

REFERENCE TITLE: prohibited weapons; nunchaku; repeal

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1291

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 13-3101, 13-3102 AND 13-3110, ARIZONA REVISED STATUTES;
RELATING TO 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
14 substitutes used for hand loading purposes.

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

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

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

31 7. "Prohibited possessor" means any person:

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

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

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

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

1 term of probation or parole pursuant to the interstate compact under title
2 31, chapter 3, article 4.1.

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

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

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

14 (iii) Certain diplomats.

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

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

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

22 (g) Who is found guilty except insane.

23 8. "Prohibited weapon":

24 (a) Includes the following:

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

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

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

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

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

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

44 ~~(vii)~~ (vi) A chemical or combination of chemicals, compounds or
45 materials, including dry ice, that is possessed or manufactured for the

1 purpose of generating a gas to cause a mechanical failure, rupture or
2 bursting or an explosion or detonation of the chemical or combination of
3 chemicals, compounds or materials.

4 ~~(viii)~~ (vii) An improvised explosive device.

5 ~~(ix)~~ (viii) Any combination of parts or materials that is designed
6 and intended for use in making or converting a device into an item set
7 forth in item (i), ~~(vi)~~ (v) or ~~(viii)~~ (vii) of this subdivision.

8 (b) Does not include:

9 (i) Any fireworks that are imported, distributed or used in
10 compliance with state laws or local ordinances.

11 (ii) Any propellant, propellant actuated devices or propellant
12 actuated industrial tools that are manufactured, imported or distributed
13 for their intended purposes.

14 (iii) A device that is commercially manufactured primarily for the
15 purpose of illumination.

16 9. "Trafficking" means to sell, transfer, distribute, dispense or
17 otherwise dispose of a weapon or explosive to another person, or to buy,
18 receive, possess or obtain control of a weapon or explosive, with the
19 intent to sell, transfer, distribute, dispense or otherwise dispose of the
20 weapon or explosive to another person.

21 B. The items set forth in subsection A, paragraph 8, subdivision
22 (a), items (i), (ii), (iii) and (iv) of this section do not include any
23 firearms or devices that are possessed, manufactured or transferred in
24 compliance with federal law.

25 Sec. 2. Section 13-3102, Arizona Revised Statutes, is amended to
26 read:

27 13-3102. Misconduct involving weapons; defenses;
28 classification; definitions

29 A. A person commits misconduct involving weapons by knowingly:

30 1. Carrying a deadly weapon except a pocket knife concealed on his
31 person or within his immediate control in or on a means of transportation:

32 (a) In the furtherance of a serious offense as defined in section
33 13-706, a violent crime as defined in section 13-901.03 or any other
34 felony offense; or

35 (b) When contacted by a law enforcement officer and failing to
36 accurately answer the officer if the officer asks whether the person is
37 carrying a concealed deadly weapon; or

38 2. Carrying a deadly weapon except a pocket knife concealed on his
39 person or concealed within his immediate control in or on a means of
40 transportation if the person is under twenty-one years of age; or

41 3. Manufacturing, possessing, transporting, selling or transferring
42 a prohibited weapon, except that if the violation involves dry ice, a
43 person commits misconduct involving weapons by knowingly possessing the
44 dry ice with the intent to cause injury to or death of another person or
45 to cause damage to the property of another person; or

- 1 4. Possessing a deadly weapon or prohibited weapon if such person
2 is a prohibited possessor; or
- 3 5. Selling or transferring a deadly weapon to a prohibited
4 possessor; 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
11 assist, promote or further the interests of a criminal street gang, a
12 criminal 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
15 on his person after a reasonable request by the operator of the
16 establishment or the sponsor of the event or the sponsor's agent to remove
17 his weapon and place it in the custody of the operator of the
18 establishment or the sponsor of the event for temporary and secure storage
19 of the weapon pursuant to section 13-3102.01; or
- 20 11. Unless specifically authorized by law, entering an election
21 polling 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
27 to 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
35 to 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,
40 grandparent or legal guardian.
 - 41 2. A member of the sheriff's volunteer posse or reserve
42 organization who has received and passed firearms training that is
43 approved by the Arizona peace officer standards and training board and who
44 is authorized by the sheriff to carry a concealed weapon pursuant to
45 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
3 the 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
6 or partially visible.

7 (d) Luggage.

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

11 C. Subsection A, paragraphs 2, 3, 7, 10, 11, 12 and 13 of this
12 section 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;
15 or

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

18 3. A warden, deputy warden, community correctional officer,
19 detention officer, special investigator or correctional officer of the
20 state department of corrections or the department of juvenile corrections;
21 or

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

24 D. Subsection A, paragraph 10 of this section does not apply to an
25 elected or appointed judicial officer in the court facility where the
26 judicial officer works if the judicial officer has demonstrated competence
27 with a firearm as prescribed in section 13-3112, subsection N, except that
28 the judicial officer shall comply with any rule or policy adopted by the
29 presiding judge of the superior court while in the court facility. For
30 the purposes of this subsection, appointed judicial officer does not
31 include a hearing officer or a judicial officer pro tempore ~~that~~ WHO is
32 not a full-time officer.

33 E. Subsection A, paragraphs 3 and 7 of this section shall not apply
34 to:

35 1. The possessing, transporting, selling or transferring of weapons
36 by a museum as a part of its collection or an educational institution for
37 educational purposes or by an authorized employee of such museum or
38 institution, if:

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

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

- 1 2. The regular and lawful transporting as merchandise; or
- 2 3. Acquisition by a person by operation of law such as by gift,
- 3 devise or descent or in a fiduciary capacity as a recipient of the
- 4 property or former property of an insolvent, incapacitated or deceased
- 5 person.
- 6 F. Subsection A, paragraph 3 of this section shall not apply to the
- 7 merchandise of an authorized manufacturer of or dealer in prohibited
- 8 weapons, when such material is intended to be manufactured, possessed,
- 9 transported, sold or transferred solely for or to a dealer, a regularly
- 10 constituted or appointed state, county or municipal police department or
- 11 police officer, a detention facility, the military service of this or
- 12 another state or the United States, a museum or educational institution or
- 13 a person specifically licensed or permitted pursuant to federal or state
- 14 law.
- 15 G. Subsection A, paragraph 10 of this section shall not apply to
- 16 shooting ranges or shooting events, hunting areas or similar locations or
- 17 activities.
- 18 H. ~~Subsection A, paragraph 3 of this section shall not apply to a~~
- 19 ~~weapon described in section 13-3101, subsection A, paragraph 8,~~
- 20 ~~subdivision (a), item (v), if such weapon is possessed for the purposes of~~
- 21 ~~preparing for, conducting or participating in lawful exhibitions,~~
- 22 ~~demonstrations, contests or athletic events involving the use of such~~
- 23 ~~weapon.~~ Subsection A, paragraph 12 of this section shall not apply to a
- 24 weapon if such weapon is possessed for the purposes of preparing for,
- 25 conducting or participating in hunter or firearm safety courses.
- 26 I. Subsection A, paragraph 12 of this section shall not apply to
- 27 the possession of a:
- 28 1. Firearm that is not loaded and that is carried within a means of
- 29 transportation under the control of an adult provided that if the adult
- 30 leaves the means of transportation the firearm shall not be visible from
- 31 the outside of the means of transportation and the means of transportation
- 32 shall be locked.
- 33 2. Firearm for use on the school grounds in a program approved by a
- 34 school.
- 35 3. Firearm by a person who possesses a certificate of firearms
- 36 proficiency pursuant to section 13-3112, subsection T and who is
- 37 authorized to carry a concealed firearm pursuant to the law enforcement
- 38 officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States
- 39 Code sections 926B and 926C).
- 40 J. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall
- 41 not apply to commercial nuclear generating station armed nuclear security
- 42 guards during the performance of official duties or during any security
- 43 training exercises sponsored by the commercial nuclear generating station
- 44 or local, state or federal authorities.

1 K. The operator of the establishment or the sponsor of the event or
2 the employee of the operator or sponsor or the agent of the sponsor,
3 including a public entity or public employee, is not liable for acts or
4 omissions pursuant to subsection A, paragraph 10 of this section unless
5 the operator, sponsor, employee or agent intended to cause injury or was
6 grossly negligent.

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

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

26 N. For the purposes of this section:

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

31 2. "Public establishment" means a structure, vehicle or craft that
32 is owned, leased or operated by this state or a political subdivision of
33 this state.

34 3. "Public event" means a specifically named or sponsored event of
35 limited duration that is either conducted by a public entity or conducted
36 by a private entity with a permit or license granted by a public entity.
37 Public event does not include an unsponsored gathering of people in a
38 public place.

39 4. "School" means a public or nonpublic kindergarten program,
40 common school or high school.

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

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

3 13-3110. Misconduct involving simulated explosive devices;
4 classification; definition

5 A. A person commits misconduct involving simulated explosive
6 devices by intentionally giving or sending to another person or placing in
7 a private or public place a simulated explosive device with the intent to
8 terrify, intimidate, threaten or harass.

9 B. The placing or sending of a simulated explosive device without
10 written notice attached to the device in a conspicuous place that the
11 device has been rendered inert and is possessed for the purpose of curio
12 or relic collection, display or other similar purpose is prima facie
13 evidence of intent to terrify, intimidate, threaten or harass.

14 C. Misconduct involving simulated explosive devices is a class 5
15 felony.

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