall not enact any ordinance, rule or tax relating
9 to the transportation, possession, carrying, sale, transfer, purchase,
10 acquisition, gift, devise, storage, licensing, registration, discharge or use
11 of firearms or ammunition or any firearm or ammunition components or related
12 accessories in this state.

13 B. A political subdivision of this state shall not require the
14 licensing or registration of firearms or ammunition or any firearm or
15 ammunition components or related accessories or prohibit the ownership,
16 purchase, sale or transfer of firearms or ammunition or any firearm or
17 ammunition components, or related accessories.

18 C. A political subdivision of this state shall not require or maintain
19 a record in any form, whether permanent or temporary, including a list, log
20 or database, of any of the following:

21 1. Any identifying information of a person who leaves a weapon in
22 temporary storage at any public establishment or public event, except that
23 the operator of the establishment or the sponsor of the event may require
24 that a person provide a government issued identification or a reasonable copy
25 of a government issued identification for the purpose of establishing
26 ownership of the weapon. The operator or sponsor shall store any provided
27 identification with the weapon and shall return the identification to the
28 person when the weapon is retrieved. The operator or sponsor shall not
29 retain records or copies of any identification provided pursuant to this
30 paragraph after the weapon is retrieved.

31 2. Except in the course of a law enforcement investigation, any
32 identifying information of a person who owns, possesses, purchases, sells or
33 transfers a firearm.

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

36 D. A political subdivision of this state shall not enact any rule or
37 ordinance that relates to firearms and is more prohibitive than or that has a
38 penalty that is greater than any state law penalty. A political
39 subdivision's rule or ordinance that relates to firearms and that is
40 inconsistent with or more restrictive than state law, whether enacted before
41 or after July 29, 2010, is null and void.

42 E. A political subdivision of this state shall not enact any
43 ordinance, rule or regulation limiting the lawful taking of wildlife during
44 an open season established by the Arizona game and fish commission unless the
45 ordinance, rule or regulation is consistent with title 17 and rules and

1 orders adopted by the Arizona game and fish commission. This subsection does
2 not prevent a political subdivision from adopting an ordinance or rule
3 restricting the discharge of a firearm within one-fourth mile of an occupied
4 structure. For the purposes of this subsection, "take" has the same meaning
5 prescribed in section 17-101.

6 F. This state, any agency or political subdivision of this state and
7 any law enforcement agency in this state shall not facilitate the destruction
8 of a firearm or purchase or otherwise acquire a firearm for the purpose of
9 destroying the firearm except as authorized by section 13-3105 or 17-240.

10 G. This section does not prohibit a political subdivision of this
11 state from enacting and enforcing any ordinance or rule pursuant to state law
12 or relating to any of the following:

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

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

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

31 (b) Lawful transportation of an unloaded firearm for the purpose of
32 lawful hunting.

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

36 (d) Any activity that is related to the production of crops,
37 livestock, poultry, livestock products, poultry products or ratites or
38 storage of agricultural commodities.

39 3. The regulation of land and structures, including a business
40 relating to firearms or ammunition or their components or a shooting range in
41 the same manner as other commercial businesses. Notwithstanding any other
42 law, this paragraph does not authorize a political subdivision to regulate
43 the sale or transfer of firearms on property it owns, leases, operates or
44 controls in a manner that is different than or inconsistent with state law.
45 For the purposes of this paragraph, a use permit or other contract that

1 provides for the use of property owned, leased, operated or controlled by a
2 political subdivision shall not be considered a sale, conveyance or
3 disposition of property.

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

7 5. Limiting or prohibiting the discharge of firearms in parks and
8 preserves except:

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

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

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

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

16 (e) By special permit of the chief law enforcement officer of the
17 political subdivision.

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

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

24 H. IF A POLITICAL SUBDIVISION OF THIS STATE ENACTS ANY ORDINANCE,
25 REGULATION, TAX OR RULE OR ACTS IN ANY WAY IN VIOLATION OF THIS SECTION, A
26 COURT SHALL DECLARE THE IMPROPER ACT, ORDINANCE, REGULATION, TAX OR RULE
27 INVALID AND ISSUE A PERMANENT INJUNCTION AGAINST THE POLITICAL SUBDIVISION
28 FROM CONTINUING THE ACT OR ENFORCING THE ORDINANCE, REGULATION, TAX OR RULE.
29 IT IS NOT A DEFENSE THAT THE POLITICAL SUBDIVISION OF THIS STATE WAS ACTING
30 IN GOOD FAITH OR ON THE ADVICE OF COUNSEL.

31 I. IF A COURT DETERMINES THAT A VIOLATION OF THIS SECTION IS KNOWING
32 AND WILFUL, THE COURT SHALL ASSESS A CIVIL PENALTY OF UP TO FIVE THOUSAND
33 DOLLARS AGAINST THE ELECTED OR APPOINTED GOVERNMENT OFFICIAL OR
34 ADMINISTRATIVE AGENCY HEAD UNDER WHOSE JURISDICTION THE VIOLATION OCCURRED.

35 J. EXCEPT AS OTHERWISE PROVIDED BY LAW, A POLITICAL SUBDIVISION OF
36 THIS STATE MAY NOT USE PUBLIC MONIES TO DEFEND OR REIMBURSE A PERSON WHO IS
37 FOUND TO HAVE KNOWINGLY AND WILFULLY VIOLATED THIS SECTION.

38 K. A PERSON WHO KNOWINGLY AND WILFULLY VIOLATES THIS SECTION WHILE
39 ACTING IN THE PERSON'S OFFICIAL CAPACITY IS SUBJECT TO TERMINATION FROM
40 EMPLOYMENT.

41 L. A PERSON OR AN ORGANIZATION WHOSE MEMBERSHIP IS ADVERSELY AFFECTED
42 BY ANY ORDINANCE, REGULATION, TAX, MEASURE, DIRECTIVE, RULE, ENACTMENT, ORDER
43 OR POLICY THAT IS ADOPTED OR ENFORCED IN VIOLATION OF THIS SECTION MAY FILE A
44 CIVIL ACTION AGAINST THE POLITICAL SUBDIVISION IN THIS STATE IN ANY COURT OF
45 THIS STATE HAVING JURISDICTION OVER ANY DEFENDANT IN THE ACTION FOR

1 DECLARATORY RELIEF AND ACTUAL DAMAGES. THE COURT SHALL AWARD THE PREVAILING
2 PLAINTIFF IN ANY CIVIL ACTION:

3 1. REASONABLE ATTORNEY FEES AND COSTS.

4 2. THE ACTUAL DAMAGES INCURRED NOT TO EXCEED ONE HUNDRED THOUSAND
5 DOLLARS.

6 ~~H.~~ M. A violation of any ordinance established pursuant to subsection
7 G, paragraph 5 of this section is a class 2 misdemeanor unless the political
8 subdivision designates a lesser classification by ordinance.

9 ~~I.~~ N. For the purposes of this section, "political subdivision"
10 includes a political subdivision acting in any capacity, including under
11 police power, in a proprietary capacity or otherwise.