

REFERENCE TITLE: firearms; prosecutors; law enforcement officers

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2300

Introduced by
Representative Farnsworth E

AN ACT

AMENDING SECTIONS 13-3112 AND 38-1113, 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 13-3112, Arizona Revised Statutes, is amended to
3 read:

4 13-3112. Concealed weapons; qualification; application; permit
5 to carry; civil penalty; report; applicability

6 A. The department of public safety shall issue a permit to carry a
7 concealed weapon to a person who is qualified under this section. The person
8 shall carry the permit at all times when the person is in actual possession
9 of the concealed weapon and is required by section 4-229 or 4-244 to carry
10 the permit. If the person is in actual possession of the concealed weapon
11 and is required by section 4-229 or 4-244 to carry the permit, the person
12 shall present the permit for inspection to any law enforcement officer on
13 request.

14 B. The permit of a person who is arrested or indicted for an offense
15 that would make the person unqualified under section 13-3101, subsection A,
16 paragraph 7 or this section shall be immediately suspended and seized. The
17 permit of a person who becomes unqualified on conviction of that offense
18 shall be revoked. The permit shall be restored on presentation of
19 documentation from the court if the permittee is found not guilty or the
20 charges are dismissed. The permit shall be restored on presentation of
21 documentation from the county attorney that the charges against the permittee
22 were dropped or dismissed.

23 C. A permittee who carries a concealed weapon, who is required by
24 section 4-229 or 4-244 to carry a permit and who fails to present the permit
25 for inspection on the request of a law enforcement officer commits a
26 violation of this subsection and is subject to a civil penalty of not more
27 than three hundred dollars. The department of public safety shall be
28 notified of all violations of this subsection and shall immediately suspend
29 the permit. A permittee shall not be convicted of a violation of this
30 subsection if the permittee produces to the court a legible permit that is
31 issued to the permittee and that was valid at the time the permittee failed
32 to present the permit for inspection.

33 D. A law enforcement officer shall not confiscate or forfeit a weapon
34 that is otherwise lawfully possessed by a permittee whose permit is suspended
35 pursuant to subsection C of this section, except that a law enforcement
36 officer may take temporary custody of a firearm during an investigatory stop
37 of the permittee.

38 E. The department of public safety shall issue a permit to an
39 applicant who meets all of the following conditions:

40 1. Is a resident of this state or a United States citizen.

41 2. Is twenty-one years of age or older or is at least nineteen years
42 of age and provides evidence of current military service or proof of
43 honorable discharge or general discharge under honorable conditions from the
44 United States armed forces, **THE** United States armed forces reserve or a state
45 national guard.

1 3. Is not under indictment for and has not been convicted in any
2 jurisdiction of a felony unless that conviction has been expunged, set aside
3 or vacated or the applicant's rights have been restored and the applicant is
4 currently not a prohibited possessor under state or federal law.

5 4. Does not suffer from mental illness and has not been adjudicated
6 mentally incompetent or committed to a mental institution.

7 5. Is not unlawfully present in the United States.

8 6. Has ever demonstrated competence with a firearm as prescribed by
9 subsection N of this section and provides adequate documentation that the
10 person has satisfactorily completed a training program or demonstrated
11 competence with a firearm in any state or political subdivision in the United
12 States. For the purposes of this paragraph, "adequate documentation" means:

13 (a) A current or expired permit issued by the department of public
14 safety pursuant to this section.

15 (b) An original or copy of a certificate, card or document that shows
16 the applicant has ever completed any course or class prescribed by subsection
17 N of this section or an affidavit from the instructor, school, club or
18 organization that conducted or taught the course or class attesting to the
19 applicant's completion of the course or class.

20 (c) An original or a copy of a United States department of defense
21 form 214 (DD-214) indicating an honorable discharge or general discharge
22 under honorable conditions, a certificate of completion of basic training or
23 any other document demonstrating proof of the applicant's current or former
24 service in the United States armed forces as prescribed by subsection N,
25 paragraph 5 of this section.

26 (d) An original or a copy of a concealed weapon, firearm or handgun
27 permit or a license as prescribed by subsection N, paragraph 6 of this
28 section.

29 F. The application shall be completed on a form prescribed by the
30 department of public safety. The form shall not require the applicant to
31 disclose the type of firearm for which a permit is sought. The applicant
32 shall attest under penalty of perjury that all of the statements made by the
33 applicant are true, that the applicant has been furnished a copy of this
34 chapter and chapter 4 of this title and that the applicant is knowledgeable
35 about the provisions contained in those chapters. The applicant shall submit
36 the application to the department with any documentation prescribed by
37 subsection E of this section, two sets of fingerprints and a reasonable fee
38 determined by the director of the department.

39 G. On receipt of a concealed weapon permit application, the department
40 of public safety shall conduct a check of the applicant's criminal history
41 record pursuant to section 41-1750. The department of public safety may
42 exchange fingerprint card information with the federal bureau of
43 investigation for federal criminal history record checks.

44 H. The department of public safety shall complete all of the required
45 qualification checks within sixty days after receipt of the application and

1 shall issue a permit within fifteen working days after completing the
 2 qualification checks if the applicant meets all of the conditions specified
 3 in subsection E of this section. If a permit is denied, the department of
 4 public safety shall notify the applicant in writing within fifteen working
 5 days after the completion of all of the required qualification checks and
 6 shall state the reasons why the application was denied. On receipt of the
 7 notification of the denial, the applicant has twenty days to submit any
 8 additional documentation to the department. On receipt of the additional
 9 documentation, the department shall reconsider its decision and inform the
 10 applicant within twenty days of the result of the reconsideration. If
 11 denied, the applicant shall be informed that the applicant may request a
 12 hearing pursuant to title 41, chapter 6, article 10. For the purposes of
 13 this subsection, "receipt of the application" means the first day that the
 14 department has physical control of the application and that is presumed to be
 15 on the date of delivery as evidenced by proof of delivery by the United
 16 States postal service or a written receipt, which shall be provided by the
 17 department on request of the applicant.

18 I. On issuance, a permit is valid for five years, except a permit that
 19 is held by a member of the United States armed forces, including a member of
 20 the Arizona national guard or a member of the reserves of any military
 21 establishment of the United States, who is on federal active duty and who is
 22 deployed overseas shall be extended until ninety days after the end of the
 23 member's overseas deployment.

24 J. The department of public safety shall maintain a computerized
 25 permit record system that is accessible to criminal justice agencies for the
 26 purpose of confirming the permit status of any person who is contacted by a
 27 law enforcement officer and who claims to hold a valid permit issued by this
 28 state. This information and any other records that are maintained regarding
 29 applicants, permit holders or instructors shall not be available to any other
 30 person or entity except on an order from a state or federal court. A
 31 criminal justice agency shall not use the computerized permit record system
 32 to conduct inquiries on whether a person is a concealed weapons permit holder
 33 unless the criminal justice agency has reasonable suspicion to believe the
 34 person is carrying a concealed weapon and the person is subject to a lawful
 35 criminal investigation, arrest, detention or an investigatory stop.

36 K. A permit issued pursuant to this section is renewable every five
 37 years. Before a permit may be renewed, a criminal history records check
 38 shall be conducted pursuant to section 41-1750 within sixty days after
 39 receipt of the application for renewal. For the purposes of permit renewal,
 40 the permit holder is not required to submit additional fingerprints.

41 L. Applications for renewal shall be accompanied by a fee determined
 42 by the director of the department of public safety.

43 M. The department of public safety shall suspend or revoke a permit
 44 issued under this section if the permit holder becomes ineligible pursuant to
 45 subsection E of this section. The department of public safety shall notify

1 the permit holder in writing within fifteen working days after the revocation
2 or suspension and shall state the reasons for the revocation or suspension.

3 N. An applicant shall demonstrate competence with a firearm through
4 any of the following:

5 1. Completion of any firearms safety or training course or class that
6 is available to the general public, that is offered by a law enforcement
7 agency, a junior college, a college or a private or public institution,
8 academy, organization or firearms training school and that is approved by the
9 department of public safety or that uses instructors who are certified by the
10 national rifle association.

11 2. Completion of any hunter education or hunter safety course approved
12 by the Arizona game and fish department or a similar agency of another state.

13 3. Completion of any national rifle association firearms safety or
14 training course.

15 4. Completion of any law enforcement firearms safety or training
16 course or class that is offered for security guards, investigators, special
17 deputies or other divisions or subdivisions of law enforcement or security
18 enforcement and that is approved by the department of public safety.

19 5. Evidence of current military service or proof of honorable
20 discharge or general discharge under honorable conditions from the United
21 States armed forces.

22 6. A valid current or expired concealed weapon, firearm or handgun
23 permit or license that is issued by another state or a political subdivision
24 of another state and that has a training or testing requirement for initial
25 issuance.

26 7. Completion of any governmental police agency firearms training
27 course and qualification to carry a firearm in the course of normal police
28 duties.

29 8. Completion of any other firearms safety or training course or class
30 that is conducted by a department of public safety approved or national rifle
31 association certified firearms instructor.

32 O. The department of public safety shall maintain information
33 comparing the number of permits requested, the number of permits issued and
34 the number of permits denied. The department shall annually report this
35 information to the governor and the legislature.

36 P. The director of the department of public safety shall adopt rules
37 for the purpose of implementing and administering this section including fees
38 relating to permits that are issued pursuant to this section.

39 Q. This state and any political subdivision of this state shall
40 recognize a concealed weapon, firearm or handgun permit or license that is
41 issued by another state or a political subdivision of another state if both:

42 1. The permit or license is recognized as valid in the issuing state.

43 2. The permit or license holder is all of the following:

44 (a) Legally present in this state.

45 (b) Not legally prohibited from possessing a firearm in this state.

1 R. For the purpose of establishing mutual permit or license
2 recognition with other states, the department of public safety shall enter
3 into a written agreement if another state requires a written agreement.

4 S. Notwithstanding the provisions of this section, a person with a
5 concealed weapons permit from another state may not carry a concealed weapon
6 in this state if the person is under twenty-one years of age or is under
7 indictment for, or has been convicted of, a felony offense in any
8 jurisdiction, unless that conviction is expunged, set aside or vacated or the
9 person's rights have been restored and the person is currently not a
10 prohibited possessor under state or federal law.

11 T. The department of public safety may issue certificates of firearms
12 proficiency according to the Arizona peace officer standards and training
13 board firearms qualification for the purposes of implementing the law
14 enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18
15 United States Code sections 926B and 926C). A law enforcement OR
16 PROSECUTORIAL agency shall issue to a QUALIFIED RETIRED law enforcement
17 officer who has honorably retired a photographic identification that states
18 that the officer has honorably retired from the agency. A PERSON WHO WAS A
19 MUNICIPAL, COUNTY OR STATE PROSECUTOR IS DEEMED TO MEET THE QUALIFICATIONS OF
20 18 UNITED STATES CODE SECTION 926C(c)(2). The chief law enforcement officer
21 shall determine whether an officer has honorably retired and the
22 determination is not subject to review. A law enforcement OR PROSECUTORIAL
23 agency has no obligation to revoke, alter or modify the honorable discharge
24 photographic identification based on conduct that the agency becomes aware of
25 or that occurs after the officer has separated from the agency. FOR THE
26 PURPOSES OF THIS SUBSECTION, "QUALIFIED RETIRED LAW ENFORCEMENT OFFICER" HAS
27 THE SAME MEANING PRESCRIBED IN 18 UNITED STATES CODE SECTION 926C.

28 U. The initial and renewal application fees collected pursuant to this
29 section shall be deposited, pursuant to sections 35-146 and 35-147, in the
30 concealed weapons permit fund established by section 41-1722.

31 Sec. 2. Section 38-1113, Arizona Revised Statutes, is amended to read:
32 38-1113. Carrying of firearms by peace officers; exceptions;
33 definitions

34 A. Notwithstanding any other law and except as provided pursuant to
35 subsection C of this section, a peace officer shall not be prohibited from
36 carrying a firearm if the peace officer is in compliance with the firearm
37 requirements prescribed by the Arizona peace officer standards and training
38 board.

39 B. Notwithstanding any other law and except as provided pursuant to
40 subsection C, paragraphs 1, 2, 4, 5, 6, 7 and 8 of this section, a retired
41 peace officer shall not be prohibited from carrying a firearm.

42 C. A peace officer or retired peace officer may be prohibited from
43 carrying a firearm as follows:

44 1. In a jail, correctional facility or juvenile detention facility.

1 2. Except for peace officers acting in their official capacity and
2 carrying official peace officer identification, by order of:

3 (a) The presiding judge or justice when attending any court that is
4 established pursuant to the constitution of this state or title 12, except if
5 the peace officer or retired peace officer is providing court security or
6 responding to an emergency.

7 (b) A justice court when attending the justice court, except if the
8 peace officer or retired peace officer is providing court security or
9 responding to an emergency.

10 (c) A municipal court when attending the municipal court, except if
11 the peace officer or retired peace officer is providing court security or
12 responding to an emergency.

13 3. When the peace officer is relieved of duty and is under a criminal
14 or administrative investigation.

15 4. When in a secured police facility.

16 5. When consuming alcohol at a licensed liquor establishment, except
17 if a peace officer's employing agency authorizes the consumption of alcohol
18 in the performance of the peace officer's duties.

19 6. In a location prohibited by federal law.

20 7. Pursuant to court order.

21 8. Pursuant to any state or federal law that makes the officer a
22 prohibited possessor.

23 9. When in the judgment of the department head, or the department
24 head's designee, the peace officer exhibits any impairment, including any
25 physical or mental impairment that would cause concern for the well-being and
26 safety of the officer, the officer's law enforcement agency, law enforcement
27 agency employees or the community.

28 D. A law enforcement agency that employs a peace officer may establish
29 rules that are consistent with this section. The law enforcement agency may
30 determine the number, type, model, caliber and brand of firearm and the
31 ammunition that is carried by its peace officers on or off duty.

32 E. A presiding judge may establish rules or policies that are
33 consistent with this section for the protection of the court.

34 F. This section does not create any civil liability for acting or
35 failing to act.

36 G. For the purposes of this section:

37 1. "Firearm" has the same meaning prescribed in section 13-105.

38 2. "Peace officer" has the same meaning prescribed in section 1-215
39 AND INCLUDES MUNICIPAL, COUNTY AND STATE PROSECUTORS WHO HAVE RECEIVED A
40 CERTIFICATE FROM THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD.

41 3. "Relieved of duty" means when a peace officer is no longer required
42 to perform, either temporarily or permanently, the duties for which the
43 officer was employed.

- 1 4. "Retired peace officer" means a person who has honorably served as
2 a law enforcement officer in the United States for at least ten consecutive
3 years and who possesses a photographic identification or a letter from a law
4 enforcement agency that states the person has served for at least ten
5 consecutive years as a law enforcement officer in the United States.
- 6 5. "Secured police facility" means a building or structure that is
7 used primarily by a public agency and that is not accessible to the general
8 public except by controlled access.