

REFERENCE TITLE: **underage persons; possession; ownership; firearms**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2193

Introduced by
Representative Longdon

AN ACT

**AMENDING SECTIONS 13-3108, 13-3109 AND 13-3111, 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
9 relating to the transportation, possession, carrying, sale, transfer,
10 purchase, acquisition, gift, devise, storage, licensing, registration,
11 discharge or use of firearms or ammunition or any firearm or ammunition
12 components or related 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
19 maintain a record in any form, whether permanent or temporary, including a
20 list, log 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
25 copy 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
33 or transfers a firearm.

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

36 D. A political subdivision of this state shall not enact any rule
37 or ordinance that relates to firearms and is more prohibitive than or that
38 has a 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
41 before 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
44 during an open season established by the Arizona game and fish commission
45 unless the ordinance, rule or regulation is consistent with title 17 and

rules and orders adopted by the Arizona game and fish commission. This subsection does not prevent a political subdivision from adopting an ordinance or rule restricting the discharge of a firearm within one-fourth mile of an occupied structure without the consent of the owner or occupant of the structure. For the purposes of this subsection:

1. "Occupied structure" means any building in which, at the time of the firearm's discharge, a reasonable person from the location where a firearm is discharged would expect a person to be present.

2. "Take" has the same meaning prescribed in section 17-101.

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

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

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

2. Prohibiting a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND who is unaccompanied by a parent, grandparent or guardian or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the ~~minor's~~ PERSON'S parent, grandparent or guardian from knowingly possessing or carrying on ~~the minor's~~ HIS person, within the ~~minor's~~ PERSON'S immediate control or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property that is owned or leased by the ~~minor~~ PERSON or the ~~minor's~~ PERSON'S parent, grandparent or guardian. Any ordinance or rule that is adopted pursuant to this paragraph shall not apply to a ~~minor~~ PERSON who is EITHER OF THE FOLLOWING:

(a) Fourteen, fifteen, sixteen, ~~or~~ seventeen, EIGHTEEN, NINETEEN OR TWENTY years of age and who is engaged in any of the following:

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

~~(b)~~ (ii) Lawful transportation of an unloaded firearm for the purpose of lawful hunting.

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

1 ~~(iv)~~ (iv) Any activity that is related to the production of crops,
2 livestock, poultry, livestock products, poultry products or ratites or
3 storage of agricultural commodities.

4 (b) EIGHTEEN, NINETEEN OR TWENTY YEARS OF AGE AND WHO IS AN ACTIVE
5 MEMBER OF THE UNITED STATES ARMED FORCES, INCLUDING A MEMBER OF THE
6 ARIZONA NATIONAL GUARD OR A MEMBER OF THE RESERVES OF ANY MILITARY
7 ESTABLISHMENT OF THE UNITED STATES.

8 3. The regulation of commercial land and structures, including a
9 business relating to firearms or ammunition or their components or a
10 commercial shooting range in the same manner as other commercial
11 businesses. Notwithstanding any other law, this paragraph does not:

12 (a) Authorize a political subdivision to regulate the sale or
13 transfer of firearms on property it owns, leases, operates or controls in
14 a manner that is different than or inconsistent with state law. For the
15 purposes of this subdivision, a use permit or other contract that provides
16 for the use of property owned, leased, operated or controlled by a
17 political subdivision shall not be considered a sale, conveyance or
18 disposition of property.

19 (b) Authorize a political subdivision through a zoning ordinance to
20 prohibit or otherwise regulate the otherwise lawful discharge of a firearm
21 or maintenance or improvements directly related to the discharge on a
22 private lot or parcel of land that is not open to the public on a
23 commercial or membership basis.

24 (c) Authorize a political subdivision to regulate the otherwise
25 lawful discharge of a firearm or maintenance or improvements directly
26 related to the discharge on land that is used for agriculture or other
27 noncommercial purposes.

28 4. Regulating employees or independent contractors of the political
29 subdivision who are acting within the course and scope of their employment
30 or contract. For the purposes of this paragraph, acting within the course
31 and scope of their employment or contract does not include the lawful
32 possession, carrying, transporting or storing of a firearm or other
33 weapon:

34 (a) On real property that is owned by the employee or independent
35 contractor.

36 (b) In or on a private vehicle or craft that is owned or operated
37 by the employee or independent contractor unless the ordinance or rule
38 violates another applicable federal or state law or regulation.

39 (c) Pursuant to section 12-781.

40 5. Limiting or prohibiting the discharge of firearms in parks and
41 preserves except:

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

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

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

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

6 (e) By special permit of the chief law enforcement officer of the
7 political subdivision.

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

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

14 H. Any ordinance, regulation, tax or rule that is enacted by a
15 political subdivision in violation of this section is invalid and subject
16 to a permanent injunction against the political subdivision from enforcing
17 the ordinance, regulation, tax or rule. It is not a defense that the
18 political subdivision was acting in good faith or on the advice of
19 counsel.

20 I. If a court determines that a political subdivision has knowingly
21 and wilfully violated this section, the court may assess a civil penalty
22 of up to ~~fifty thousand dollars~~ \$50,000 against the political subdivision.

23 J. If a court determines that a person has knowingly and wilfully
24 violated this section while acting in the person's official capacity
25 through enactment of any ordinance, regulation, tax, measure, directive,
26 rule, enactment, order or policy, the person may be subject to termination
27 from employment to the extent allowable under state law.

28 K. A person or an organization whose membership is adversely
29 affected by any ordinance, regulation, tax, measure, directive, rule,
30 enactment, order or policy that is in violation of this section may file a
31 civil action for declaratory and injunctive relief and actual damages
32 against the political subdivision in any court of this state having
33 jurisdiction over any defendant in the action. If the plaintiff prevails
34 in the action, the court shall award both:

- 35 1. Reasonable attorney fees and costs.
36 2. The actual damages incurred not to exceed ~~one hundred thousand~~
37 ~~dollars~~ \$100,000.

38 L. A violation of any ordinance established pursuant to subsection
39 G, paragraph 5 of this section is a class 2 misdemeanor unless the
40 political subdivision designates a lesser classification by ordinance.

41 M. For the purposes of this section, "political subdivision"
42 includes a political subdivision acting in any capacity, including under
43 police power, in a proprietary capacity or otherwise.

1 Sec. 2. Section 13-3109, Arizona Revised Statutes, is amended to
2 read:

3 13-3109. Sale or gift of firearm to underage person;
4 classification

5 A. Except as provided in subsection C of this section, a person who
6 sells or gives to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE,
7 without written consent of ~~the minor's~~ THAT PERSON'S parent or legal
8 guardian, a firearm, ammunition or a toy pistol by which dangerous and
9 explosive substances may be discharged is guilty of a class 6 felony.

10 B. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT require
11 reporting sales of firearms, ~~nor shall~~ OR REQUIRE registration of firearms
12 or firearms sales ~~be required~~.

13 C. THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

14 1. The temporary transfer of firearms and ammunition by firearms
15 safety instructors, hunter safety instructors, competition coaches or
16 their assistants ~~shall be allowed~~ if the ~~minor's~~ parent or guardian ~~has~~
17 ~~given~~ OF A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE GIVES consent for
18 the ~~minor~~ PERSON to participate in activities such as firearms or hunting
19 safety courses, firearms competition or training. With the consent of the
20 ~~minor's~~ PERSON'S parent or guardian, the temporary transfer of firearms
21 and ammunition by an adult WHO IS accompanying ~~minors~~ THE PERSON engaged
22 in hunting or formal or informal target shooting activities shall be
23 allowed for those purposes.

24 2. SELLING OR GIVING A FIREARM AND AMMUNITION TO A PERSON WHO IS
25 EIGHTEEN, NINETEEN OR TWENTY YEARS OF AGE AND WHO IS AN ACTIVE MEMBER OF
26 THE UNITED STATES ARMED FORCES, INCLUDING A MEMBER OF THE ARIZONA NATIONAL
27 GUARD OR A MEMBER OF THE RESERVES OF ANY MILITARY ESTABLISHMENT OF THE
28 UNITED STATES.

29 Sec. 3. Section 13-3111, Arizona Revised Statutes, is amended to
30 read:

31 13-3111. Underage persons prohibited from carrying or
32 possessing firearms; exceptions; seizure and
33 forfeiture; penalties; classification

34 A. Except as provided in subsection B OF THIS SECTION, ~~an~~
35 ~~unemancipated~~ A person who is under ~~eighteen~~ TWENTY-ONE years of age and
36 who is unaccompanied by a parent, grandparent or guardian, or a certified
37 hunter safety instructor or certified firearms safety instructor acting
38 with the consent of the ~~unemancipated~~ person's parent or guardian, shall
39 not knowingly carry or possess on his person, within his immediate
40 control, or in or on a means of transportation a firearm in any place that
41 is open to the public or on any street or highway or on any private
42 property except private property owned or leased by the ~~minor~~ PERSON or
43 the ~~minor's~~ PERSON'S parent, grandparent or guardian.

B. This section does not apply to a person who is EITHER OF THE FOLLOWING:

1. Fourteen, fifteen, sixteen, ~~or~~ seventeen, EIGHTEEN, NINETEEN OR TWENTY years of age and who is any of the following:

~~1.~~ (i) Engaged in lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

~~2.~~ (ii) Engaged in lawful transportation of an unloaded firearm for the purpose of lawful hunting.

~~3.~~ (iii) Engaged in lawful transportation of an unloaded firearm between the hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

~~4.~~ (iv) Engaged in activities requiring the use of a firearm that are related to the production of crops, livestock, poultry, livestock products, poultry products, ~~or~~ ratites or in the production or storage of agricultural commodities.

2. EIGHTEEN, NINETEEN OR TWENTY YEARS OF AGE AND WHO IS AN ACTIVE MEMBER OF THE UNITED STATES ARMED FORCES, INCLUDING A MEMBER OF THE ARIZONA NATIONAL GUARD OR A MEMBER OF THE RESERVES OF ANY MILITARY ESTABLISHMENT OF THE UNITED STATES.

C. If the ~~minor~~ PERSON is not exempt under subsection B OF THIS SECTION and is in possession of a firearm, a peace officer shall seize the firearm at the time the violation occurs.

D. In addition to any other penalty provided by law, a person who violates subsection A ~~shall be~~ OF THIS SECTION IS subject to the following penalties:

1. If CONVICTED OR adjudicated a delinquent juvenile for an offense involving an unloaded firearm, a fine of not more than ~~two hundred fifty dollars~~ \$250, and the court may order the suspension or revocation of the person's driver license until the person reaches ~~eighteen~~ TWENTY-ONE years of age. If the person does not have a driver license at the time of the CONVICTION OR adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches ~~eighteen~~ TWENTY-ONE years of age.

2. If CONVICTED OR adjudicated a delinquent juvenile for an offense involving a loaded firearm, a fine of not more than ~~five hundred dollars~~ \$500, and the court may order the suspension or revocation of the person's driver license until the person reaches ~~eighteen~~ TWENTY-ONE years of age. If the person does not have a driver license at the time of the CONVICTION OR adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches ~~eighteen~~ TWENTY-ONE years of age.

3. If CONVICTED OR adjudicated a delinquent juvenile for an offense involving a loaded or unloaded firearm, if the person possessed the

1 firearm while the person was the driver or an occupant of a motor vehicle,
 2 a fine of not more than ~~five hundred dollars~~ \$500 and the court shall
 3 order the suspension or revocation of the person's driver license until
 4 the person reaches ~~eighteen~~ TWENTY-ONE years of age. If the person does
 5 not have a driver license at the time of CONVICTION OR adjudication, the
 6 court shall direct that the department of transportation not issue a
 7 driver license to the person until the person reaches ~~eighteen~~ TWENTY-ONE
 8 years of age. If the court finds that no other means of transportation is
 9 available, the PERSON'S driving privileges ~~of the child~~ may be restricted
 10 to travel between the ~~child's~~ PERSON'S home, school and place of
 11 employment during specified periods of time according to the ~~child's~~
 12 PERSON'S school and employment schedule.

13 E. Firearms seized pursuant to subsection C OF THIS SECTION shall
 14 be held by the law enforcement agency responsible for the seizure until
 15 the charges have been adjudicated or disposed of otherwise or the person
 16 is convicted. ~~Upon~~ ON A PERSON'S adjudication or conviction ~~of a person~~
 17 for a violation of this section, the court shall order the firearm
 18 forfeited. ~~However,~~ EXCEPT THAT the law enforcement agency shall return
 19 the firearm to the lawful owner if the identity of that person is known.

20 F. If the court finds that the parent or guardian of ~~a minor~~ AN
 21 UNDERAGE PERSON found responsible for violating this section knew or
 22 reasonably should have known of the ~~minor's~~ THE UNDERAGE PERSON'S unlawful
 23 conduct and made no effort to prohibit it, the parent or guardian is
 24 jointly and severally responsible for any fine imposed pursuant to this
 25 section or for any civil actual damages resulting from the unlawful use of
 26 the firearm by the ~~minor~~ UNDERAGE PERSON.

27 G. This section is supplemental to any other law imposing a
 28 criminal penalty for the use or exhibition of a deadly weapon. ~~A minor~~ AN
 29 UNDERAGE PERSON who violates this section may be prosecuted and CONVICTED
 30 OR adjudicated delinquent for any other criminal conduct involving the use
 31 or exhibition of the deadly weapon.

32 H. A person who violates subsection A OF THIS SECTION is guilty of
 33 a class 6 felony.

34 Sec. 4. Applicability

35 This act does not apply to a person who is at least eighteen years
 36 of age on the effective date of this act.