House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 52

HOUSE BILL 2300

AN ACT

AMENDING SECTIONS 13-3112 AND 38-1113, ARIZONA REVISED STATUTES; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

13-3112. Concealed weapons; qualification; application; permit to carry; civil penalty; report; applicability

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 is required by section 4-229 or 4-244 to carry the permit. If the person is in actual possession of the concealed weapon and is required by section 4-229 or 4-244 to carry the permit, the person shall present the permit for inspection to any law enforcement officer on request.

B. 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.

C. A permittee who carries a concealed weapon, who is required by section 4-229 or 4-244 to carry a permit and who fails to present the permit for inspection on the request of a law enforcement officer commits a violation of this subsection and is subject to a civil penalty of not more than three hundred dollars. The department of public safety shall be notified of all violations of this subsection and shall immediately suspend the permit. 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 permittee failed to present the permit for inspection.

D. A law enforcement officer shall not confiscate or forfeit a weapon that is otherwise lawfully possessed by a permittee whose permit is suspended pursuant to subsection C of this section, except that a law enforcement officer may take temporary custody of a firearm during an investigatory stop of the permittee.

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 or is at least nineteen years of age and provides evidence of current military service or proof of honorable discharge or general discharge under honorable conditions from the United States armed forces, THE United States armed forces reserve or a state national guard.

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 demonstrated competence with a firearm as prescribed by subsection N of this section and provides adequate documentation that the person has satisfactorily completed a training program or demonstrated competence with a firearm in any state or political subdivision in the United States. For the purposes of this paragraph, "adequate documentation" means:

(a) A current or expired permit issued by the department of public safety pursuant to this section.

(b) An original or copy of a certificate, card or document that shows the applicant has ever completed any course or class prescribed by subsection N of this section or an affidavit from the instructor, school, club or organization that conducted or taught the course or class attesting to the applicant's completion of the course or class.

(c) An original or a copy of a United States department of defense form 214 (DD-214) indicating an honorable discharge or general discharge under honorable conditions, a certificate of completion of basic training or any other document demonstrating proof of the applicant's current or former service in the United States armed forces as prescribed by subsection N, paragraph 5 of this section.

(d) An original or a copy of a concealed weapon, firearm or handgun permit or a license as prescribed by subsection N, paragraph 6 of this section.

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, that the applicant has been furnished a copy of this chapter and chapter 4 of this title and that the applicant is knowledgeable about the provisions contained in those chapters. The applicant shall submit the application to the department with any documentation prescribed by subsection E of this section, 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. For the purposes of this subsection, "receipt of the application" means the first day that the department has physical control of the application and that is presumed to be on the date of delivery as evidenced by proof of delivery by the United States postal service or a written receipt, which shall be provided by the department on request of the applicant.

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 is contacted by a law enforcement officer and 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. A criminal justice agency shall not use the computerized permit record system to conduct inquiries on whether a person is a concealed weapons permit holder unless the criminal justice agency has reasonable suspicion to believe the person is carrying a concealed weapon and the person is subject to a lawful criminal investigation, arrest, detention or an investigatory stop.

K. 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.

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

M. 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.

N. An applicant shall demonstrate competence with a firearm through any of the following:

1. Completion of any firearms safety or training course or class that is available to the general public, that is offered by a law enforcement agency, a junior college, a college or a private or public institution, academy, organization or firearms training school and that is approved by the department of public safety or that uses instructors who are certified by the national rifle association.

2. Completion of any hunter education or hunter safety course approved by the Arizona game and fish department or a similar agency of another state.

3. Completion of any national rifle association firearms safety or training course.

4. Completion of any law enforcement firearms safety or training course or class that is offered for security guards, investigators, special deputies or other divisions or subdivisions of law enforcement or security enforcement and that is approved by the department of public safety.

5. Evidence of current military service or proof of honorable discharge or general discharge under honorable conditions from the United States armed forces.

6. A valid current or expired concealed weapon, firearm or handgun permit or license that is issued by another state or a political subdivision of another state and that has a training or testing requirement for initial issuance.

7. Completion of any governmental police agency firearms training course and qualification to carry a firearm in the course of normal police duties.

8. Completion of any other firearms safety or training course or class that is conducted by a department of public safety approved or national rifle association certified firearms instructor.

O. 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.

P. The director of the department of public safety shall adopt rules for the purpose of implementing and administering this section including fees relating to permits that are issued pursuant to this section.

Q. 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) Legally present in this state.

(b) Not legally prohibited from possessing a firearm in this state.

R. 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.

S. 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 that conviction is expunged, set aside or vacated or the person's rights have been restored and the person is currently not a prohibited possessor under state or federal law.

T. 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 OR PROSECUTORIAL agency shall issue to a QUALIFIED RETIRED law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. A PERSON WHO WAS A MUNICIPAL, COUNTY OR STATE PROSECUTOR IS DEEMED TO MEET THE QUALIFICATIONS OF 18 UNITED STATES CODE SECTION 926C(c)(2). The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement OR PROSECUTORIAL 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. FOR THE PURPOSES OF THIS SUBSECTION, "QUALIFIED RETIRED LAW ENFORCEMENT OFFICER" HAS THE SAME MEANING PRESCRIBED IN 18 UNITED STATES CODE SECTION 926C.

U. The initial and renewal application fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the concealed weapons permit fund established by section 41-1722.

Sec. 2. Section 38-1113, Arizona Revised Statutes, is amended to read:

38-1113. <u>Carrying of firearms by peace officers; exceptions; definitions</u>

A. Notwithstanding any other law and except as provided pursuant to subsection C 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. Notwithstanding any other law and except as provided pursuant to subsection C, paragraphs 1, 2, 4, 5, 6, 7 and 8 of this section, a retired peace officer shall not be prohibited from carrying a firearm.

C. A peace officer or retired peace officer may be prohibited from carrying a firearm as follows:

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

2. Except for peace officers acting in their official capacity and carrying official peace officer identification, 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 or retired 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 or retired 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 or retired peace officer is providing court security or responding to an emergency.

3. When the peace officer is relieved of 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, except if a 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.

D. 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.

E. A presiding judge may establish rules or policies that are consistent with this section for the protection of the court.

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

G. 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 AND INCLUDES MUNICIPAL, COUNTY AND STATE PROSECUTORS WHO ANNUALLY PASS A PISTOL QUALIFYING EXAMINATION APPROVED BY THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD FOR OBTAINING AND MAINTAINING PEACE OFFICER CERTIFICATION REQUIREMENTS AND THAT IS CONDUCTED BY AN ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD RECOGNIZED INSTRUCTOR OR A NATIONAL RIFLE ASSOCIATION CERTIFIED FIREARMS INSTRUCTOR.

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. "Retired peace officer" means 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.

5. "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 MARCH 23, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2015.

Passed the House February 17, 2015

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 17, 2015

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

19th day of March, 2015

at 8:35 o'clock A. M.

Secretary to the Governor

Approved this 23rd day of

March

at 10:45 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 23rd day of March, 2015

at 4:30 o'clock P. M.

Secretary of State

H.B. 2300