

REFERENCE TITLE: **political subdivisions; gun shows; preemption**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1428

Introduced by
Senator Wadsack: Representatives Heap, Jones

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 **DO EITHER OF THE FOLLOWING:**

9 1. Enact any ordinance, rule or tax relating to the transportation,
10 possession, carrying, sale, transfer, purchase, acquisition, gift, devise,
11 storage, licensing, registration, discharge or use of firearms or
12 ammunition or any firearm or ammunition components or related accessories
13 in this state.

14 2. **PROHIBIT A GUN SHOW FROM OCCURRING IN THE POLITICAL SUBDIVISION**
15 **OR ENACT OR ENFORCE ANY ORDINANCE, RULE OR POLICY THAT PRIMARILY AFFECTS**
16 **GUN SHOWS AND EFFECTIVELY PROHIBITS A GUN SHOW FROM OCCURRING IN THE**
17 **POLITICAL SUBDIVISION.**

18 B. A political subdivision of this state shall not require the
19 licensing or registration of firearms or ammunition or any firearm or
20 ammunition components or related accessories or prohibit the ownership,
21 purchase, sale or transfer of firearms or ammunition or any firearm or
22 ammunition components, or related accessories.

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

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

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

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

41 D. A political subdivision of this state shall not enact any rule
42 or ordinance that relates to firearms and is more prohibitive than or that
43 has a penalty that is greater than any state law penalty. A political
44 subdivision's rule or ordinance that relates to firearms and that is

1 inconsistent with or more restrictive than state law, whether enacted
2 before or after July 29, 2010, is null and void.

3 E. A political subdivision of this state shall not enact any
4 ordinance, rule or regulation limiting the lawful taking of wildlife
5 during an open season established by the Arizona game and fish commission
6 unless the ordinance, rule or regulation is consistent with title 17 and
7 rules and orders adopted by the Arizona game and fish commission. This
8 subsection does not prevent a political subdivision from adopting an
9 ordinance or rule restricting the discharge of a firearm within one-fourth
10 mile of an occupied structure without the consent of the owner or occupant
11 of the structure. For the purposes of this subsection:

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

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

16 F. This state, any agency or political subdivision of this state
17 and any law enforcement agency in this state shall not facilitate the
18 destruction of a firearm or purchase or otherwise acquire a firearm for
19 the purpose of destroying the firearm except as authorized by section
20 13-3105 or 17-240.

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

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

29 2. Prohibiting a minor who is unaccompanied by a parent,
30 grandparent or guardian or a certified hunter safety instructor or
31 certified firearms safety instructor acting with the consent of the
32 minor's parent, grandparent or guardian from knowingly possessing or
33 carrying on the minor's person, within the minor's immediate control or in
34 or on a means of transportation a firearm in any place that is open to the
35 public or on any street or highway or on any private property except
36 private property that is owned or leased by the minor or the minor's
37 parent, grandparent or guardian. Any ordinance or rule that is adopted
38 pursuant to this paragraph shall not apply to a minor who is fourteen,
39 fifteen, sixteen or seventeen years of age and who is engaged in any of
40 the following:

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

44 (b) Lawful transportation of an unloaded firearm for the purpose of
45 lawful hunting.

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

4 (d) Any activity that is related to the production of crops,
5 livestock, poultry, livestock products, poultry products or ratites or
6 storage of agricultural commodities.

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

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

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

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

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

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

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

38 (c) Pursuant to section 12-781.

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

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

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

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

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

3 (e) By special permit of the chief law enforcement officer of the
4 political subdivision.

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

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

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

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

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

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

32 1. Reasonable attorney fees and costs.

33 2. The actual damages incurred not to exceed ~~one hundred thousand~~
34 ~~dollars~~ \$100,000.

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

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