

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1134
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 12-945, Arizona Revised Statutes, is amended to
3 read:

4 12-945. Sale of property

5 A. If after thirty days' notice has been given the owner or person
6 entitled to the property has not taken it away, the property may be sold.
7 The proceeds shall be paid to the general fund of the jurisdiction from
8 which the unclaimed property was received.

9 B. Notwithstanding subsection A of this section, if the property is
10 a firearm, the agency shall sell the firearm to any business that is
11 authorized to receive and dispose of the firearm under federal and state
12 law and that shall sell the firearm to the public according to federal and
13 state law, unless the firearm is otherwise prohibited from being sold
14 under federal and state law. A law enforcement agency may trade a firearm
15 that it has retained to a federal firearms licensed business for
16 ammunition, weapons, equipment or other materials to be exclusively used
17 for law enforcement purposes.

18 C. NOTWITHSTANDING SUBSECTIONS A AND B OF THIS SECTION, IF THE
19 PROPERTY IS A FIREARM THAT IS INVOLVED IN AN OFFENSE IN VIOLATION OF TITLE
20 13, CHAPTER 11 OR AN OFFENSE RESULTING IN SERIOUS PHYSICAL INJURY AS
21 DEFINED IN SECTION 13-105, THE PROPERTY MAY BE DESTROYED.

22 Sec. 2. Section 13-3105, Arizona Revised Statutes, is amended to
23 read:

24 13-3105. Forfeiture of weapons and explosives

25 A. On the conviction of any person for a violation of any felony in
26 this state in which a deadly weapon, dangerous instrument or explosive was
27 used, displayed or unlawfully possessed by the person, the court shall
28 order the article forfeited and sold within one year after its forfeiture
29 to any business that is authorized to receive and dispose of the article
30 under federal and state law and that shall sell the article to the public
31 according to federal and state law, unless the article is otherwise
32 prohibited from being sold under federal and state law, in which case it
33 shall be destroyed or otherwise properly disposed.

34 B. On the conviction of any person for a violation of section
35 13-2904, subsection A, paragraph 6 or section 13-3102, subsection A,
36 paragraph 1 or 8, the court may order the forfeiture of the deadly weapon
37 or dangerous instrument involved in the offense.

38 C. If at any time the court finds pursuant to rule 11 of the
39 Arizona rules of criminal procedure that a person who is charged with a

1 violation of this title is incompetent, the court shall order that any
2 deadly weapon, dangerous instrument or explosive used, displayed or
3 unlawfully possessed by the person during the commission of the alleged
4 offense be forfeited and sold within one year after its forfeiture to any
5 business that is authorized to receive and dispose of the article under
6 federal and state law and that shall sell the article to the public
7 according to federal and state law, unless the article is otherwise
8 prohibited from being sold under federal and state law, in which case it
9 shall be destroyed or otherwise properly disposed.

10 D. NOTWITHSTANDING ANY OTHER LAW, THE COURT MAY ORDER THE
11 FORFEITURE OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT THAT IS INVOLVED IN
12 AN OFFENSE IN VIOLATION OF CHAPTER 11 OF THIS TITLE OR AN OFFENSE
13 RESULTING IN SERIOUS PHYSICAL INJURY.

14 Sec. 3. Section 13-3108, Arizona Revised Statutes, is amended to
15 read:

16 13-3108. Firearms regulated by state; state preemption;
17 injunction; civil penalty; cause of action;
18 violation; classification; definition

19 A. Except as provided in subsection G of this section, a political
20 subdivision of this state shall not enact any ordinance, rule or tax
21 relating to the transportation, possession, carrying, sale, transfer,
22 purchase, acquisition, gift, devise, storage, licensing, registration,
23 discharge or use of firearms or ammunition or any firearm or ammunition
24 components or related accessories in this state.

25 B. A political subdivision of this state shall not require the
26 licensing or registration of firearms or ammunition or any firearm or
27 ammunition components or related accessories or prohibit the ownership,
28 purchase, sale or transfer of firearms or ammunition or any firearm or
29 ammunition components, or related accessories.

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

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

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

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

48 D. A political subdivision of this state shall not enact any rule
49 or ordinance that relates to firearms and is more prohibitive than or that
50 has a penalty that is greater than any state law penalty. A political

1 subdivision's rule or ordinance that relates to firearms and that is
2 inconsistent with or more restrictive than state law, whether enacted
3 before or after July 29, 2010, is null and void.

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

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

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

17 F. This state, any agency or political subdivision of this state
18 and any law enforcement agency in this state shall not facilitate the
19 destruction of a firearm or purchase or otherwise acquire a firearm for
20 the purpose of destroying the firearm except as authorized by section
21 13-3105, [13-4444](#) or 17-240.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (c) Pursuant to section 12-781.

36 5. Limiting or prohibiting the discharge of firearms in parks and
37 preserves except:

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

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

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

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

45 (e) By special permit of the chief law enforcement officer of the
46 political subdivision.

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

49 (g) In self-defense or defense of another person against an animal
50 attack if a reasonable person would believe that deadly physical force

1 against the animal is immediately necessary and reasonable under the
2 circumstances to protect oneself or the other person.

3 H. Any ordinance, regulation, tax or rule that is enacted by a
4 political subdivision in violation of this section is invalid and subject
5 to a permanent injunction against the political subdivision from enforcing
6 the ordinance, regulation, tax or rule. It is not a defense that the
7 political subdivision was acting in good faith or on the advice of
8 counsel.

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

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

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

24 1. Reasonable attorney fees and costs.

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

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

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

33 Sec. 4. Section 13-4402, Arizona Revised Statutes, is amended to
34 read:

35 13-4402. Implementation of rights and duties

36 A. Except as provided in ~~sections SECTION 13-4405, and 13-4433 and~~
37 section 13-4408, subsection B ~~AND SECTIONS 13-4433 AND 13-4444~~, the rights
38 and duties that are established by this chapter arise on the arrest or
39 formal charging of the person or persons who are alleged to be responsible
40 for a criminal offense against a victim. The rights and duties continue
41 to be enforceable pursuant to this chapter until the final disposition of
42 the charges, including acquittal or dismissal of the charges, all
43 post-conviction release and relief proceedings and the discharge of all
44 criminal proceedings relating to restitution. If a defendant is ordered
45 to pay restitution to a victim, the rights and duties continue to be
46 enforceable by the court until restitution is paid.

47 B. If a defendant's conviction is reversed and the case is returned
48 to the trial court for further proceedings, the victim has the same rights
49 that were applicable to the criminal proceedings that led to the appeal or
50 other post-conviction relief proceeding.

1 C. After the final termination of a criminal prosecution by
2 dismissal with prejudice or acquittal, a person who has received notice
3 and the right to be present and heard pursuant to the victims' rights act,
4 article II, section 2.1, Constitution of Arizona, any implementing
5 legislation or court rule is no longer entitled to such rights.

6 Sec. 5. Title 13, chapter 40, Arizona Revised Statutes, is amended
7 by adding section 13-4444, to read:

8 13-4444. Notice of right to request destruction of deadly
9 weapon or dangerous instrument; destruction of
10 deadly weapon or dangerous instrument

11 A. THE LAW ENFORCEMENT AGENCY THAT HAS RESPONSIBILITY FOR
12 INVESTIGATING A CRIMINAL OFFENSE COMMITTED AGAINST A VICTIM SHALL GIVE THE
13 VICTIM NOTICE THAT THE VICTIM MAY REQUEST THE DESTRUCTION OF ANY DEADLY
14 WEAPON OR DANGEROUS INSTRUMENT THAT WAS INVOLVED IN AN OFFENSE IN
15 VIOLATION OF CHAPTER 11 OF THIS TITLE OR AN OFFENSE RESULTING IN SERIOUS
16 PHYSICAL INJURY. THE PROSECUTOR'S OFFICE SHALL NOTIFY THE LAW ENFORCEMENT
17 AGENCY THAT IS IN POSSESSION OF THE DEADLY WEAPON OR DANGEROUS INSTRUMENT
18 OF THE VICTIM'S REQUEST TO DESTROY THE DEADLY WEAPON OR DANGEROUS
19 INSTRUMENT.

20 B. ON REQUEST BY THE VICTIM, THE LAW ENFORCEMENT AGENCY SHALL
21 DESTROY THE DEADLY WEAPON OR DANGEROUS INSTRUMENT AS SOON AS PRACTICABLE
22 AS PROVIDED BY LAW. ON NOTICE FROM THE APPLICABLE PROSECUTING AGENCY THAT
23 THE DEADLY WEAPON OR DANGEROUS INSTRUMENT IS NO LONGER NEEDED AS EVIDENCE,
24 THE LAW ENFORCEMENT AGENCY MAY DESTROY THE DEADLY WEAPON OR DANGEROUS
25 INSTRUMENT."

26 Amend title to conform

JOHN GILLETTE

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