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Arizona House of Representatives
Phoenix, Arizona 85007

July 17, 2009

The Honorable Janice K. Brewer
Governor of the State of Arizona
State Capitol
1700 W. Washington
Phoenix, Arizona 85007

Dear Governor Brewer:

On July 1, 2009, Senate Bill 1113 was transmitted to you for your signature. On July 13, 2009, you signed the bill after which it was transmitted to the Secretary of State who assigned it chapter number 175. During a subsequent reading of the chapter it was discovered that the original version of House engrossed Senate Bill 1113 contained a manifest clerical error on page 7 of the bill and the "wrong" version of the bill had been transmitted to you and further transmitted to the Secretary of State.

Senate Bill 1113 was amended in the House. One of the floor amendments that was adopted to the bill removed language in section 4-244, A.R.S., paragraphs 29 and 30, subdivision (c) (see page 7). All of our file copies, the printed copies and version posted on the legislative website reflected the change. However, the original version of the engrossed bill transmitted to you does not reflect that change.

It is our determination that the measure was legitimately passed and the manifest clerical error was the cause of the wrong version being delivered to you.

I would like to rectify this situation by delivering the "correct" version of Senate Bill 1113. If you approve this "correct" version I would request that the version be forwarded to the Secretary of State so that the correct version of Chapter 175 can be printed and distributed.

Thank you for your consideration of this matter.

Sincerely,

Norman L. Moore

Norman L. Moore

Enclosures – SB 1113, 49th Legislature, 1st Regular Session
CC: President Burns
Secretary of State
Senate Secretary
Legislative Council

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 175

SENATE BILL 1113

AN ACT

AMENDING SECTION 4-226, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-229; AMENDING SECTIONS 4-244, 4-246, 5-395.03, 11-441, 13-3102, 13-3112, 28-1321, 28-1385, 28-3320, 28-3322, 28-3511 AND 38-1102, ARIZONA REVISED STATUTES; RELATING TO HANDGUNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 4-226, Arizona Revised Statutes, is amended to read:

4-226. Exemptions

The provisions of this title do not apply to:

1. Drugstores selling spirituous liquors only upon prescription.

2. Any confectionery candy containing less than five per cent by weight of alcohol.

3. Ethyl alcohol intended for use or used for the following purposes:

(a) Scientific, chemical, mechanical, industrial and medicinal purposes.

(b) Use by those authorized to procure spirituous liquor or ethyl alcohol tax-free, as provided by the acts of Congress and regulations promulgated thereunder.

(c) In the manufacture of denatured alcohol produced and used as provided by the acts of Congress and regulations promulgated thereunder.

(d) In the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products, unfit and not used for beverage purposes.

(e) In the manufacture of flavoring extracts and syrups unfit for beverage purposes.

4. The purchase, storage, distribution, service or consumption of wine in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise by a church recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code and in a manner not dangerous to public health or safety. This exemption does not apply to any alleged violation of section 4-244, paragraph 9, ~~33, 34 or 40~~ 34, 35 OR 41.

Sec. 2. Title 4, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 4-229, to read:

4-229. Licenses; handguns; posting of notice

A. A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 OR WHO MEETS THE CRITERIA SPECIFIED IN SECTION 13-3102, SUBSECTION D, PARAGRAPH 1 OR 2 MAY CARRY A CONCEALED HANDGUN ON THE PREMISES OF A LICENSEE WHO IS AN ON-SALE RETAILER UNLESS THE LICENSEE POSTS A SIGN THAT CLEARLY PROHIBITS THE POSSESSION OF WEAPONS ON THE LICENSED PREMISES. THE SIGN SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

1. BE POSTED IN A CONSPICUOUS LOCATION ACCESSIBLE TO THE GENERAL PUBLIC AND IMMEDIATELY ADJACENT TO THE LIQUOR LICENSE POSTED ON THE LICENSED PREMISES.

2. CONTAIN A PICTOGRAM THAT SHOWS A FIREARM WITHIN A RED CIRCLE AND A DIAGONAL RED LINE ACROSS THE FIREARM.

3. CONTAIN THE WORDS, "NO FIREARMS ALLOWED PURSUANT TO A.R.S. SECTION 4-229".

B. A PERSON SHALL NOT CARRY A FIREARM ON THE LICENSED PREMISES OF AN ON-SALE RETAILER IF THE LICENSEE HAS POSTED THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION.

C. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION B OF THIS SECTION IF:

1. THE PERSON WAS NOT INFORMED OF THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION PRIOR TO THE VIOLATION.

2. ANY ONE OR MORE OF THE FOLLOWING APPLIES:

(a) AT THE TIME OF THE VIOLATION THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION HAD FALLEN DOWN.

(b) AT THE TIME OF THE VIOLATION THE PERSON WAS NOT A RESIDENT OF THIS STATE.

(c) THE LICENSEE HAD POSTED THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION NOT MORE THAN THIRTY DAYS PRIOR TO THE VIOLATION.

D. THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL SHALL PREPARE THE SIGNS REQUIRED BY THIS SECTION AND MAKE THEM AVAILABLE AT NO COST TO LICENSEES.

E. THE SIGNS REQUIRED BY THIS SECTION SHALL BE COMPOSED OF BLOCK, CAPITAL LETTERS PRINTED IN BLACK ON WHITE LAMINATED PAPER AT A MINIMUM WEIGHT OF ONE HUNDRED TEN POUND INDEX. THE LETTERING AND PICTOGRAM SHALL CONSUME A SPACE AT LEAST SIX INCHES BY NINE INCHES. THE LETTERS COMPRISING THE WORDS "NO FIREARMS ALLOWED" SHALL BE AT LEAST THREE-FOURTHS OF A VERTICAL INCH AND ALL OTHER LETTERS SHALL BE AT LEAST ONE-HALF OF A VERTICAL INCH.

F. THIS SECTION DOES NOT PROHIBIT A PERSON WHO POSSESSES A HANDGUN FROM ENTERING THE LICENSED PREMISES FOR A LIMITED TIME FOR THE SPECIFIC PURPOSE OF EITHER:

1. SEEKING EMERGENCY AID.

2. DETERMINING WHETHER A SIGN HAS BEEN POSTED PURSUANT TO SUBSECTION A OF THIS SECTION.

Sec. 3. Section 4-244, Arizona Revised Statutes, is amended to read:

4-244. <u>Unlawful acts</u>

It is unlawful:

1. For a person to buy for resale, sell or deal in spirituous liquors in this state without first having procured a license duly issued by the board.

2. For a person to sell or deal in alcohol for beverage purposes without first complying with this title.

3. For a distiller, vintner, brewer or wholesaler knowingly to sell, dispose of or give spirituous liquor to any person other than a licensee except in sampling wares as may be necessary in the ordinary course of business, except in donating spirituous liquor to a nonprofit organization which has obtained a special event license for the purpose of charitable fund raising activities or except in donating spirituous liquor with a cost to the distiller, brewer or wholesaler of up to one hundred dollars in a calendar year to an organization that is exempt from federal income taxes under

section 501(c) of the internal revenue code and not licensed under this title.

4. For a distiller, vintner or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted to the wholesaler by the distiller, vintner or brewer.

5. For a distiller, vintner or brewer to use a vehicle for trucking or transportation of spirituous liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of the person's license in letters not less than three and one-half inches in height.

6. For a person to take or solicit orders for spirituous liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

7. For any retail licensee to purchase spirituous liquors from any person other than a solicitor or salesman of a wholesaler licensed in this state.

8. For a retailer to acquire an interest in property owned, occupied or used by a wholesaler in his business, or in a license with respect to the premises of the wholesaler.

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

10. For a licensee to employ a person under ~~the age of~~ nineteen years OF AGE to manufacture, sell or dispose of spirituous liquors. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

11. For an on-sale retailer to employ a person under ~~the age of~~ nineteen years OF AGE in any capacity connected with the handling of spirituous liquors. This paragraph does not prohibit the employment by an on-sale retailer of a person under ~~the age of~~ nineteen years OF AGE who cleans up the tables on the premises for reuse, removes dirty dishes, keeps a ready supply of needed items and helps clean up the premises.

12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or for a licensee or on-duty employee to be on or about the licensed premises while in an intoxicated or disorderly condition.

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor, except that:

(a) An employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person.

(b) An employee of an on-sale retail licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine not to exceed four ounces per day or distilled spirits not to exceed two ounces per day provided by an employee of a wholesaler or distributor who is present at the time of the sampling.

(c) An employee of an on-sale retail licensee, under the supervision of a manager as part of the employee's training and education, while not engaged in waiting on or serving customers may taste samples of distilled spirits not to exceed two ounces per educational session or beer or wine not to exceed four ounces per educational session, and provided that a licensee shall not have more than two educational sessions in any thirty day period.

(d) An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

(e) An unpaid volunteer of a special event licensee under section 4-203.02 may purchase and consume spirituous liquor while not engaged in waiting on or serving spirituous liquor to customers at the special event. This subdivision does not apply to an unpaid volunteer whose responsibilities include verification of a person's legal drinking age, security or the operation of any vehicle or heavy machinery.

14. For a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person, or for a licensee or employee of the licensee to allow or permit a disorderly or obviously intoxicated person to come into or remain on or about the premises, except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for a period of time of not to exceed thirty minutes after the state of obvious intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the obviously intoxicated person from the premises. For the purposes of this section, "obviously intoxicated" means inebriated to the

extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

15. For an on-sale or off-sale retailer or an employee of such retailer to sell, dispose of, deliver or give spirituous liquor to a person between the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00 a.m. on Sundays.

16. For a licensee or employee to knowingly permit any person on or about the licensed premises to give or furnish any spirituous liquor to any person under ~~the age of~~ twenty-one YEARS OF AGE or knowingly permit any person under ~~the age of~~ twenty-one YEARS OF AGE to have in the person's possession spirituous liquor on the licensed premises.

17. For an on-sale retailer or an employee of such retailer to allow a person to consume or possess spirituous liquors on the premises between the hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m. on Sundays.

18. For an on-sale retailer to permit an employee or for an employee to solicit or encourage others, directly or indirectly, to buy the employee drinks or anything of value in the licensed premises during the employee's working hours. No on-sale retailer shall serve employees or allow a patron of the establishment to give spirituous liquor to, purchase liquor for or drink liquor with any employee during the employee's working hours.

19. For an off-sale retailer or employee to sell spirituous liquor except in the original unbroken container, to permit spirituous liquor to be consumed on the premises or to knowingly permit spirituous liquor to be consumed on adjacent property under the licensee's exclusive control.

20. For a person to consume spirituous liquor in a public place, thoroughfare or gathering. The license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph does not apply to the sale of spirituous liquors on the premises of and by an on-sale retailer. This paragraph also does not apply to a person consuming beer from a broken package in a public recreation area or on private property with permission of the owner or lessor or on the walkways surrounding such private property.

21. For a person to have possession of or to transport spirituous liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and this state. Any property used in transporting such spirituous liquor shall be forfeited to the state and shall be seized and disposed of as provided in section 4-221.

22. For an on-sale retailer or employee to allow a person under the legal drinking age to remain in an area on the licensed premises during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An

on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. A licensee or an employee of a licensee may require a person who intends to enter a licensed premises or a portion of a licensed premises where persons under the legal drinking age are prohibited under this section to exhibit a written instrument of identification that is acceptable under section 4-241 as a condition of entry. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance and shall not interfere with the licensee's ability to comply with this paragraph. This paragraph does not apply:

(a) If the person under the legal drinking age is accompanied by a spouse, parent or legal guardian of legal drinking age or is an on-duty employee of the licensee.

(b) If the owner, lessee or occupant of the premises is a club as defined in section 4-101, paragraph 7, subdivision (a) and the person under the legal drinking age is any of the following:

(i) An active duty military service member.

(ii) A veteran.

(iii) A member of the United States army national guard or the United States air national guard.

(iv) A member of the United States military reserve forces.

(c) To the area of the premises used primarily for the serving of food during the hours when food is served.

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than thirty-two ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph.

24. For a licensee or employee to knowingly permit the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises.

25. For a licensee or employee to knowingly permit prostitution or the solicitation of prostitution on the premises.

26. For a licensee or employee to knowingly permit unlawful gambling on the premises.

27. For a licensee or employee to knowingly permit trafficking or attempted trafficking in stolen property on the premises.

28. For a licensee or employee to fail or refuse to make the premises or records available for inspection and examination as provided in this title or to comply with a lawful subpoena issued under this title.

29. For any person other than a peace officer OR A MEMBER OF A SHERIFF'S VOLUNTEER POSSE WHILE ON DUTY WHO HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retailer ~~knowing such possession is prohibited~~. This paragraph shall not be construed to include a situation in which a person is on licensed premises for a limited time in order to seek emergency aid and such person does not buy, receive, consume or possess spirituous liquor. This paragraph shall not apply to:

(a) Hotel or motel guest room accommodations. ~~nor to~~

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

(c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229.

30. For a licensee or employee to knowingly permit a person in possession of a firearm other than a peace officer OR A MEMBER OF A SHERIFF'S VOLUNTEER POSSE WHILE ON DUTY WHO HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, the licensee or an employee of the licensee acting with the permission of the licensee to remain on the licensed premises or to serve, sell or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retailer. IT SHALL BE A DEFENSE TO ACTION UNDER THIS PARAGRAPH IF THE LICENSEE OR EMPLOYEE REQUESTED ASSISTANCE OF A PEACE OFFICER TO REMOVE SUCH PERSON. This paragraph shall not apply to:

(a) Hotel or motel guest room accommodations. ~~nor to~~

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. ~~It shall be a defense to action under this paragraph if the licensee or employee requested assistance of a peace officer to remove such person.~~

(c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229.

31. FOR ANY PERSON IN POSSESSION OF A FIREARM WHILE ON THE LICENSED PREMISES OF AN ON-SALE RETAILER TO CONSUME SPIRITUOUS LIQUOR.

~~31.~~ 32. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph shall not apply to either of the following:

(a) A person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

(b) A person who is in licensed premises that have noncontiguous portions that are separated by a public or private walkway or driveway and who takes spirituous liquor from one portion of the licensed premises across the public or private walkway OR DRIVEWAY directly to the other portion of the licensed premises.

~~32.~~ 33. For a person who is obviously intoxicated to buy or attempt to buy spirituous liquor from a licensee or employee of a licensee or to consume spirituous liquor on licensed premises.

~~33.~~ 34. For a person under ~~the age of~~ twenty-one years OF AGE to drive or be in physical control of a motor vehicle while there is any spirituous liquor in the person's body.

~~34.~~ 35. For a person under ~~the age of~~ twenty-one years OF AGE to operate or be in physical control of a motorized watercraft that is underway while there is any spirituous liquor in the person's body. For the purposes of this paragraph, "underway" has the same meaning prescribed in section 5-301.

~~35.~~ 36. For a licensee, manager, employee or controlling person to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on an election day.

~~36.~~ 37. For a licensee to fail to report an occurrence of an act of violence to either the department or a law enforcement agency.

~~37.~~ 38. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

~~38.~~ 39. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five per cent by volume of the grapes used in making the wine were grown in Arizona.

~~39.~~ 40. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer who allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes of this paragraph, "wine and food club" means an association

that has more than twenty bona fide members paying at least six dollars per year in dues and that has been in existence for at least one year.

~~40.~~ 41. For a person under ~~the age of~~ twenty-one years OF AGE to have in the person's body any spirituous liquor. In a prosecution for a violation of this paragraph:

(a) Pursuant to section 4-249, it is a defense that the spirituous liquor was consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise and in a manner not dangerous to public health or safety.

(b) Pursuant to section 4-226, it is a defense that the spirituous liquor was consumed for a bona fide medicinal purpose and in a manner not dangerous to public health or safety.

~~41.~~ 42. For an employee of a licensee to accept any gratuity, compensation, remuneration or consideration of any kind to either:

(a) Permit a person who is under twenty-one years of age to enter any portion of the premises where that person is prohibited from entering pursuant to paragraph 22 of this section.

(b) Sell, furnish, dispose of or give spirituous liquor to a person who is under twenty-one years of age.

~~42.~~ 43. For a person to purchase, offer for sale or use any device, machine or process which mixes spirituous liquor with pure oxygen or another gas to produce a vaporized product for the purpose of consumption by inhalation.

~~43.~~ 44. For a retail licensee or an employee of a retail licensee to sell spirituous liquor to a person if the retail licensee or employee knows the person intends to resell the spirituous liquor.

Sec. 4. Section 4-246, Arizona Revised Statutes, is amended to read:

4-246. Violation; classification

A. A person violating any provision of this title is guilty of a class 2 misdemeanor unless another classification is prescribed.

B. A person violating section 4-244, paragraph 9, 14, ~~33, 41 or 43~~ 34, 42 OR 44 is guilty of a class 1 misdemeanor.

C. A PERSON VIOLATING SECTIONS 4-229, SUBSECTION B OR 4-244, PARAGRAPH 31 IS GUILTY OF A CLASS 3 MISDEMEANOR.

~~C.~~ D. In addition to any other penalty prescribed by law, the court may suspend the privilege to drive of a person under eighteen years of age for a period of up to one hundred eighty days on receiving the record of the person's first conviction for a violation of section 4-244, paragraph 9.

~~D.~~ E. In addition to any other penalty prescribed by law, a person who is convicted of a violation of section 4-244, paragraph ~~41~~ 42 shall pay a fine of not less than five hundred dollars.

~~E.~~ F. In addition to any other penalty prescribed by law, a person who is convicted of a violation of section 4-241, subsection L, M or N shall pay a fine of not less than two hundred fifty dollars.

Sec. 5. Section 5-395.03, Arizona Revised Statutes, is amended to read:

5-395.03. Test for alcohol concentration or drug content; refusal

A. Any person who operates a motorized watercraft that is underway within this state gives consent, subject to section 4-244, paragraph ~~34~~ 35, section 5-395 or section 5-396, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph ~~34~~ 35 while the person was operating or in actual physical control of a motorized watercraft that was underway while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating or in actual physical control of a motorized watercraft that is underway within this state while under the influence of intoxicating liquor or drugs, or if the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. Following an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section.

C. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section none shall be given, except as provided in section 5-395, subsection L or pursuant to a search warrant.

Sec. 6. Section 11-441, Arizona Revised Statutes, is amended to read:

11-441. Powers and duties

A. The sheriff shall:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to the knowledge of the sheriff.

4. Attend all courts, except justice and municipal courts, when an element of danger is anticipated and attendance is requested by the presiding judge, and obey lawful orders and directions issued by the judge.

5. Take charge of and keep the county jail, including a county jail under the jurisdiction of a county jail district, and the prisoners in the county jail.

6. Endorse upon all process and notices the year, month, day, hour and minute of reception, and issue to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

7. Serve process and notices in the manner prescribed by law and certify under the sheriff's hand upon the process or notices the manner and time of service, or if the sheriff fails to make service, the reasons for failure, and return them without delay. When returnable to another county, the sheriff may enclose such process or notices in an envelope, addressed to the officer from whom received, and deposit it postage prepaid in the post office. The return of the sheriff is prima facie evidence of the facts stated in the return.

8. Secure, as soon as possible, the home of a deceased person located outside the boundaries of an incorporated city or town if the sheriff is unable to determine or locate the heirs or executor of the deceased person.

B. The sheriff may in the execution of the duties prescribed in subsection A, paragraphs 1 through 4 command the aid of as many inhabitants of the county as the sheriff deems necessary.

C. The sheriff shall conduct or coordinate within the county search or rescue operations involving the life or health of any person, or may assist in such operations in another county at the request of that county's sheriff, and may request assistance from any persons or agencies in the fulfillment of duties under this subsection.

D. The sheriff, in the execution of the duties prescribed in this section, may request the aid of volunteer posse and reserve organizations located in the county.

E. The sheriff may assist in the execution of the duties prescribed in this section in another county at the request of that county's sheriff.

F. The sheriff may require any prisoner who is on work release to reimburse the county for reasonable expenses incurred in connection with the release.

G. The board of supervisors of a county bordering the Republic of Mexico may adopt an ordinance pursuant to chapter 2 of this title allowing the sheriff to prevent the entry from this state into the republic of Mexico at the border by any resident of this state who is under eighteen years of age if the minor is unaccompanied by a parent or guardian or does not have written consent for entry from a parent or guardian. The authority of the sheriff is only to prevent entry and not to otherwise detain the minor. This subsection shall not be construed to limit the authority of the sheriff pursuant to any other law. A county is not civilly or criminally liable for not adopting an ordinance pursuant to this subsection.

H. NOTWITHSTANDING SECTION 13-3112, THE SHERIFF MAY AUTHORIZE MEMBERS OF THE SHERIFF'S VOLUNTEER POSSE WHO HAVE RECEIVED AND PASSED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD TO CARRY A DEADLY WEAPON WITHOUT A PERMIT WHILE ON DUTY.

Sec. 7. Section 13-3102, Arizona Revised Statutes, is amended to read:

13-3102. Misconduct involving weapons; defenses; classification; definitions

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon without a permit pursuant to section 13-3112 except a pocket knife concealed on his person; or

2. Carrying a deadly weapon without a permit pursuant to section 13-3112 concealed within immediate control of any person in or on a means of transportation; or

3. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon, except that if the violation involves dry ice, a person commits misconduct involving weapons by knowingly possessing the dry ice with the intent to cause injury to or death of another person or to cause damage to the property of another person; or

4. Possessing a deadly weapon or prohibited weapon if such person is a prohibited possessor; or

5. Selling or transferring a deadly weapon to a prohibited possessor; or

6. Defacing a deadly weapon; or

7. Possessing a defaced deadly weapon knowing the deadly weapon was defaced; or

8. Using or possessing a deadly weapon during the commission of any felony offense included in chapter 34 of this title; or

9. Discharging a firearm at an occupied structure in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise; or

10. Unless specifically authorized by law, entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event for temporary and secure storage of the weapon pursuant to section 13-3102.01; or

11. Unless specifically authorized by law, entering an election polling place on the day of any election carrying a deadly weapon; or

12. Possessing a deadly weapon on school grounds; or

13. Unless specifically authorized by law, entering a nuclear or hydroelectric generating station carrying a deadly weapon on his person or within the immediate control of any person; or

14. Supplying, selling or giving possession or control of a firearm to another person if the person knows or has reason to know that the other person would use the firearm in the commission of any felony; or

15. Using, possessing or exercising control over a deadly weapon in furtherance of any act of terrorism as defined in section 13-2301 or possessing or exercising control over a deadly weapon knowing or having

reason to know that it will be used to facilitate any act of terrorism as defined in section 13-2301.

B. Subsection A, paragraph 1 of this section shall not apply to a person in his dwelling, on his business premises or on real property owned or leased by that person.

C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this section shall not apply to:

1. A peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties; or

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

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

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

D. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION SHALL NOT APPLY TO:

1. A MEMBER OF A SHERIFF'S VOLUNTEER POSSE OR RESERVE ORGANIZATION WHO HAS RECEIVED AND PASSED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND WHO IS AUTHORIZED BY THE SHERIFF TO CARRY A CONCEALED WEAPON PURSUANT TO SECTION 11-441.

2. A PERSON WHO HAS HONORABLY SERVED AS A LAW ENFORCEMENT OFFICER IN THE UNITED STATES FOR AT LEAST TEN CONSECUTIVE YEARS AND WHO POSSESSES A PHOTOGRAPHIC IDENTIFICATION OR A LETTER FROM A LAW ENFORCEMENT AGENCY THAT STATES THE PERSON HAS SERVED FOR AT LEAST TEN CONSECUTIVE YEARS AS A LAW ENFORCEMENT OFFICER IN THE UNITED STATES. ON REQUEST, THE LAW ENFORCEMENT AGENCY THAT MOST RECENTLY EMPLOYED THE PERSON OR, IF THE PERSON WAS EMPLOYED OUTSIDE OF THIS STATE, THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES SHALL ISSUE A PHOTOGRAPHIC IDENTIFICATION OR A LETTER THAT VERIFIES THE PERSON MEETS THE REQUIREMENT OF THIS PARAGRAPH.

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

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

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

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

2. The regular and lawful transporting as merchandise; or

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

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

~~F.~~ G. Subsection A, paragraph 1 of this section shall not apply to a weapon or weapons carried in a belt holster that is wholly or partially visible, ~~or~~ carried in a scabbard or case designed for carrying weapons that is wholly or partially visible or carried in luggage. Subsection A, paragraph 2 of this section shall not apply to a weapon or weapons carried in a case, holster, scabbard, pack or luggage that is carried within a means of transportation or within a storage compartment, map pocket, trunk or glove compartment of a means of transportation.

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

~~H.~~ I. Subsection A, paragraph 3 of this section shall not apply to a weapon described in section 13-3101, subsection A, paragraph 8, subdivision (a), item (v), if such weapon is possessed for the purposes of preparing for, conducting or participating in lawful exhibitions, demonstrations, contests or athletic events involving the use of such weapon. Subsection A, paragraph 12 of this section shall not apply to a weapon if such weapon is possessed for the purposes of preparing for, conducting or participating in hunter or firearm safety courses.

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

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

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

~~J.~~ K. The operator of the establishment or the sponsor of the event or the employee of the operator or sponsor or the agent of the sponsor, including a public entity or public employee, is not liable for acts or omissions pursuant to subsection A, paragraph 10 of this section unless the

operator, sponsor, employee or agent intended to cause injury or was grossly negligent.

~~K.~~ L. MISCONDUCT INVOLVING WEAPONS UNDER SUBSECTION A, PARAGRAPH 15 OF THIS SECTION IS A CLASS 2 FELONY. Misconduct involving weapons under subsection A, paragraph ~~9,~~ OR 14 ~~or 15~~ of this section is a class 3 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4 felony. Misconduct involving weapons under subsection A, paragraph 12 of this section is a class 1 misdemeanor unless the violation occurs in connection with conduct that violates section 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section 13-3409 or section 13-3411, in which case the offense is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 5, 6 or 7 of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

~~L.~~ M. For the purposes of this section:

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

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

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

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

Sec. 8. Section 13-3112, Arizona Revised Statutes, is amended to read:

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

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 section 13-3101, subsection A, paragraph 7 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 permittee who carries a concealed weapon and who fails to present a permit for inspection on the request of a law enforcement officer is guilty of a petty offense. A permittee shall not be convicted of a violation of this subsection if the permittee produces to the court a legible permit that is issued to the permittee 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 unless that conviction has been expunged, set aside or vacated or the applicant's rights have been restored and the applicant is currently not a prohibited possessor under state or federal law.

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. Has ever satisfactorily completed a firearms safety training program authorized by the department of public safety pursuant to subsection O of this section and provides adequate documentation that the authorized training program was satisfactorily completed. For the purposes of this paragraph, "adequate documentation" means a certificate, card or document of completion from ~~an authorized~~ A firearms safety training program AUTHORIZED pursuant to subsection O of this section, dated not more than five years earlier than the date of application, that has affixed to it the stamp, signature or seal of the instructor or organization that conducted the program, or a current or expired permit issued by the department of public safety pursuant to 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.

(c) A person who is issued a certificate of firearms proficiency pursuant to subsection X of this section.

(d) A PERSON WHO IS AN ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD CERTIFIED FULL AUTHORITY PEACE OFFICER AND WHO VOLUNTEERS IN A LAW ENFORCEMENT AGENCY'S RESERVE PROGRAM.

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 authorized 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 permit renewal, the permit holder is not required to submit additional fingerprints.

M. Applications for renewal shall be accompanied by a fee determined by the director of the department of public safety.

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 authorization to provide firearms safety training. The department shall authorize an organization to provide firearms safety training if the training 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 are authorized by the department of public safety or who possess current national rifle association instructor certifications in pistol and personal protection and who submit to a background investigation, including a check for warrants and a criminal history records check.

P. If authorized pursuant to subsection O of this section, the organization on behalf of each of its instructors shall submit to the department of public safety two sets of fingerprints 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 authorized 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 on 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. 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, unless the person's rights have been restored and the conviction is expunged, set aside or vacated and the applicant is currently not a prohibited possessor under state or federal law.

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). A law enforcement agency shall issue to a law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement agency has no obligation to revoke, alter or modify the honorable discharge photographic identification based on conduct that the agency becomes aware of or that occurs after the officer has separated from the agency.

Sec. 9. Section 28-1321, Arizona Revised Statutes, is amended to read:

28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license

A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph ~~33~~ 34 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor or drugs.

2. If the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two years for a second or subsequent refusal within a period of eighty-four months, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that:

1. If the test results show a blood or breath alcohol concentration of 0.08 or more, or if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

2. The violator's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the violator completes alcohol or other drug screening.

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.

2. The law enforcement officer directing the administration of the test shall:

(a) File a certified report of the refusal with the department.

(b) On behalf of the department, serve an order of suspension on the person that is effective fifteen days after the date the order is served.

(c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

(d) If the license or permit is not surrendered, state the reason why it is not surrendered.

(e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for fifteen days.

(f) Forward the certified report of refusal, a copy of the completed notice of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the notice of suspension.

E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:

1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The manner in which the person refused to submit to the test or tests.

3. That the person was advised of the consequences of refusal.

F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records unless a written request for a hearing as provided in this section has been filed by the accused person. If the department receives only the certified report of refusal, the department shall notify the person named in the report in writing sent by mail that:

1. Fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege.

2. The department will provide an opportunity for a hearing if the person requests a hearing in writing and the request is received by the department within fifteen days after the notice is sent.

G. The order of suspension issued by a law enforcement officer or the department under this section shall notify the person that:

1. The person may submit a written request for a hearing.

2. The request for a hearing must be received by the department within fifteen days after the date of the notice or the order of suspension will become final.

3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.

4. The person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.

H. The order for suspension shall:

1. Be accompanied by printed forms that are ready to mail to the department and that may be filled out and signed by the person to indicate the person's desire for a hearing.

2. Advise the person that unless the person has surrendered any driver license or permit issued by this state the person's hearing request will not be accepted, except that the person may certify pursuant to section 28-3170 that the license or permit is lost or destroyed.

I. On the receipt of a request for a hearing, the department shall set the hearing within thirty days in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section requests at the time of its filing that the hearing be held in the county where the refusal occurred.

J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a restricted license or permit subject to this section.

K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the issues of whether:

1. A law enforcement officer had reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The person was placed under arrest.

3. The person refused to submit to the test.

4. The person was informed of the consequences of refusal.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of twelve months after the order of suspension becomes effective or for a period of two years after the order of suspension becomes effective for a second or subsequent refusal within a period of eighty-four months, and may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the person completes alcohol or other drug screening.

M. If the suspension order is sustained after the hearing, a motion for rehearing is not required. Within thirty days after a suspension order is sustained, the affected person may file a petition in the superior court to review the final order of suspension or denial by the department in the same manner provided in section 28-3317. The court shall hear the review of the final order of suspension or denial on an expedited basis.

N. If the suspension or determination that there should be a denial of issuance is not sustained, the ruling is not admissible in and has no effect on any administrative, civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

P. After completing not less than ninety consecutive days of the period of suspension required by this section and any alcohol or other drug screening that is ordered by the department pursuant to this chapter, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1461, a person who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months or a person who within a period of eighty-four months has been convicted of a second or subsequent violation of article 3 of this chapter or section 4-244, paragraph ~~33~~ 34 or an act in

another jurisdiction that if committed in this state would be a violation of article 3 of this chapter or section 4-244, paragraph ~~33~~ 34.

Sec. 10. Section 28-1385, Arizona Revised Statutes, is amended to read:

28-1385. Administrative license suspension for driving under the influence or for homicide or assault involving a motor vehicle; report; hearing; summary review; ignition interlock device requirement

A. A law enforcement officer shall forward to the department a certified report as prescribed in subsection B of this section, subject to the penalty for perjury prescribed by section 28-1561, if both of the following occur:

1. The officer arrests a person for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

2. The person submits to a blood or breath alcohol test permitted by section 28-1321 or any other law or a sample of blood is obtained pursuant to section 28-1388 and the results are either not available or the results indicate either of the following:

(a) 0.08 or more alcohol concentration in the person's blood or breath.

(b) 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

B. The officer shall make the certified report required by subsection A of this section on forms supplied or approved by the department. The report shall state information that is relevant to the enforcement action, including:

1. Information that adequately identifies the arrested person.

2. A statement of the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle in violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. A statement that the person was arrested for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

4. A report of the results of the blood or breath alcohol test that was administered, if the results are available.

C. The officer shall also serve an order of suspension on the person on behalf of the department. The order of suspension:

1. Is effective fifteen days after the date it is served.

2. Shall require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

3. Shall contain information concerning the right to a summary review and hearing, including information concerning the hearing as required by section 28-1321, subsections G and H.

4. Shall be accompanied by printed forms ready to mail to the department that the person may fill out and sign to indicate the person's desire for a hearing.

5. Shall be entered on the department's records on receipt of the report by the officer and a copy of the order of suspension.

6. Shall inform the person that the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.

7. Shall contain information on alcohol or other drug education and treatment programs that are provided by a facility approved by the department of health services.

D. If the blood alcohol concentration test result is unavailable at the time the test is administered, the result shall be forwarded to the department before the hearing held pursuant to this section in a form prescribed by the director.

E. If the license or permit is not surrendered pursuant to subsection C of this section, the officer shall state the reason for the nonsurrender. If a valid license or permit is surrendered, the officer shall issue a temporary driving permit that is valid for fifteen days. The officer shall forward a copy of the completed order of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the order of suspension along with the report.

F. The department shall suspend the affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege for not less than ninety consecutive days from that date. If the person is otherwise qualified, the department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

G. Notwithstanding subsections A through F of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's

employment or educational schedule, to travel between the person's place of residence and the office of the person's probation officer for scheduled appointments or to travel between the person's place of residence and a screening, education or treatment facility for scheduled appointments if the person:

1. Did not cause ~~a~~ death or ~~a~~ serious physical injury as defined in section 13-105 to another person during the course of conduct out of which the current action arose.

2. Has not been convicted of a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four months of the date of commission of the acts out of which the current action arose. The dates of commission of the acts are the determining factor in applying the eighty-four month provision.

3. Has not had the person's privilege to drive suspended pursuant to this section or section 28-1321 within eighty-four months of the date of commission of the acts out of which the current action arose.

4. Provides satisfactory evidence to the department of the person's completion of alcohol or other drug screening that is ordered by the department. If the person does not complete alcohol or other drug screening, the department may impose a ninety day suspension pursuant to this section.

H. If the officer does not serve an order of suspension pursuant to subsection C of this section and if the department does not receive the report of the results of the blood or breath alcohol test pursuant to subsection B, paragraph 4 of this section, but subsequently receives the results and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, or a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle, the department shall notify the person named in the report in writing sent by mail that fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and administrative review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent.

I. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the restricted license or permit, the department shall issue, but retain, the license or permit, subject to this section. All hearings requested under

this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306.

J. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

2. Whether the person was placed under arrest for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. Whether a test was taken, the results of which indicated the alcohol concentration in the person's blood or breath at the time the test was administered of either:

(a) 0.08 or more.

(b) 0.04 or more if the person was driving or in actual physical control of a commercial motor vehicle.

4. Whether the testing method used was valid and reliable.

5. Whether the test results were accurately evaluated.

K. The results of the blood or breath alcohol test shall be admitted on establishing the requirements in section 28-1323 or 28-1326.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days. The department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

M. A person may apply for a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date of the order. The person shall submit the application in writing to any department driver license examining office together with any written explanation as to why the department should not suspend the driving privilege. The agent of the department receiving the notice shall issue to the person an additional driving permit that expires twenty days from the date the request is received. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or cancelled. The department shall not hold a hearing, and the review is not

subject to title 41, chapter 6. The department shall notify the person of its decision before the temporary driving permit expires.

N. If the suspension or determination that there should be a denial of issuance is not sustained after a hearing or review, the ruling is not admissible in and does not have any effect on any civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

Sec. 11. Section 28-3320, Arizona Revised Statutes, is amended to read:

28-3320. Suspension of license for persons under eighteen years of age; notice; definition

A. In addition to the grounds for mandatory suspension or revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately suspend the driver license or privilege to drive or refuse to issue a driver license or privilege to drive of a person who commits an offense while under eighteen years of age as follows:

1. For a period of two years on receiving the record of the person's conviction for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381 or section 28-1382.

2. For a period of three years on receiving the record of the person's conviction for a violation of section 28-1383.

3. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of section 13-1602, subsection A, paragraph 1 or section 13-1604, subsection A involving the damage or disfigurement of property by graffiti.

4. Until the person's eighteenth birthday on receiving the record of the person's conviction of criminal damage pursuant to section 13-1602, subsection A, paragraph 5 or a violation of a city or town ordinance that prohibits the type of criminal action prescribed in section 13-1602, subsection A, paragraph 5.

5. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of any statute or ordinance involving the purchase or possession of materials used for graffiti.

6. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of any provision of title 13, chapter 34.

7. Until the person's eighteenth birthday or for a period of two years on receiving the record of the person's conviction for a second or subsequent violation of section 4-244, paragraph 9, if ordered by the court.

8. Until the person's eighteenth birthday on receiving the record of the person's conviction of theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814.

B. If ordered by the court, the department shall restrict the person's privilege to drive between the person's home, school and place of employment during specified periods of time according to the person's school and employment schedule.

C. If a person commits an offense prescribed in subsection A, paragraph 1 of this section and the person's privilege to drive is restricted as prescribed in subsection B of this section, the department shall issue a special ignition interlock restricted driver license to the person pursuant to section 28-1401.

D. If ordered by the court pursuant to section 4-246, subsection ~~C~~ D, the department shall suspend the driving privilege of a person under ~~the age of~~ eighteen YEARS OF AGE for a period of up to one hundred eighty days on receiving the record of the person's first conviction for a violation of section 4-244, paragraph 9.

E. For the purposes of this section, "conviction" means a final conviction or judgment, including an order of the juvenile court finding that a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.

Sec. 12. Section 28-3322, Arizona Revised Statutes, is amended to read:

28-3322. <u>Suspension of license for persons eighteen, nineteen and twenty years of age; definition</u>

A. In addition to the grounds for mandatory suspension or revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately suspend the driver license or privilege to drive or refuse to issue a driver license or privilege to drive of a person who commits a violation of section 4-244, paragraph ~~33~~ 34 while the person is eighteen, nineteen or twenty years of age on receipt of the record of the person's conviction for a violation of section 4-244, paragraph ~~33~~ 34 for a period of two years.

B. If ordered by the court, the department shall restrict the person's privilege to drive between the person's home, school and place of employment during specified periods of time according to the person's school and employment schedule.

C. If a person's privilege to drive is restricted as prescribed in subsection B of this section, the department shall issue a special ignition interlock restricted driver license to the person pursuant to section 28-1401.

D. For the purposes of this section, "conviction" means a final conviction or judgment, including an order of the juvenile court finding that

a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.

Sec. 13. Section 28-3511, Arizona Revised Statutes, is amended to read:

28-3511. Removal and immobilization or impoundment of vehicle

A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that a person is driving the vehicle while either of the following applies:

1. The person's driving privilege is suspended or revoked for any reason.

2. The person has not ever been issued a valid driver license or permit by this state and the person does not produce evidence of ever having a valid driver license or permit issued by another jurisdiction.

3. The person is subject to an ignition interlock device requirement pursuant to chapter 4 of this title and the person is operating a vehicle without a functioning certified ignition interlock device. This paragraph does not apply to a person operating an employer's vehicle or the operation of a vehicle due to a substantial emergency as defined in section 28-1464.

B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:

1. The person's driving privilege is canceled, suspended or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction.

2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.

C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph ~~33~~ 34 or section 28-1382 or 28-1383.

D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if all of the following apply:

1. The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

2. The spouse of the driver is with the driver at the time of the arrest.

3. The peace officer has reasonable grounds to believe that the spouse of the driver:

(a) Has a valid driver license.

(b) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.

(c) Does not have any spirituous liquor in the spouse's body if the spouse is under twenty-one years of age.

4. The spouse notifies the peace officer that the spouse will drive the vehicle from the place of arrest to the driver's home or other place of safety.

5. The spouse drives the vehicle as prescribed by paragraph 4 of this subsection.

E. Except as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section, the spouse of the owner and each person identified on the department's record with an interest in the vehicle shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

Sec. 14. Section 38-1102, Arizona Revised Statutes, is amended to read:

38-1102. Carrying of firearms by peace officers; exceptions; definitions

A. ~~This state, a county, a city or town or any other political subdivision of this state shall not prohibit~~ NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED PURSUANT TO SUBSECTION B OF THIS SECTION, a peace officer SHALL NOT BE PROHIBITED from carrying a firearm if the peace officer is in compliance with the firearm requirements prescribed by the Arizona peace officer standards and training board.

B. A peace officer may be prohibited from carrying a firearm as follows:

1. In a jail, correctional facility or juvenile detention facility.

2. By order of:

(a) The presiding judge or justice when attending any court that is established pursuant to the constitution of this state or title 12, except if the peace officer is providing court security or responding to an emergency.

(b) A justice court when attending the justice court, except if the peace officer is providing court security or responding to an emergency.

(c) A municipal court when attending the municipal court, except if the peace officer is providing court security or responding to an emergency.

3. When the peace officer is relieved of ~~the peace officer's duties~~ DUTY and is under a criminal or administrative investigation.

4. When in a secured police facility.

5. When consuming alcohol at a licensed liquor establishment operated by this state, a county, a city or town, or any other political subdivision of this state, except if the peace officer's employing agency authorizes the consumption of alcohol in the performance of the peace officer's duties.

6. In a location prohibited by federal law.

7. Pursuant to court order.

8. Pursuant to any state or federal law that makes the officer a prohibited possessor.

9. When in the judgment of the department head, or the department head's designee, the peace officer exhibits any impairment, including any physical or mental impairment that would cause concern for the well-being and safety of the officer, the officer's law enforcement agency, law enforcement agency employees or the community.

C. A law enforcement agency that employs a peace officer may establish rules that are consistent with this section. The law enforcement agency may determine the number, type, model, caliber and brand of firearm and the ammunition that is carried by its peace officers on or off duty.

D. This section does not create any civil liability for acting or failing to act.

E. For the purposes of this section:

1. "Firearm" has the same meaning prescribed in section 13-105.

2. "Peace officer" has the same meaning prescribed in section 1-215.

3. "Relieved of duty" means when a peace officer is no longer required to perform, either temporarily or permanently, the duties for which the officer was employed.

4. "Secured police facility" means a building or structure that is used primarily by a public agency and that is not accessible to the general public except by controlled access.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 175

SENATE BILL 1113

AN ACT

AMENDING SECTION 4-226, ARIZONA REVISED STATUTES; AMENDING TITLE 4, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 4-229; AMENDING SECTIONS 4-244, 4-246, 5-395.03, 11-441, 13-3102, 13-3112, 28-1321, 28-1385, 28-3320, 28-3322, 28-3511 AND 38-1102, ARIZONA REVISED STATUTES; RELATING TO HANDGUNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 4-226, Arizona Revised Statutes, is amended to read:

4-226. Exemptions

The provisions of this title do not apply to:

1. Drugstores selling spirituous liquors only upon prescription.

2. Any confectionery candy containing less than five per cent by weight of alcohol.

3. Ethyl alcohol intended for use or used for the following purposes:

(a) Scientific, chemical, mechanical, industrial and medicinal purposes.

(b) Use by those authorized to procure spirituous liquor or ethyl alcohol tax-free, as provided by the acts of Congress and regulations promulgated thereunder.

(c) In the manufacture of denatured alcohol produced and used as provided by the acts of Congress and regulations promulgated thereunder.

(d) In the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products, unfit and not used for beverage purposes.

(e) In the manufacture of flavoring extracts and syrups unfit for beverage purposes.

4. The purchase, storage, distribution, service or consumption of wine in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise by a church recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code and in a manner not dangerous to public health or safety. This exemption does not apply to any alleged violation of section 4-244, paragraph 9, ~~33, 34 or 40~~ 34, 35 OR 41.

Sec. 2. Title 4, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 4-229, to read:

4-229. Licenses; handguns; posting of notice

A. A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 OR WHO MEETS THE CRITERIA SPECIFIED IN SECTION 13-3102, SUBSECTION D, PARAGRAPH 1 OR 2 MAY CARRY A CONCEALED HANDGUN ON THE PREMISES OF A LICENSEE WHO IS AN ON-SALE RETAILER UNLESS THE LICENSEE POSTS A SIGN THAT CLEARLY PROHIBITS THE POSSESSION OF WEAPONS ON THE LICENSED PREMISES. THE SIGN SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

1. BE POSTED IN A CONSPICUOUS LOCATION ACCESSIBLE TO THE GENERAL PUBLIC AND IMMEDIATELY ADJACENT TO THE LIQUOR LICENSE POSTED ON THE LICENSED PREMISES.

2. CONTAIN A PICTOGRAM THAT SHOWS A FIREARM WITHIN A RED CIRCLE AND A DIAGONAL RED LINE ACROSS THE FIREARM.

3. CONTAIN THE WORDS, "NO FIREARMS ALLOWED PURSUANT TO A.R.S. SECTION 4-229".

B. A PERSON SHALL NOT CARRY A FIREARM ON THE LICENSED PREMISES OF AN ON-SALE RETAILER IF THE LICENSEE HAS POSTED THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION.

C. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION B OF THIS SECTION IF:

1. THE PERSON WAS NOT INFORMED OF THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION PRIOR TO THE VIOLATION.

2. ANY ONE OR MORE OF THE FOLLOWING APPLIES:

(a) AT THE TIME OF THE VIOLATION THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION HAD FALLEN DOWN.

(b) AT THE TIME OF THE VIOLATION THE PERSON WAS NOT A RESIDENT OF THIS STATE.

(c) THE LICENSEE HAD POSTED THE NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION NOT MORE THAN THIRTY DAYS PRIOR TO THE VIOLATION.

D. THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL SHALL PREPARE THE SIGNS REQUIRED BY THIS SECTION AND MAKE THEM AVAILABLE AT NO COST TO LICENSEES.

E. THE SIGNS REQUIRED BY THIS SECTION SHALL BE COMPOSED OF BLOCK, CAPITAL LETTERS PRINTED IN BLACK ON WHITE LAMINATED PAPER AT A MINIMUM WEIGHT OF ONE HUNDRED TEN POUND INDEX. THE LETTERING AND PICTOGRAM SHALL CONSUME A SPACE AT LEAST SIX INCHES BY NINE INCHES. THE LETTERS COMPRISING THE WORDS "NO FIREARMS ALLOWED" SHALL BE AT LEAST THREE-FOURTHS OF A VERTICAL INCH AND ALL OTHER LETTERS SHALL BE AT LEAST ONE-HALF OF A VERTICAL INCH.

F. THIS SECTION DOES NOT PROHIBIT A PERSON WHO POSSESSES A HANDGUN FROM ENTERING THE LICENSED PREMISES FOR A LIMITED TIME FOR THE SPECIFIC PURPOSE OF EITHER:

1. SEEKING EMERGENCY AID.

2. DETERMINING WHETHER A SIGN HAS BEEN POSTED PURSUANT TO SUBSECTION A OF THIS SECTION.

Sec. 3. Section 4-244, Arizona Revised Statutes, is amended to read:

4-244. <u>Unlawful acts</u>

It is unlawful:

1. For a person to buy for resale, sell or deal in spirituous liquors in this state without first having procured a license duly issued by the board.

2. For a person to sell or deal in alcohol for beverage purposes without first complying with this title.

3. For a distiller, vintner, brewer or wholesaler knowingly to sell, dispose of or give spirituous liquor to any person other than a licensee except in sampling wares as may be necessary in the ordinary course of business, except in donating spirituous liquor to a nonprofit organization which has obtained a special event license for the purpose of charitable fund raising activities or except in donating spirituous liquor with a cost to the distiller, brewer or wholesaler of up to one hundred dollars in a calendar year to an organization that is exempt from federal income taxes under

section 501(c) of the internal revenue code and not licensed under this title.

4. For a distiller, vintner or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted to the wholesaler by the distiller, vintner or brewer.

5. For a distiller, vintner or brewer to use a vehicle for trucking or transportation of spirituous liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of the person's license in letters not less than three and one-half inches in height.

6. For a person to take or solicit orders for spirituous liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.

7. For any retail licensee to purchase spirituous liquors from any person other than a solicitor or salesman of a wholesaler licensed in this state.

8. For a retailer to acquire an interest in property owned, occupied or used by a wholesaler in his business, or in a license with respect to the premises of the wholesaler.

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

10. For a licensee to employ a person under ~~the age of~~ nineteen years OF AGE to manufacture, sell or dispose of spirituous liquors. This paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

11. For an on-sale retailer to employ a person under ~~the age of~~ nineteen years OF AGE in any capacity connected with the handling of spirituous liquors. This paragraph does not prohibit the employment by an on-sale retailer of a person under ~~the age of~~ nineteen years OF AGE who cleans up the tables on the premises for reuse, removes dirty dishes, keeps a ready supply of needed items and helps clean up the premises.

12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or for a licensee or on-duty employee to be on or about the licensed premises while in an intoxicated or disorderly condition.

13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor, except that:

(a) An employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person.

(b) An employee of an on-sale retail licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine not to exceed four ounces per day or distilled spirits not to exceed two ounces per day provided by an employee of a wholesaler or distributor who is present at the time of the sampling.

(c) An employee of an on-sale retail licensee, under the supervision of a manager as part of the employee's training and education, while not engaged in waiting on or serving customers may taste samples of distilled spirits not to exceed two ounces per educational session or beer or wine not to exceed four ounces per educational session, and provided that a licensee shall not have more than two educational sessions in any thirty day period.

(d) An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

(e) An unpaid volunteer of a special event licensee under section 4-203.02 may purchase and consume spirituous liquor while not engaged in waiting on or serving spirituous liquor to customers at the special event. This subdivision does not apply to an unpaid volunteer whose responsibilities include verification of a person's legal drinking age, security or the operation of any vehicle or heavy machinery.

14. For a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person, or for a licensee or employee of the licensee to allow or permit a disorderly or obviously intoxicated person to come into or remain on or about the premises, except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for a period of time of not to exceed thirty minutes after the state of obvious intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the obviously intoxicated person from the premises. For the purposes of this section, "obviously intoxicated" means inebriated to the

extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

15. For an on-sale or off-sale retailer or an employee of such retailer to sell, dispose of, deliver or give spirituous liquor to a person between the hours of 2:00 a.m. and 6:00 a.m. on weekdays, and 2:00 a.m. and 10:00 a.m. on Sundays.

16. For a licensee or employee to knowingly permit any person on or about the licensed premises to give or furnish any spirituous liquor to any person under ~~the age of~~ twenty-one YEARS OF AGE or knowingly permit any person under ~~the age of~~ twenty-one YEARS OF AGE to have in the person's possession spirituous liquor on the licensed premises.

17. For an on-sale retailer or an employee of such retailer to allow a person to consume or possess spirituous liquors on the premises between the hours of 2:30 a.m. and 6:00 a.m. on weekdays, and 2:30 a.m. and 10:00 a.m. on Sundays.

18. For an on-sale retailer to permit an employee or for an employee to solicit or encourage others, directly or indirectly, to buy the employee drinks or anything of value in the licensed premises during the employee's working hours. No on-sale retailer shall serve employees or allow a patron of the establishment to give spirituous liquor to, purchase liquor for or drink liquor with any employee during the employee's working hours.

19. For an off-sale retailer or employee to sell spirituous liquor except in the original unbroken container, to permit spirituous liquor to be consumed on the premises or to knowingly permit spirituous liquor to be consumed on adjacent property under the licensee's exclusive control.

20. For a person to consume spirituous liquor in a public place, thoroughfare or gathering. The license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph does not apply to the sale of spirituous liquors on the premises of and by an on-sale retailer. This paragraph also does not apply to a person consuming beer from a broken package in a public recreation area or on private property with permission of the owner or lessor or on the walkways surrounding such private property.

21. For a person to have possession of or to transport spirituous liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and this state. Any property used in transporting such spirituous liquor shall be forfeited to the state and shall be seized and disposed of as provided in section 4-221.

22. For an on-sale retailer or employee to allow a person under the legal drinking age to remain in an area on the licensed premises during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees, know or should have known that the person is under the legal drinking age. An

on-sale retailer may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will underage persons have access to the area in which spirituous liquor is sold or consumed. A licensee or an employee of a licensee may require a person who intends to enter a licensed premises or a portion of a licensed premises where persons under the legal drinking age are prohibited under this section to exhibit a written instrument of identification that is acceptable under section 4-241 as a condition of entry. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those adopted by the director. The rules adopted by the municipality shall be adopted by local ordinance and shall not interfere with the licensee's ability to comply with this paragraph. This paragraph does not apply:

(a) If the person under the legal drinking age is accompanied by a spouse, parent or legal guardian of legal drinking age or is an on-duty employee of the licensee.

(b) If the owner, lessee or occupant of the premises is a club as defined in section 4-101, paragraph 7, subdivision (a) and the person under the legal drinking age is any of the following:

(i) An active duty military service member.

(ii) A veteran.

(iii) A member of the United States army national guard or the United States air national guard.

(iv) A member of the United States military reserve forces.

(c) To the area of the premises used primarily for the serving of food during the hours when food is served.

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than thirty-two ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph.

24. For a licensee or employee to knowingly permit the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises.

25. For a licensee or employee to knowingly permit prostitution or the solicitation of prostitution on the premises.

26. For a licensee or employee to knowingly permit unlawful gambling on the premises.

27. For a licensee or employee to knowingly permit trafficking or attempted trafficking in stolen property on the premises.

28. For a licensee or employee to fail or refuse to make the premises or records available for inspection and examination as provided in this title or to comply with a lawful subpoena issued under this title.

29. For any person other than a peace officer OR A MEMBER OF A SHERIFF'S VOLUNTEER POSSE WHILE ON DUTY WHO HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retailer ~~knowing such possession is prohibited~~. This paragraph shall not be construed to include a situation in which a person is on licensed premises for a limited time in order to seek emergency aid and such person does not buy, receive, consume or possess spirituous liquor. This paragraph shall not apply to:

(a) Hotel or motel guest room accommodations. ~~nor to~~

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

(c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229 AND THAT OFFERS FOR SALE FOOD FOR ON-SITE CONSUMPTION IF THE FOOD IS PREPARED IN A KITCHEN LOCATED ON THE PREMISES.

30. For a licensee or employee to knowingly permit a person in possession of a firearm other than a peace officer OR A MEMBER OF A SHERIFF'S VOLUNTEER POSSE WHILE ON DUTY WHO HAS RECEIVED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD, the licensee or an employee of the licensee acting with the permission of the licensee to remain on the licensed premises or to serve, sell or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retailer. IT SHALL BE A DEFENSE TO ACTION UNDER THIS PARAGRAPH IF THE LICENSEE OR EMPLOYEE REQUESTED ASSISTANCE OF A PEACE OFFICER TO REMOVE SUCH PERSON. This paragraph shall not apply to:

(a) Hotel or motel guest room accommodations. ~~nor to~~

(b) The exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. ~~It shall be a defense to action under this paragraph if the licensee or employee requested assistance of a peace officer to remove such person.~~

(c) A PERSON WITH A PERMIT ISSUED PURSUANT TO SECTION 13-3112 WHO CARRIES A CONCEALED HANDGUN ON THE LICENSED PREMISES OF ANY ON-SALE RETAILER THAT HAS NOT POSTED A NOTICE PURSUANT TO SECTION 4-229 AND THAT OFFERS FOR SALE FOOD FOR ON-SITE CONSUMPTION IF THE FOOD IS PREPARED IN A KITCHEN THAT IS LOCATED ON THE PREMISES.

31. FOR ANY PERSON IN POSSESSION OF A FIREARM WHILE ON THE LICENSED PREMISES OF AN ON-SALE RETAILER TO CONSUME SPIRITUOUS LIQUOR.

~~31.~~ 32. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph shall not apply to either of the following:

(a) A person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

(b) A person who is in licensed premises that have noncontiguous portions that are separated by a public or private walkway or driveway and who takes spirituous liquor from one portion of the licensed premises across the public or private walkway OR DRIVEWAY directly to the other portion of the licensed premises.

~~32.~~ 33. For a person who is obviously intoxicated to buy or attempt to buy spirituous liquor from a licensee or employee of a licensee or to consume spirituous liquor on licensed premises.

~~33.~~ 34. For a person under ~~the age of~~ twenty-one years OF AGE to drive or be in physical control of a motor vehicle while there is any spirituous liquor in the person's body.

~~34.~~ 35. For a person under ~~the age of~~ twenty-one years OF AGE to operate or be in physical control of a motorized watercraft that is underway while there is any spirituous liquor in the person's body. For the purposes of this paragraph, "underway" has the same meaning prescribed in section 5-301.

~~35.~~ 36. For a licensee, manager, employee or controlling person to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on an election day.

~~36.~~ 37. For a licensee to fail to report an occurrence of an act of violence to either the department or a law enforcement agency.

~~37.~~ 38. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

~~38.~~ 39. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five per cent by volume of the grapes used in making the wine were grown in Arizona.

~~39.~~ 40. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer who allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes of this paragraph, "wine and food club" means an association

that has more than twenty bona fide members paying at least six dollars per year in dues and that has been in existence for at least one year.

~~40.~~ 41. For a person under ~~the age of~~ twenty-one years OF AGE to have in the person's body any spirituous liquor. In a prosecution for a violation of this paragraph:

(a) Pursuant to section 4-249, it is a defense that the spirituous liquor was consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise and in a manner not dangerous to public health or safety.

(b) Pursuant to section 4-226, it is a defense that the spirituous liquor was consumed for a bona fide medicinal purpose and in a manner not dangerous to public health or safety.

~~41.~~ 42. For an employee of a licensee to accept any gratuity, compensation, remuneration or consideration of any kind to either:

(a) Permit a person who is under twenty-one years of age to enter any portion of the premises where that person is prohibited from entering pursuant to paragraph 22 of this section.

(b) Sell, furnish, dispose of or give spirituous liquor to a person who is under twenty-one years of age.

~~42.~~ 43. For a person to purchase, offer for sale or use any device, machine or process which mixes spirituous liquor with pure oxygen or another gas to produce a vaporized product for the purpose of consumption by inhalation.

~~43.~~ 44. For a retail licensee or an employee of a retail licensee to sell spirituous liquor to a person if the retail licensee or employee knows the person intends to resell the spirituous liquor.

Sec. 4. Section 4-246, Arizona Revised Statutes, is amended to read:

4-246. Violation; classification

A. A person violating any provision of this title is guilty of a class 2 misdemeanor unless another classification is prescribed.

B. A person violating section 4-244, paragraph 9, 14, ~~33, 41 or 43~~ 34, 42 OR 44 is guilty of a class 1 misdemeanor.

C. A PERSON VIOLATING SECTIONS 4-229, SUBSECTION B OR 4-244, PARAGRAPH 31 IS GUILTY OF A CLASS 3 MISDEMEANOR.

~~C.~~ D. In addition to any other penalty prescribed by law, the court may suspend the privilege to drive of a person under eighteen years of age for a period of up to one hundred eighty days on receiving the record of the person's first conviction for a violation of section 4-244, paragraph 9.

~~D.~~ E. In addition to any other penalty prescribed by law, a person who is convicted of a violation of section 4-244, paragraph ~~41~~ 42 shall pay a fine of not less than five hundred dollars.

~~E.~~ F. In addition to any other penalty prescribed by law, a person who is convicted of a violation of section 4-241, subsection L, M or N shall pay a fine of not less than two hundred fifty dollars.

Sec. 5. Section 5-395.03, Arizona Revised Statutes, is amended to read:

5-395.03. Test for alcohol concentration or drug content; refusal

A. Any person who operates a motorized watercraft that is underway within this state gives consent, subject to section 4-244, paragraph ~~34~~ 35, section 5-395 or section 5-396, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph ~~34~~ 35 while the person was operating or in actual physical control of a motorized watercraft that was underway while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating or in actual physical control of a motorized watercraft that is underway within this state while under the influence of intoxicating liquor or drugs, or if the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. Following an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section.

C. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section none shall be given, except as provided in section 5-395, subsection L or pursuant to a search warrant.

Sec. 6. Section 11-441, Arizona Revised Statutes, is amended to read:

11-441. Powers and duties

A. The sheriff shall:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to the knowledge of the sheriff.

4. Attend all courts, except justice and municipal courts, when an element of danger is anticipated and attendance is requested by the presiding judge, and obey lawful orders and directions issued by the judge.

5. Take charge of and keep the county jail, including a county jail under the jurisdiction of a county jail district, and the prisoners in the county jail.

6. Endorse upon all process and notices the year, month, day, hour and minute of reception, and issue to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

7. Serve process and notices in the manner prescribed by law and certify under the sheriff's hand upon the process or notices the manner and time of service, or if the sheriff fails to make service, the reasons for failure, and return them without delay. When returnable to another county, the sheriff may enclose such process or notices in an envelope, addressed to the officer from whom received, and deposit it postage prepaid in the post office. The return of the sheriff is prima facie evidence of the facts stated in the return.

8. Secure, as soon as possible, the home of a deceased person located outside the boundaries of an incorporated city or town if the sheriff is unable to determine or locate the heirs or executor of the deceased person.

B. The sheriff may in the execution of the duties prescribed in subsection A, paragraphs 1 through 4 command the aid of as many inhabitants of the county as the sheriff deems necessary.

C. The sheriff shall conduct or coordinate within the county search or rescue operations involving the life or health of any person, or may assist in such operations in another county at the request of that county's sheriff, and may request assistance from any persons or agencies in the fulfillment of duties under this subsection.

D. The sheriff, in the execution of the duties prescribed in this section, may request the aid of volunteer posse and reserve organizations located in the county.

E. The sheriff may assist in the execution of the duties prescribed in this section in another county at the request of that county's sheriff.

F. The sheriff may require any prisoner who is on work release to reimburse the county for reasonable expenses incurred in connection with the release.

G. The board of supervisors of a county bordering the Republic of Mexico may adopt an ordinance pursuant to chapter 2 of this title allowing the sheriff to prevent the entry from this state into the republic of Mexico at the border by any resident of this state who is under eighteen years of age if the minor is unaccompanied by a parent or guardian or does not have written consent for entry from a parent or guardian. The authority of the sheriff is only to prevent entry and not to otherwise detain the minor. This subsection shall not be construed to limit the authority of the sheriff pursuant to any other law. A county is not civilly or criminally liable for not adopting an ordinance pursuant to this subsection.

H. NOTWITHSTANDING SECTION 13-3112, THE SHERIFF MAY AUTHORIZE MEMBERS OF THE SHERIFF'S VOLUNTEER POSSE WHO HAVE RECEIVED AND PASSED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD TO CARRY A DEADLY WEAPON WITHOUT A PERMIT WHILE ON DUTY.

Sec. 7. Section 13-3102, Arizona Revised Statutes, is amended to read:

13-3102. Misconduct involving weapons; defenses; classification; definitions

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon without a permit pursuant to section 13-3112 except a pocket knife concealed on his person; or

2. Carrying a deadly weapon without a permit pursuant to section 13-3112 concealed within immediate control of any person in or on a means of transportation; or

3. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon, except that if the violation involves dry ice, a person commits misconduct involving weapons by knowingly possessing the dry ice with the intent to cause injury to or death of another person or to cause damage to the property of another person; or

4. Possessing a deadly weapon or prohibited weapon if such person is a prohibited possessor; or

5. Selling or transferring a deadly weapon to a prohibited possessor; or

6. Defacing a deadly weapon; or

7. Possessing a defaced deadly weapon knowing the deadly weapon was defaced; or

8. Using or possessing a deadly weapon during the commission of any felony offense included in chapter 34 of this title; or

9. Discharging a firearm at an occupied structure in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise; or

10. Unless specifically authorized by law, entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event for temporary and secure storage of the weapon pursuant to section 13-3102.01; or

11. Unless specifically authorized by law, entering an election polling place on the day of any election carrying a deadly weapon; or

12. Possessing a deadly weapon on school grounds; or

13. Unless specifically authorized by law, entering a nuclear or hydroelectric generating station carrying a deadly weapon on his person or within the immediate control of any person; or

14. Supplying, selling or giving possession or control of a firearm to another person if the person knows or has reason to know that the other person would use the firearm in the commission of any felony; or

15. Using, possessing or exercising control over a deadly weapon in furtherance of any act of terrorism as defined in section 13-2301 or possessing or exercising control over a deadly weapon knowing or having

reason to know that it will be used to facilitate any act of terrorism as defined in section 13-2301.

B. Subsection A, paragraph 1 of this section shall not apply to a person in his dwelling, on his business premises or on real property owned or leased by that person.

C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this section shall not apply to:

1. A peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties; or

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

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

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

D. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION SHALL NOT APPLY TO:

1. A MEMBER OF A SHERIFF'S VOLUNTEER POSSE OR RESERVE ORGANIZATION WHO HAS RECEIVED AND PASSED FIREARMS TRAINING THAT IS APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD AND WHO IS AUTHORIZED BY THE SHERIFF TO CARRY A CONCEALED WEAPON PURSUANT TO SECTION 11-441.

2. A PERSON WHO HAS HONORABLY SERVED AS A LAW ENFORCEMENT OFFICER IN THE UNITED STATES FOR AT LEAST TEN CONSECUTIVE YEARS AND WHO POSSESSES A PHOTOGRAPHIC IDENTIFICATION OR A LETTER FROM A LAW ENFORCEMENT AGENCY THAT STATES THE PERSON HAS SERVED FOR AT LEAST TEN CONSECUTIVE YEARS AS A LAW ENFORCEMENT OFFICER IN THE UNITED STATES. ON REQUEST, THE LAW ENFORCEMENT AGENCY THAT MOST RECENTLY EMPLOYED THE PERSON OR, IF THE PERSON WAS EMPLOYED OUTSIDE OF THIS STATE, THE SHERIFF OF THE COUNTY IN WHICH THE PERSON RESIDES SHALL ISSUE A PHOTOGRAPHIC IDENTIFICATION OR A LETTER THAT VERIFIES THE PERSON MEETS THE REQUIREMENT OF THIS PARAGRAPH.

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

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

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

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

2. The regular and lawful transporting as merchandise; or

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

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

~~F.~~ G. Subsection A, paragraph 1 of this section shall not apply to a weapon or weapons carried in a belt holster that is wholly or partially visible, ~~or~~ carried in a scabbard or case designed for carrying weapons that is wholly or partially visible or carried in luggage. Subsection A, paragraph 2 of this section shall not apply to a weapon or weapons carried in a case, holster, scabbard, pack or luggage that is carried within a means of transportation or within a storage compartment, map pocket, trunk or glove compartment of a means of transportation.

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

~~H.~~ I. Subsection A, paragraph 3 of this section shall not apply to a weapon described in section 13-3101, subsection A, paragraph 8, subdivision (a), item (v), if such weapon is possessed for the purposes of preparing for, conducting or participating in lawful exhibitions, demonstrations, contests or athletic events involving the use of such weapon. Subsection A, paragraph 12 of this section shall not apply to a weapon if such weapon is possessed for the purposes of preparing for, conducting or participating in hunter or firearm safety courses.

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

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

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

~~J.~~ K. The operator of the establishment or the sponsor of the event or the employee of the operator or sponsor or the agent of the sponsor, including a public entity or public employee, is not liable for acts or omissions pursuant to subsection A, paragraph 10 of this section unless the

operator, sponsor, employee or agent intended to cause injury or was grossly negligent.

~~K.~~ L. MISCONDUCT INVOLVING WEAPONS UNDER SUBSECTION A, PARAGRAPH 15 OF THIS SECTION IS A CLASS 2 FELONY. Misconduct involving weapons under subsection A, paragraph 9~~,~~ OR 14 ~~or 15~~ of this section is a class 3 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4 felony. Misconduct involving weapons under subsection A, paragraph 12 of this section is a class 1 misdemeanor unless the violation occurs in connection with conduct that violates section 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section 13-3409 or section 13-3411, in which case the offense is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 5, 6 or 7 of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

~~L.~~ M. For the purposes of this section:

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

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

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

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

Sec. 8. Section 13-3112, Arizona Revised Statutes, is amended to read:

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

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 section 13-3101, subsection A, paragraph 7 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 permittee who carries a concealed weapon and who fails to present a permit for inspection on the request of a law enforcement officer is guilty of a petty offense. A permittee shall not be convicted of a violation of this subsection if the permittee produces to the court a legible permit that is issued to the permittee 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 unless that conviction has been expunged, set aside or vacated or the applicant's rights have been restored and the applicant is currently not a prohibited possessor under state or federal law.

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. Has ever satisfactorily completed a firearms safety training program authorized by the department of public safety pursuant to subsection O of this section and provides adequate documentation that the authorized training program was satisfactorily completed. For the purposes of this paragraph, "adequate documentation" means a certificate, card or document of completion from ~~an authorized~~ A firearms safety training program AUTHORIZED pursuant to subsection O of this section, dated not more than five years earlier than the date of application, that has affixed to it the stamp, signature or seal of the instructor or organization that conducted the program, or a current or expired permit issued by the department of public safety pursuant to 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.

(c) A person who is issued a certificate of firearms proficiency pursuant to subsection X of this section.

(d) A PERSON WHO IS AN ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD CERTIFIED FULL AUTHORITY PEACE OFFICER AND WHO VOLUNTEERS IN A LAW ENFORCEMENT AGENCY'S RESERVE PROGRAM.

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 authorized 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

1 expired and the member presents documentation indicating release from active
2 duty or reassignment from overseas deployment within the preceding ninety
3 days.
4 L. A permit issued pursuant to this section is renewable every five
5 years. Before a permit may be renewed, a criminal history records check
6 shall be conducted pursuant to section 41-1750 within sixty days after
7 receipt of the application for renewal. For the purposes of permit renewal,
8 the permit holder is not required to submit additional fingerprints.
9 M. Applications for renewal shall be accompanied by a fee determined
10 by the director of the department of public safety.
11 N. The department of public safety shall suspend or revoke a permit
12 issued under this section if the permit holder becomes ineligible pursuant to
13 subsection E of this section. The department of public safety shall notify
14 the permit holder in writing within fifteen working days after the revocation
15 or suspension and shall state the reasons for the revocation or suspension.
16 O. An organization shall apply to the department of public safety for
17 authorization to provide firearms safety training. The department shall
18 authorize an organization to provide firearms safety training if the training
19 meets the following requirements:
20 1. Is at least eight hours in length.
21 2. Is conducted on a pass or fail basis.
22 3. Addresses all of the following topics in a format approved by the
23 director of the department:
24 (a) Legal issues relating to the use of deadly force.
25 (b) Weapon care and maintenance.
26 (c) Mental conditioning for the use of deadly force.
27 (d) Safe handling and storage of weapons.
28 (e) Marksmanship.
29 (f) Judgmental shooting.
30 4. Is conducted by instructors who are authorized by the department of
31 public safety or who possess current national rifle association instructor
32 certifications in pistol and personal protection and who submit to a
33 background investigation, including a check for warrants and a criminal
34 history records check.
35 P. If authorized pursuant to subsection O of this section, the
36 organization on behalf of each of its instructors shall submit to the
37 department of public safety two sets of fingerprints and a fee to be
38 determined by the director of the department of public safety. On receipt of
39 the fingerprints and fee, the department of public safety shall conduct a
40 check of each instructor's criminal history record pursuant to section
41 41-1750. The department of public safety may exchange this fingerprint card
42 information with the federal bureau of investigation for federal criminal
43 history record checks.
44 Q. The proprietary interest of all authorized instructors and programs
45 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 on 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. 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, unless the person's rights have been restored and the conviction is expunged, set aside or vacated and the applicant is currently not a prohibited possessor under state or federal law.

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). A law enforcement agency shall issue to a law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement agency has no obligation to revoke, alter or modify the honorable discharge photographic identification based on conduct that the agency becomes aware of or that occurs after the officer has separated from the agency.

Sec. 9. Section 28-1321, Arizona Revised Statutes, is amended to read:

28-1321. Implied consent; tests; refusal to submit to test; order of suspension; hearing; review; temporary permit; notification of suspension; special ignition interlock restricted driver license

A. A person who operates a motor vehicle in this state gives consent, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or 28-1383, to a test or tests of the person's blood, breath, urine or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter or section 4-244, paragraph ~~33~~ 34 while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe that the person was driving or in actual physical control of a motor vehicle in this state either:

1. While under the influence of intoxicating liquor or drugs.

2. If the person is under twenty-one years of age, with spirituous liquor in the person's body.

B. After an arrest a violator shall be requested to submit to and successfully complete any test or tests prescribed by subsection A of this section, and if the violator refuses the violator shall be informed that the violator's license or permit to drive will be suspended or denied for twelve months, or for two years for a second or subsequent refusal within a period of eighty-four months, unless the violator expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal. The violator shall also be informed that:

1. If the test results show a blood or breath alcohol concentration of 0.08 or more, or if the results show a blood or breath alcohol concentration of 0.04 or more and the violator was driving or in actual physical control of a commercial motor vehicle, the violator's license or permit to drive will be suspended or denied for not less than ninety consecutive days.

2. The violator's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the violator completes alcohol or other drug screening.

C. A person who is dead, unconscious or otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent provided by subsection A of this section and the test or tests may be administered, subject to section 4-244, paragraph ~~33~~ 34 or section 28-1381, 28-1382 or 28-1383.

D. If a person under arrest refuses to submit to the test designated by the law enforcement agency as provided in subsection A of this section:

1. The test shall not be given, except as provided in section 28-1388, subsection E or pursuant to a search warrant.

2. The law enforcement officer directing the administration of the test shall:

(a) File a certified report of the refusal with the department.

(b) On behalf of the department, serve an order of suspension on the person that is effective fifteen days after the date the order is served.

(c) Require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

(d) If the license or permit is not surrendered, state the reason why it is not surrendered.

(e) If a valid license or permit is surrendered, issue a temporary driving permit that is valid for fifteen days.

(f) Forward the certified report of refusal, a copy of the completed notice of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the notice of suspension.

E. The certified report is subject to the penalty for perjury as prescribed by section 28-1561 and shall state all of the following:

1. The officer's reasonable grounds to believe that the arrested person was driving or in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The manner in which the person refused to submit to the test or tests.

3. That the person was advised of the consequences of refusal.

F. On receipt of the certified report of refusal and a copy of the order of suspension and on the effective date stated on the order, the department shall enter the order of suspension on its records unless a written request for a hearing as provided in this section has been filed by the accused person. If the department receives only the certified report of refusal, the department shall notify the person named in the report in writing sent by mail that:

1. Fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege.

2. The department will provide an opportunity for a hearing if the person requests a hearing in writing and the request is received by the department within fifteen days after the notice is sent.

G. The order of suspension issued by a law enforcement officer or the department under this section shall notify the person that:

1. The person may submit a written request for a hearing.

2. The request for a hearing must be received by the department within fifteen days after the date of the notice or the order of suspension will become final.

3. The affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege will be suspended for twelve months from that date or for two years from that date for a second or subsequent refusal within a period of eighty-four months.

4. The person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.

H. The order for suspension shall:

1. Be accompanied by printed forms that are ready to mail to the department and that may be filled out and signed by the person to indicate the person's desire for a hearing.

2. Advise the person that unless the person has surrendered any driver license or permit issued by this state the person's hearing request will not be accepted, except that the person may certify pursuant to section 28-3170 that the license or permit is lost or destroyed.

I. On the receipt of a request for a hearing, the department shall set the hearing within thirty days in the county in which the person named in the report resides unless the law enforcement agency filing the certified report of refusal pursuant to subsection D of this section requests at the time of its filing that the hearing be held in the county where the refusal occurred.

J. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the license or permit, the department shall issue and retain a restricted license or permit subject to this section.

K. Hearings requested under this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306. For the purposes of this section, the scope of the hearing shall include only the issues of whether:

1. A law enforcement officer had reasonable grounds to believe that the person was driving or was in actual physical control of a motor vehicle in this state either:

(a) While under the influence of intoxicating liquor or drugs.

(b) If the person is under twenty-one years of age, with spirituous liquor in the person's body.

2. The person was placed under arrest.

3. The person refused to submit to the test.

4. The person was informed of the consequences of refusal.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of twelve months after the order of suspension becomes effective or for a period of two years after the order of suspension becomes effective for a second or subsequent refusal within a period of eighty-four months, and may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the person completes alcohol or other drug screening.

M. If the suspension order is sustained after the hearing, a motion for rehearing is not required. Within thirty days after a suspension order is sustained, the affected person may file a petition in the superior court to review the final order of suspension or denial by the department in the same manner provided in section 28-3317. The court shall hear the review of the final order of suspension or denial on an expedited basis.

N. If the suspension or determination that there should be a denial of issuance is not sustained, the ruling is not admissible in and has no effect on any administrative, civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

P. After completing not less than ninety consecutive days of the period of suspension required by this section and any alcohol or other drug screening that is ordered by the department pursuant to this chapter, a person whose driving privilege is suspended pursuant to this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401. Unless the certified ignition interlock period is extended by the department pursuant to section 28-1461, a person who is issued a special ignition interlock restricted driver license as provided in this subsection shall maintain a functioning certified ignition interlock device in compliance with this chapter during the remaining period of the suspension prescribed by this section. This subsection does not apply to a person whose driving privilege is suspended for a second or subsequent refusal within a period of eighty-four months or a person who within a period of eighty-four months has been convicted of a second or subsequent violation of article 3 of this chapter or section 4-244, paragraph ~~33~~ 34 or an act in

another jurisdiction that if committed in this state would be a violation of article 3 of this chapter or section 4-244, paragraph ~~33~~ 34.

Sec. 10. Section 28-1385, Arizona Revised Statutes, is amended to read:

28-1385. Administrative license suspension for driving under the influence or for homicide or assault involving a motor vehicle; report; hearing; summary review; ignition interlock device requirement

A. A law enforcement officer shall forward to the department a certified report as prescribed in subsection B of this section, subject to the penalty for perjury prescribed by section 28-1561, if both of the following occur:

1. The officer arrests a person for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

2. The person submits to a blood or breath alcohol test permitted by section 28-1321 or any other law or a sample of blood is obtained pursuant to section 28-1388 and the results are either not available or the results indicate either of the following:

(a) 0.08 or more alcohol concentration in the person's blood or breath.

(b) 0.04 or more alcohol concentration in the person's blood or breath if the person was driving or in actual physical control of a commercial motor vehicle.

B. The officer shall make the certified report required by subsection A of this section on forms supplied or approved by the department. The report shall state information that is relevant to the enforcement action, including:

1. Information that adequately identifies the arrested person.

2. A statement of the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle in violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or committed a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. A statement that the person was arrested for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

4. A report of the results of the blood or breath alcohol test that was administered, if the results are available.

C. The officer shall also serve an order of suspension on the person on behalf of the department. The order of suspension:

1. Is effective fifteen days after the date it is served.

2. Shall require the immediate surrender of any license or permit to drive that is issued by this state and that is in the possession or control of the person.

3. Shall contain information concerning the right to a summary review and hearing, including information concerning the hearing as required by section 28-1321, subsections G and H.

4. Shall be accompanied by printed forms ready to mail to the department that the person may fill out and sign to indicate the person's desire for a hearing.

5. Shall be entered on the department's records on receipt of the report by the officer and a copy of the order of suspension.

6. Shall inform the person that the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege may be issued or reinstated following the period of suspension only if the person completes alcohol or other drug screening.

7. Shall contain information on alcohol or other drug education and treatment programs that are provided by a facility approved by the department of health services.

D. If the blood alcohol concentration test result is unavailable at the time the test is administered, the result shall be forwarded to the department before the hearing held pursuant to this section in a form prescribed by the director.

E. If the license or permit is not surrendered pursuant to subsection C of this section, the officer shall state the reason for the nonsurrender. If a valid license or permit is surrendered, the officer shall issue a temporary driving permit that is valid for fifteen days. The officer shall forward a copy of the completed order of suspension, a copy of any completed temporary permit and any driver license or permit taken into possession under this section to the department within five days after the issuance of the order of suspension along with the report.

F. The department shall suspend the affected person's license or permit to drive or right to apply for a license or permit or any nonresident operating privilege for not less than ninety consecutive days from that date. If the person is otherwise qualified, the department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

G. Notwithstanding subsections A through F of this section, the department shall suspend the driving privileges of the person described in subsection A of this section for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between the person's place of employment and residence and during specified periods of time while at employment, to travel between the person's place of residence and the person's secondary or postsecondary school, according to the person's

employment or educational schedule, to travel between the person's place of residence and the office of the person's probation officer for scheduled appointments or to travel between the person's place of residence and a screening, education or treatment facility for scheduled appointments if the person:

1. Did not cause ~~a~~ death or ~~a~~ serious physical injury as defined in section 13-105 to another person during the course of conduct out of which the current action arose.

2. Has not been convicted of a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 within eighty-four months of the date of commission of the acts out of which the current action arose. The dates of commission of the acts are the determining factor in applying the eighty-four month provision.

3. Has not had the person's privilege to drive suspended pursuant to this section or section 28-1321 within eighty-four months of the date of commission of the acts out of which the current action arose.

4. Provides satisfactory evidence to the department of the person's completion of alcohol or other drug screening that is ordered by the department. If the person does not complete alcohol or other drug screening, the department may impose a ninety day suspension pursuant to this section.

H. If the officer does not serve an order of suspension pursuant to subsection C of this section and if the department does not receive the report of the results of the blood or breath alcohol test pursuant to subsection B, paragraph 4 of this section, but subsequently receives the results and the results indicate 0.08 or more alcohol concentration in the person's blood or breath, or a blood or breath alcohol concentration of 0.04 or more and the person was driving or in actual physical control of a commercial motor vehicle, the department shall notify the person named in the report in writing sent by mail that fifteen days after the date of issuance of the notice the department will suspend the person's license or permit, driving privilege or nonresident driving privilege. The notice shall also state that the department will provide an opportunity for a hearing and administrative review if the person requests a hearing or review in writing and the request is received by the department within fifteen days after the notice is sent.

I. A timely request for a hearing stays the suspension until a hearing is held, except that the department shall not return any surrendered license or permit to the person but may issue temporary permits to drive that expire no later than when the department has made its final decision. If the person is a resident without a license or permit or has an expired license or permit, the department may allow the person to apply for a restricted license or permit. If the department determines the person is otherwise entitled to the restricted license or permit, the department shall issue, but retain, the license or permit, subject to this section. All hearings requested under

this section shall be conducted in the same manner and under the same conditions as provided in section 28-3306.

J. For the purposes of this section, the scope of the hearing shall include only the following issues:

1. Whether the officer had reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

2. Whether the person was placed under arrest for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381, section 28-1382 or section 28-1383 or for a violation of title 13, chapter 11 or section 13-1201 or 13-1204 involving a motor vehicle.

3. Whether a test was taken, the results of which indicated the alcohol concentration in the person's blood or breath at the time the test was administered of either:

(a) 0.08 or more.

(b) 0.04 or more if the person was driving or in actual physical control of a commercial motor vehicle.

4. Whether the testing method used was valid and reliable.

5. Whether the test results were accurately evaluated.

K. The results of the blood or breath alcohol test shall be admitted on establishing the requirements in section 28-1323 or 28-1326.

L. If the department determines at the hearing to suspend the affected person's privilege to operate a motor vehicle, the suspension provided in this section is effective fifteen days after giving written notice of the suspension, except that the department may issue or extend a temporary license that expires on the effective date of the suspension. If the person is a resident without a license or permit or has an expired license or permit to operate a motor vehicle in this state, the department shall deny the issuance of a license or permit to the person for not less than ninety consecutive days. The department may reinstate the person's driving privilege, license, permit, right to apply for a license or permit or nonresident operating privilege following the period of suspension only if the violator completes alcohol or other drug screening.

M. A person may apply for a summary review of an order issued pursuant to this section instead of a hearing at any time before the effective date of the order. The person shall submit the application in writing to any department driver license examining office together with any written explanation as to why the department should not suspend the driving privilege. The agent of the department receiving the notice shall issue to the person an additional driving permit that expires twenty days from the date the request is received. The department shall review all reports submitted by the officer and any written explanation submitted by the person and shall determine if the order of suspension should be sustained or cancelled. The department shall not hold a hearing, and the review is not

subject to title 41, chapter 6. The department shall notify the person of its decision before the temporary driving permit expires.

N. If the suspension or determination that there should be a denial of issuance is not sustained after a hearing or review, the ruling is not admissible in and does not have any effect on any civil or criminal court proceeding.

O. If it has been determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, the department shall give information either in writing or by electronic means of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

Sec. 11. Section 28-3320, Arizona Revised Statutes, is amended to read:

28-3320. Suspension of license for persons under eighteen years of age; notice; definition

A. In addition to the grounds for mandatory suspension or revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately suspend the driver license or privilege to drive or refuse to issue a driver license or privilege to drive of a person who commits an offense while under eighteen years of age as follows:

1. For a period of two years on receiving the record of the person's conviction for a violation of section 4-244, paragraph ~~33~~ 34, section 28-1381 or section 28-1382.

2. For a period of three years on receiving the record of the person's conviction for a violation of section 28-1383.

3. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of section 13-1602, subsection A, paragraph 1 or section 13-1604, subsection A involving the damage or disfigurement of property by graffiti.

4. Until the person's eighteenth birthday on receiving the record of the person's conviction of criminal damage pursuant to section 13-1602, subsection A, paragraph 5 or a violation of a city or town ordinance that prohibits the type of criminal action prescribed in section 13-1602, subsection A, paragraph 5.

5. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of any statute or ordinance involving the purchase or possession of materials used for graffiti.

6. Until the person's eighteenth birthday on receiving the record of the person's conviction for a violation of any provision of title 13, chapter 34.

7. Until the person's eighteenth birthday or for a period of two years on receiving the record of the person's conviction for a second or subsequent violation of section 4-244, paragraph 9, if ordered by the court.

8. Until the person's eighteenth birthday on receiving the record of the person's conviction of theft of a motor vehicle pursuant to section 13-1802, unlawful use of means of transportation pursuant to section 13-1803 or theft of means of transportation pursuant to section 13-1814.

B. If ordered by the court, the department shall restrict the person's privilege to drive between the person's home, school and place of employment during specified periods of time according to the person's school and employment schedule.

C. If a person commits an offense prescribed in subsection A, paragraph 1 of this section and the person's privilege to drive is restricted as prescribed in subsection B of this section, the department shall issue a special ignition interlock restricted driver license to the person pursuant to section 28-1401.

D. If ordered by the court pursuant to section 4-246, subsection ~~C~~ D, the department shall suspend the driving privilege of a person under ~~the age of~~ eighteen YEARS OF AGE for a period of up to one hundred eighty days on receiving the record of the person's first conviction for a violation of section 4-244, paragraph 9.

E. For the purposes of this section, "conviction" means a final conviction or judgment, including an order of the juvenile court finding that a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.

Sec. 12. Section 28-3322, Arizona Revised Statutes, is amended to read:

28-3322. <u>Suspension of license for persons eighteen, nineteen and twenty years of age; definition</u>

A. In addition to the grounds for mandatory suspension or revocation provided for in chapters 3, 4 and 5 of this title, the department shall immediately suspend the driver license or privilege to drive or refuse to issue a driver license or privilege to drive of a person who commits a violation of section 4-244, paragraph ~~33~~ 34 while the person is eighteen, nineteen or twenty years of age on receipt of the record of the person's conviction for a violation of section 4-244, paragraph ~~33~~ 34 for a period of two years.

B. If ordered by the court, the department shall restrict the person's privilege to drive between the person's home, school and place of employment during specified periods of time according to the person's school and employment schedule.

C. If a person's privilege to drive is restricted as prescribed in subsection B of this section, the department shall issue a special ignition interlock restricted driver license to the person pursuant to section 28-1401.

D. For the purposes of this section, "conviction" means a final conviction or judgment, including an order of the juvenile court finding that

a juvenile violated any provision of this title or committed a delinquent act that if committed by an adult would constitute a criminal offense.

Sec. 13. Section 28-3511, Arizona Revised Statutes, is amended to read:

28-3511. Removal and immobilization or impoundment of vehicle

A. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that a person is driving the vehicle while either of the following applies:

1. The person's driving privilege is suspended or revoked for any reason.

2. The person has not ever been issued a valid driver license or permit by this state and the person does not produce evidence of ever having a valid driver license or permit issued by another jurisdiction.

3. The person is subject to an ignition interlock device requirement pursuant to chapter 4 of this title and the person is operating a vehicle without a functioning certified ignition interlock device. This paragraph does not apply to a person operating an employer's vehicle or the operation of a vehicle due to a substantial emergency as defined in section 28-1464.

B. A peace officer shall cause the removal and impoundment of a vehicle if the peace officer determines that a person is driving the vehicle and if all of the following apply:

1. The person's driving privilege is canceled, suspended or revoked for any reason or the person has not ever been issued a driver license or permit by this state and the person does not produce evidence of ever having a driver license or permit issued by another jurisdiction.

2. The person is not in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

3. The person is driving a vehicle that is involved in an accident that results in either property damage or injury to or death of another person.

C. Except as provided in subsection D of this section, while a peace officer has control of the vehicle the peace officer shall cause the removal and either immobilization or impoundment of the vehicle if the peace officer has probable cause to arrest the driver of the vehicle for a violation of section 4-244, paragraph ~~33~~ 34 or section 28-1382 or 28-1383.

D. A peace officer shall not cause the removal and either the immobilization or impoundment of a vehicle pursuant to subsection C of this section if all of the following apply:

1. The peace officer determines that the vehicle is currently registered and that the driver or the vehicle is in compliance with the financial responsibility requirements of chapter 9, article 4 of this title.

2. The spouse of the driver is with the driver at the time of the arrest.

3. The peace officer has reasonable grounds to believe that the spouse of the driver:

(a) Has a valid driver license.

(b) Is not impaired by intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances.

(c) Does not have any spirituous liquor in the spouse's body if the spouse is under twenty-one years of age.

4. The spouse notifies the peace officer that the spouse will drive the vehicle from the place of arrest to the driver's home or other place of safety.

5. The spouse drives the vehicle as prescribed by paragraph 4 of this subsection.

E. Except as otherwise provided in this article, a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

F. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection A, B or C of this section, the spouse of the owner and each person identified on the department's record with an interest in the vehicle shall be provided with an opportunity for an immobilization or poststorage hearing pursuant to section 28-3514.

Sec. 14. Section 38-1102, Arizona Revised Statutes, is amended to read:

38-1102. Carrying of firearms by peace officers; exceptions; definitions

A. ~~This state, a county, a city or town or any other political subdivision of this state shall not prohibit~~ NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS PROVIDED PURSUANT TO SUBSECTION B OF THIS SECTION, a peace officer SHALL NOT BE PROHIBITED from carrying a firearm if the peace officer is in compliance with the firearm requirements prescribed by the Arizona peace officer standards and training board.

B. A peace officer may be prohibited from carrying a firearm as follows:

1. In a jail, correctional facility or juvenile detention facility.

2. By order of:

(a) The presiding judge or justice when attending any court that is established pursuant to the constitution of this state or title 12, except if the peace officer is providing court security or responding to an emergency.

(b) A justice court when attending the justice court, except if the peace officer is providing court security or responding to an emergency.

(c) A municipal court when attending the municipal court, except if the peace officer is providing court security or responding to an emergency.

3. When the peace officer is relieved of ~~the peace officer's duties~~ DUTY and is under a criminal or administrative investigation.

4. When in a secured police facility.

5. When consuming alcohol at a licensed liquor establishment operated by this state, a county, a city or town, or any other political subdivision of this state, except if the peace officer's employing agency authorizes the consumption of alcohol in the performance of the peace officer's duties.

6. In a location prohibited by federal law.

7. Pursuant to court order.

8. Pursuant to any state or federal law that makes the officer a prohibited possessor.

9. When in the judgment of the department head, or the department head's designee, the peace officer exhibits any impairment, including any physical or mental impairment that would cause concern for the well-being and safety of the officer, the officer's law enforcement agency, law enforcement agency employees or the community.

C. A law enforcement agency that employs a peace officer may establish rules that are consistent with this section. The law enforcement agency may determine the number, type, model, caliber and brand of firearm and the ammunition that is carried by its peace officers on or off duty.

D. This section does not create any civil liability for acting or failing to act.

E. For the purposes of this section:

1. "Firearm" has the same meaning prescribed in section 13-105.

2. "Peace officer" has the same meaning prescribed in section 1-215.

3. "Relieved of duty" means when a peace officer is no longer required to perform, either temporarily or permanently, the duties for which the officer was employed.

4. "Secured police facility" means a building or structure that is used primarily by a public agency and that is not accessible to the general public except by controlled access.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

On reconsideration

Passed the House June 30, 20 09,

by the following vote: 40 Ayes,

19 Nays, 1 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate June 16, 20 09,

by the following vote: 18 Ayes,

10 Nays, 2 Not Voting

without Emergency

President of the Senate

Charmion 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

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

S.B. 1113

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate July 1, 20 09

by the following vote: 19 Ayes,

8 Nays, 3 Not Voting

Robert L. Burns
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1st day of July, 20 09

at 10:15 o'clock A. M.

Susan K Myers
Secretary to the Governor

Approved this 13th day of

July 2009

at 9:22 o'clock A M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of July, 20 09

at 7:35 o'clock P M.

Ken Bennett
Secretary of State

S.B. ~~1313~~ 1113 RH