Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 121

HOUSE BILL 2074

AN ACT

AMENDING SECTION 13-3112, ARIZONA REVISED STATUTES; RELATING TO CONCEALED WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-3112, Arizona Revised Statutes, is amended to read:

13-3112. Concealed weapons; qualification; application; permit to carry; certificate of firearms proficiency; training program; program instructors; report; applicability; violation; classification

A. The department of public safety shall issue a permit to carry a concealed weapon to a person who is qualified under this section. The person shall carry the permit at all times when the person is in actual possession of the concealed weapon and shall present the permit for inspection to any law enforcement officer on request.

B. A person who fails to carry the permit at all times that the person is in actual possession of a concealed weapon may have the permit suspended. The department of public safety shall be notified of all violations of this section and shall immediately suspend the permit. The permittee shall present the permit to the law enforcement agency or the court. On notification of the presentation of the permit, the department shall restore the permit.

C. The permit of a person who is arrested or indicted for an offense that would make the person unqualified under the provisions of section 13-3101, subsection A, paragraph 6 or this section shall be immediately suspended and seized. The permit of a person who becomes unqualified on conviction of that offense shall be revoked. The permit shall be restored on presentation of documentation from the court if the permittee is found not guilty or the charges are dismissed. The permit shall be restored on presentation of documentation from the county attorney that the charges against the permittee were dropped or dismissed.

D. A person who fails to present a permit for inspection on the request of a law enforcement officer is guilty of a class 2 misdemeanor. A person shall not be convicted of a violation of this subsection if the person produces to the court a legible permit that is issued to the person and that was valid at the time the violation of this subsection occurred.

E. The department of public safety shall issue a permit to an applicant who meets all of the following conditions:

1. Is a resident of this state or a United States citizen.

2. Is twenty-one years of age or older.

3. Is not under indictment for and has not been convicted in any jurisdiction of a felony.

4. Does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution.

5. Is not unlawfully present in the United States.

6. Satisfactorily completes a firearms safety training program approved by the department of public safety pursuant to subsection O of this section. This paragraph does not apply to:

(a) A person who is an active duty Arizona peace officer standards and training board certified or federally credentialed peace officer or who is honorably retired as a federal, state or local peace officer with a minimum of ten years of service.

(b) A person who is an active duty county detention officer and who has been weapons certified by the officer's employing agency.

F. The application shall be completed on a form prescribed by the department of public safety. The form shall not require the applicant to disclose the type of firearm for which a permit is sought. The applicant shall attest under penalty of perjury that all of the statements made by the applicant are true. The applicant shall submit the application to the department with a certificate of completion from an approved firearms safety training program, two sets of fingerprints and a reasonable fee determined by the director of the department.

G. On receipt of a concealed weapon permit application, the department of public safety shall conduct a check of the applicant's criminal history record pursuant to section 41-1750. The department of public safety may exchange fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

H. The department of public safety shall complete all of the required qualification checks within sixty days after receipt of the application and shall issue a permit within fifteen working days after completing the qualification checks if the applicant meets all of the conditions specified in subsection E of this section. If a permit is denied, the department of public safety shall notify the applicant in writing within fifteen working days after the completion of all of the required qualification checks and shall state the reasons why the application was denied. On receipt of the notification of the denial, the applicant has twenty days to submit any additional documentation to the department. On receipt of the additional documentation, the department shall reconsider its decision and inform the applicant within twenty days of the result of the reconsideration. If denied, the applicant shall be informed that the applicant may request a hearing pursuant to title 41, chapter 6, article 10.

I. On issuance, a permit is valid for five years, except a permit that is held by a 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, who is on federal active duty and who is deployed overseas shall be extended until ninety days after the end of the member's overseas deployment.

J. The department of public safety shall maintain a computerized permit record system that is accessible to criminal justice agencies for the purpose of confirming the permit status of any person who claims to hold a valid permit issued by this state. This information AND ANY OTHER RECORDS THAT ARE MAINTAINED REGARDING APPLICANTS, PERMIT HOLDERS OR INSTRUCTORS,

shall not be available to any other person or entity except on an order from a state or federal court.

K. Notwithstanding subsection J of this section, it is a defense to any charge for carrying a deadly weapon without a permit by a 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, if the member was on federal active duty at the time the permit expired and the member presents documentation indicating release from active duty or reassignment from overseas deployment within the preceding ninety days.

L. A permit issued pursuant to this section is renewable every five years. Before a permit may be renewed, a criminal history records check shall be conducted pursuant to section 41-1750 within sixty days after receipt of the application for renewal. For the purposes of the first permit renewal only, the permit holder is required to submit additional fingerprints pursuant to this subsection. For the purposes of the second or subsequent permit renewal, the permit holder is not required to submit additional fingerprints pursuant to this subsection.

M. Applications for renewal shall be accompanied by a fee determined by the director of the department of public safety. ~~A certificate of completion of a two-hour refresher firearms safety training program approved by the director of the department is required before a renewal permit may be issued and shall accompany an application for renewal.~~

N. The department of public safety shall suspend or revoke a permit issued under this section if the permit holder becomes ineligible pursuant to subsection E of this section. The department of public safety shall notify the permit holder in writing within fifteen working days after the revocation or suspension and shall state the reasons for the revocation or suspension.

O. An organization shall apply to the department of public safety for approval of its firearms safety training program. The department shall approve a program that meets the following requirements:

1. Is at least eight hours in length.

2. Is conducted on a pass or fail basis.

3. Addresses all of the following topics in a format approved by the director of the department:

(a) Legal issues relating to the use of deadly force.

(b) Weapon care and maintenance.

(c) Mental conditioning for the use of deadly force.

(d) Safe handling and storage of weapons.

(e) Marksmanship.

(f) Judgmental shooting.

4. Is conducted by instructors who submit to a background investigation, including a check for warrants and a criminal history records check.

P. If approved pursuant to subsection O of this section, the organization shall submit to the department of public safety two sets of fingerprints from each instructor and a fee to be determined by the director of the department of public safety. On receipt of the fingerprints and fee, the department of public safety shall conduct a check of each instructor's criminal history record pursuant to section 41-1750. The department of public safety may exchange this fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

Q. The proprietary interest of all approved instructors and programs shall be safeguarded, and the contents of any training program shall not be disclosed to any person or entity other than a bona fide criminal justice agency, except upon an order from a state or federal court.

R. If the department of public safety rejects a program, the rejected organization may request a hearing pursuant to title 41, chapter 6, article 10.

S. The department of public safety shall maintain information comparing the number of permits requested, the number of permits issued and the number of permits denied. The department shall annually report this information to the governor and the legislature.

T. The director of the department of public safety shall adopt rules for the purpose of implementing and administering the concealed weapons permit program including fees relating to permits and certificates that are issued pursuant to this section.

~~U. The department of public safety shall enter into reciprocal agreements with states that have concealed weapons laws substantially similar to this section for the purpose of establishing a basis under which a concealed weapons license or permit that is issued by either state may be used by the licensee or permittee within the jurisdiction of either state. If another state requires this state to enter into a reciprocal agreement before accepting a concealed weapons permit issued in this state, the department of public safety shall enter into the agreement if the issuing authority for the other state:~~

~~1. Issues a permit with an expiration date printed on the permit.~~

~~2. Is available to verify the permit status for law enforcement purposes within three business days of a request for verification.~~

~~3. Has disqualification, suspension and revocation requirements for concealed weapons permits.~~

~~4. Requires that an applicant for a concealed weapons permit meet all of the following conditions:~~

~~(a) Submits to a criminal history records check.~~

~~(b) Is not prohibited from possessing firearms pursuant to federal law.~~

~~(c) Satisfactorily completes a firearms safety program.~~

~~V. Notwithstanding subsection U of this section, unless a person would be a prohibited possessor in this state, a person who is a resident of~~

~~another state and who is temporarily in this state may carry a concealed weapon in this state without a permit issued pursuant to this section if both of the following apply:~~

~~1. The person is legally in this state.~~

~~2. The person presents a valid concealed weapons permit from another state on the request of a law enforcement officer if the issuing authority for the other state:~~

~~(a) Issues a permit with an expiration date printed on the permit.~~

~~(b) Has disqualification, suspension and revocation requirements for concealed weapons permits.~~

~~(c) Requires that an applicant for a concealed weapons permit meet all of the following conditions:~~

~~(i) Submits to a criminal history records check.~~

~~(ii) Is not prohibited from possessing firearms pursuant to federal law.~~

~~(iii) Satisfactorily completes a firearms safety program.~~

U. THIS STATE AND ANY POLITICAL SUBDIVISION OF THIS STATE SHALL RECOGNIZE A CONCEALED WEAPON, FIREARM OR HANDGUN PERMIT OR LICENSE THAT IS ISSUED BY ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE IF BOTH:

1. THE PERMIT OR LICENSE IS RECOGNIZED AS VALID IN THE ISSUING STATE.

2. THE PERMIT OR LICENSE HOLDER IS ALL OF THE FOLLOWING:

(a) NOT A RESIDENT OF THIS STATE.

(b) LEGALLY PRESENT IN THIS STATE.

(c) NOT LEGALLY PROHIBITED FROM POSSESSING A FIREARM IN THIS STATE.

V. FOR THE PURPOSE OF ESTABLISHING MUTUAL PERMIT OR LICENSE RECOGNITION WITH OTHER STATES, THE DEPARTMENT OF PUBLIC SAFETY SHALL ENTER INTO A WRITTEN AGREEMENT IF ANOTHER STATE REQUIRES A WRITTEN AGREEMENT.

W. Notwithstanding the provisions of this section, a person with a concealed weapons permit from another state may not carry a concealed weapon in this state if the person is under twenty-one years of age or is under indictment for, or has been convicted of, a felony offense in any jurisdiction, even if the person's rights have been restored and the conviction is expunged, set aside or vacated.

X. The department of public safety may issue certificates of firearms proficiency according to the Arizona peace officer standards and training board firearms qualification for the purposes of implementing the law enforcement officers safety act of 2004 (P.L. 108-277; 118 STAT. 865; 18 UNITED STATES CODE SECTIONS 926B AND 926C).

APPROVED BY THE GOVERNOR APRIL 17, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2006.