

REFERENCE TITLE: **concealed weapons; petty offense**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2630

Introduced by
Representatives Pearce, Barnes, Burges, Kavanagh, McClure, Senators
Harper, Johnson: Representatives Biggs, Brown, Clark, Crump, Driggs,
Farnsworth, Groe, McComish, Murphy, Nelson, Nichols, Tobin, Weiers JP,
Senator Gould

AN ACT

AMENDING SECTIONS 13-3102 AND 13-3105, ARIZONA REVISED STATUTES; RELATING TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-3102, Arizona Revised Statutes, is amended to
3 read:
4 13-3102. Misconduct involving weapons; defenses;
5 classification; definitions
6 A. A person commits misconduct involving weapons by knowingly:
7 1. Carrying a deadly weapon without a permit pursuant to section
8 13-3112 except a pocket knife concealed on his person; or
9 2. Carrying a deadly weapon without a permit pursuant to section
10 13-3112 concealed within immediate control of any person in or on a means of
11 transportation; or
12 3. Manufacturing, possessing, transporting, selling or transferring a
13 prohibited weapon; or
14 4. Possessing a deadly weapon or prohibited weapon if such person is a
15 prohibited possessor; or
16 5. Selling or transferring a deadly weapon to a prohibited possessor;
17 or
18 6. Defacing a deadly weapon; or
19 7. Possessing a defaced deadly weapon knowing the deadly weapon was
20 defaced; or
21 8. Using or possessing a deadly weapon during the commission of any
22 felony offense included in chapter 34 of this title; or
23 9. Discharging a firearm at an occupied structure in order to assist,
24 promote or further the interests of a criminal street gang, a criminal
25 syndicate or a racketeering enterprise; or
26 10. Unless specifically authorized by law, entering any public
27 establishment or attending any public event and carrying a deadly weapon on
28 his person after a reasonable request by the operator of the establishment or
29 the sponsor of the event or the sponsor's agent to remove his weapon and
30 place it in the custody of the operator of the establishment or the sponsor
31 of the event for temporary and secure storage of the weapon pursuant to
32 section 13-3102.01; or
33 11. Unless specifically authorized by law, entering an election polling
34 place on the day of any election carrying a deadly weapon; or
35 12. Possessing a deadly weapon on school grounds; or
36 13. Unless specifically authorized by law, entering a nuclear or
37 hydroelectric generating station carrying a deadly weapon on his person or
38 within the immediate control of any person; or
39 14. Supplying, selling or giving possession or control of a firearm to
40 another person if the person knows or has reason to know that the other
41 person would use the firearm in the commission of any felony; or
42 15. Using, possessing or exercising control over a deadly weapon in
43 furtherance of any act of terrorism as defined in section 13-2301 or
44 possessing or exercising control over a deadly weapon knowing or having

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 F. Subsection A, paragraph 1 of this section shall not apply to a
41 weapon or weapons carried in a belt holster ~~which holster~~ THAT is wholly or
42 partially visible, ~~or~~ carried in a scabbard or case designed for carrying
43 weapons ~~which scabbard or case~~ THAT is wholly or partially visible or carried
44 in luggage. Subsection A, paragraph 2 of this section shall not apply to a
45 weapon or weapons carried in a case, holster, scabbard, pack or luggage that

1 is carried within a means of transportation or within a storage compartment,
2 map pocket, trunk or glove compartment of a means of transportation.

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

6 H. Subsection A, paragraph 3 of this section shall not apply to a
7 weapon described in section 13-3101, subsection A, paragraph 7, subdivision
8 (e), if such weapon is possessed for the purposes of preparing for,
9 conducting or participating in lawful exhibitions, demonstrations, contests
10 or athletic events involving the use of such weapon. Subsection A, paragraph
11 12 of this section shall not apply to a weapon if such weapon is possessed
12 for the purposes of preparing for, conducting or participating in hunter or
13 firearm safety courses.

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

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

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

23 J. The operator of the establishment or the sponsor of the event or
24 the employee of the operator or sponsor or the agent of the sponsor,
25 including a public entity or public employee, is not liable for acts or
26 omissions pursuant to subsection A, paragraph 10 of this section unless the
27 operator, sponsor, employee or agent intended to cause injury or was grossly
28 negligent.

29 K. Misconduct involving weapons under subsection A, paragraph 9, 14 or
30 15 of this section is a class 3 felony. Misconduct involving weapons under
31 subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4 felony.
32 Misconduct involving weapons under subsection A, paragraph 12 of this section
33 is a class 1 misdemeanor unless the violation occurs in connection with
34 conduct ~~which~~ THAT violates ~~the provisions of~~ section 13-2308, subsection A,
35 paragraph 5, section 13-2312, subsection C, section 13-3409 or section
36 13-3411, in which case the offense is a class 6 felony. Misconduct involving
37 weapons under subsection A, paragraph 5, 6 or 7 of this section is a class 6
38 felony. Misconduct involving weapons under subsection A, paragraph ~~1, 2,~~ 10
39 or 11 of this section is a class 1 misdemeanor. MISCONDUCT INVOLVING WEAPONS
40 UNDER SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION IS A PETTY OFFENSE
41 UNLESS THE VIOLATION OCCURS IN THE COMMISSION OR ATTEMPTED COMMISSION OF:

42 1. A SERIOUS OFFENSE AS DEFINED IN SECTION 13-604 OR A VIOLENT CRIME
43 AS DEFINED IN SECTION 13-604.04, IN WHICH CASE THE OFFENSE IS A CLASS 6
44 FELONY.

1 2. ANY OTHER FELONY OFFENSE, IN WHICH CASE THE OFFENSE IS A CLASS 1
2 MISDEMEANOR.

3 L. For the purposes of this section:

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

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

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

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

14 Sec. 2. Section 13-3105, Arizona Revised Statutes, is amended to read:
15 13-3105. Forfeiture of weapons and explosives

16 A. ~~Upon~~ ON the conviction of any person for ~~the~~ A violation of any
17 felony in this state in which a deadly weapon, dangerous instrument or
18 explosive was used, displayed or unlawfully possessed by ~~such~~ THE person, the
19 court shall order the article forfeited and sold, destroyed or otherwise
20 properly disposed.

21 B. ~~Upon~~ ON the conviction of any person for ~~the~~ A violation of section
22 13-2904, subsection A, paragraph 6 or section 13-3102, subsection A,
23 paragraph 1, 2, 8 or 10, the court may order the forfeiture of the deadly
24 weapon or dangerous instrument involved in the offense, EXCEPT THAT THE COURT
25 SHALL NOT ORDER THE FORFEITURE OF THE DEADLY WEAPON INVOLVED IN THE OFFENSE
26 IF THE PERSON WAS CONVICTED OF A PETTY OFFENSE UNDER SECTION 13-3102,
27 SUBSECTION A, PARAGRAPH 1 OR 2.

28 C. If at any time the court finds pursuant to rule 11 of the Arizona
29 rules of criminal procedure that a person who is charged with a violation of
30 this title is incompetent, the court shall order that any deadly weapon,
31 dangerous instrument or explosive used, displayed or unlawfully possessed by
32 the person during the commission of the alleged offense be forfeited and
33 sold, destroyed or otherwise properly disposed.