

House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 134

SENATE BILL 1345

AN ACT

AMENDING SECTIONS 13-3101 AND 13-3102, 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
7 use. 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 substitutes
14 used for hand loading purposes.

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

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

28 6. "Prohibited possessor" means any person:

29 (a) Who has been found to constitute a danger to himself or to others
30 pursuant to court order under section 36-540, and whose court ordered
31 treatment has not been terminated by court order.

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

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

37 (d) Who is at the time of possession serving a term of probation
38 pursuant to a conviction for a domestic violence offense as defined in
39 section 13-3601 or a felony offense, parole, community supervision, work
40 furlough, home arrest or release on any other basis or who is serving a term
41 of probation or parole pursuant to the interstate compact under title 31,
42 chapter 3, article 4.

43 (e) WHO IS A PROHIBITED POSSESSOR UNDER 18 UNITED STATES CODE
44 922(g)(5), EXCEPT AS PROVIDED BY 18 UNITED STATES CODE 922(y).

- 1 2. Carrying a deadly weapon without a permit pursuant to section
2 13-3112 concealed within immediate control of any person in or on a means of
3 transportation; or
- 4 3. Manufacturing, possessing, transporting, selling or transferring
5 a prohibited weapon; or
- 6 4. Possessing a deadly weapon OR PROHIBITED WEAPON if such person is
7 a prohibited possessor; or
- 8 5. Selling or transferring a deadly weapon to a prohibited possessor;
9 or
- 10 6. Defacing a deadly weapon; or
- 11 7. Possessing a defaced deadly weapon knowing the deadly weapon was
12 defaced; or
- 13 8. Using or possessing a deadly weapon during the commission of any
14 felony offense included in chapter 34 of this title; or
- 15 9. Discharging a firearm at an occupied structure in order to assist,
16 promote or further the interests of a criminal street gang, a criminal
17 syndicate or a racketeering enterprise; or
- 18 10. Unless specifically authorized by law, entering any public
19 establishment or attending any public event and carrying a deadly weapon on
20 his person after a reasonable request by the operator of the establishment
21 or the sponsor of the event or the sponsor's agent to remove his weapon and
22 place it in the custody of the operator of the establishment or the sponsor
23 of the event; or
- 24 11. Unless specifically authorized by law, entering an election polling
25 place on the day of any election carrying a deadly weapon; or
- 26 12. Possessing a deadly weapon on school grounds; or
- 27 13. Unless specifically authorized by law, entering a nuclear or
28 hydroelectric generating station carrying a deadly weapon on his person or
29 within the immediate control of any person; or
- 30 14. Supplying, selling or giving possession or control of a firearm to
31 another person if the person knows or has reason to know that the other
32 person would use the firearm in the commission of any felony; or
- 33 15. Using, possessing or exercising control over a deadly weapon in
34 furtherance of any act of terrorism as defined in section 13-2301 or
35 possessing or exercising control over a deadly weapon knowing or having
36 reason to know that it will be used to facilitate any act of terrorism as
37 defined in section 13-2301.
- 38 B. Subsection A, paragraph 1 of this section shall not apply to a
39 person in his dwelling, on his business premises or on real property owned
40 or leased by that person.
- 41 C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this
42 section shall not apply to:
 - 43 1. A peace officer or any person summoned by any peace officer to
44 assist and while actually assisting in the performance of official duties;
45 or

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

3 3. A warden, deputy warden or correctional officer of the state
4 department of corrections; or

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

7 D. Subsection A, paragraphs 3 and 7 of this section shall not apply
8 to:

9 1. The possessing, transporting, selling or transferring of weapons
10 by a museum as a part of its collection or an educational institution for
11 educational purposes or by an authorized employee of such museum or
12 institution, if:

13 (a) Such museum or institution is operated by the United States or
14 this state or a political subdivision of this state, or by an organization
15 described in section 170(c) of title 26 of the United States Code as a
16 recipient of a charitable contribution; and

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

19 2. The regular and lawful transporting as merchandise; or

20 3. Acquisition by a person by operation of law such as by gift, devise
21 or descent or in a fiduciary capacity as a recipient of the property or
22 former property of an insolvent, incapacitated or deceased person.

23 E. Subsection A, paragraph 3 of this section shall not apply to the
24 merchandise of an authorized manufacturer of or dealer in prohibited weapons,
25 when such material is intended to be manufactured, possessed, transported,
26 sold or transferred solely for or to a dealer, or a regularly constituted or
27 appointed state, county or municipal police department or police officer, or
28 a detention facility, or the military service of this or another state or the
29 United States, or a museum or educational institution or a person
30 specifically licensed or permitted pursuant to federal or state law.

31 F. Subsection A, paragraph 1 of this section shall not apply to a
32 weapon or weapons carried in a belt holster which holster is wholly or
33 partially visible, or carried in a scabbard or case designed for carrying
34 weapons which scabbard or case is wholly or partially visible or carried in
35 luggage. Subsection A, paragraph 2 of this section shall not apply to a
36 weapon or weapons carried in a case, holster, scabbard, pack or luggage that
37 is carried within a means of transportation or within a storage compartment,
38 trunk or glove compartment of a means of transportation.

39 G. Subsection A, paragraph 10 of this section shall not apply to
40 shooting ranges or shooting events, hunting areas or similar locations or
41 activities.

42 H. Subsection A, paragraph 3 of this section shall not apply to a
43 weapon described in section 13-3101, SUBSECTION A, paragraph 7, subdivision
44 (e), if such weapon is possessed for the purposes of preparing for,
45 conducting or participating in lawful exhibitions, demonstrations, contests

1 or athletic events involving the use of such weapon. Subsection A, paragraph
2 12 of this section shall not apply to a weapon if such weapon is possessed
3 for the purposes of preparing for, conducting or participating in hunter or
4 firearm safety courses.

5 I. Subsection A, paragraph 12 of this section shall not apply to the
6 possession of a:

7 1. Firearm that is not loaded and that is carried within a means of
8 transportation under the control of an adult provided that if the adult
9 leaves the means of transportation the firearm shall not be visible from the
10 outside of the means of transportation and the means of transportation shall
11 be locked.

12 2. Firearm for use on the school grounds in a program approved by a
13 school.

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

25 K. For THE purposes of this section:

26 1. "Public establishment" means a structure, vehicle or craft that is
27 owned, leased or operated by this state or a political subdivision of this
28 state.

29 2. "Public event" means a specifically named or sponsored event of
30 limited duration either conducted by a public entity or conducted by a
31 private entity with a permit or license granted by a public entity. Public
32 event does not include an unsponsored gathering of people in a public place.

33 3. "School" means a public or nonpublic kindergarten program, common
34 school or high school.

35 4. "School grounds" means in, or on the grounds of, a school.

APPROVED BY THE GOVERNOR APRIL 19, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2004.

Passed the House April 5, 20 04,

by the following vote: 49 Ayes,

9 Nays, 2 Not Voting

Jake Flak
Speaker of the House

Sperman L. Moore
Chief Clerk of the House

Passed the Senate March 4, 20 04,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting

Herb Plummer
President of the Senate

Charmian Billington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1345

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 14, 2004,

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

Ken Blumenthal
President of the Senate
Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of April, 2004

at 3:30 o'clock P. M.

Wendee Lybarger
Secretary to the Governor

Approved this 19 day of

April, 2004,

at 11:15 o'clock A. M.

Jan Noyes
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19 day of April, 2004,

at 4:30 o'clock P. M.

Janice K. Brewer
Secretary of State