

REFERENCE TITLE: schools; parents; firearm possession

State of Arizona
Senate
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SB 1331

Introduced by
Senators Shamp: Carroll, Gowan, Hoffman, Rogers, Shope, Wadsack;
Representative Smith

AN ACT

AMENDING SECTIONS 13-2911 AND 13-3102, ARIZONA REVISED STATUTES; RELATING
TO WEAPONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-2911, Arizona Revised Statutes, is amended to
3 read:

4 13-2911. Interference with or disruption of an educational
5 institution; violation; classification;
6 definitions

7 A. A person commits interference with or disruption of an
8 educational institution by doing any of the following:

9 1. Intentionally, knowingly or recklessly interfering with or
10 disrupting the normal operations of an educational institution by either:

11 (a) Threatening to cause physical injury to any employee or student
12 of an educational institution or any person on the property of an
13 educational institution.

14 (b) Threatening to cause damage to any educational institution, the
15 property of any educational institution or the property of any employee or
16 student of an educational institution.

17 2. Intentionally or knowingly entering or remaining on the property
18 of any educational institution for the purpose of interfering with the
19 lawful use of the property or in any manner as to deny or interfere with
20 the lawful use of the property by others.

21 3. Intentionally or knowingly refusing to obey a lawful order given
22 pursuant to subsection C of this section.

23 B. To constitute a violation of this section, the acts that are
24 prohibited by subsection A, paragraph 1 of this section are not required
25 to be directed at a specific individual, a specific educational
26 institution or any specific property of an educational institution.

27 C. The chief administrative officer of an educational institution
28 or an officer or employee designated by the chief administrative officer
29 to maintain order may order a person to leave the property of the
30 educational institution if the officer or employee has reasonable grounds
31 to believe either that:

32 1. Any person or persons are committing any act that interferes
33 with or disrupts the lawful use of the property by others at the
34 educational institution.

35 2. Any person has entered on the property of an educational
36 institution for the purpose of committing any act that interferes with or
37 disrupts the lawful use of the property by others at the educational
38 institution.

39 D. The appropriate governing board of every educational institution
40 shall adopt rules pursuant to title 41, chapter 6 for the maintenance of
41 public order on all property of any educational institution under its
42 jurisdiction that is used for educational purposes and shall provide a
43 program for the enforcement of its rules. The rules shall govern the
44 conduct of students, faculty and other staff and all members of the public
45 while on the property of the educational institution. Penalties for

1 violations of the rules shall be clearly set forth and enforced.
2 Penalties shall include provisions for the ejection of a violator from the
3 property and, in the case of a student, faculty member or other staff
4 violator, the violator's suspension or expulsion or any other appropriate
5 disciplinary action. A governing board shall amend its rules as necessary
6 to ensure the maintenance of public order. Any deadly weapon, dangerous
7 instrument or explosive that is used, displayed or possessed by a person
8 in violation of a rule adopted pursuant to this subsection shall be
9 forfeited and sold or otherwise disposed of pursuant to section 13-3105
10 and chapter 39 of this title. This subsection does not do either of the
11 following:

12 1. Preclude school districts from conducting approved gun safety
13 programs on school campuses.

14 2. Apply to private universities, colleges, high schools or common
15 schools or other private educational institutions.

16 E. An educational institution is not eligible to receive any state
17 aid or assistance unless rules are adopted in accordance with this
18 section.

19 F. This section does not prevent or limit the authority of the
20 governing board of any educational institution to discharge any employee
21 or expel, suspend or otherwise punish any student for any violation of its
22 rules, even though the violation is unlawful under this chapter or is
23 otherwise an offense.

24 G. This section may be enforced by any peace officer in this state
25 wherever and whenever a violation occurs.

26 H. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, THE GOVERNING
27 BOARD OF AN EDUCATIONAL INSTITUTION MAY NOT ADOPT OR ENFORCE ANY POLICY OR
28 RULE THAT RESTRICTS OR PROHIBITS THE PARENT OF A STUDENT OF THE
29 EDUCATIONAL INSTITUTION FROM CARRYING OR TRANSPORTING A FIREARM ON THE
30 PROPERTY OF AND IN AN EDUCATIONAL INSTITUTION IF THE PARENT POSSESSES A
31 VALID CONCEALED WEAPONS PERMIT ISSUED PURSUANT TO SECTION 13-3112.

32 ~~H.~~ I. Restitution under sections 8-341, 8-345 and 13-603 applies
33 to any financial loss that is suffered by a person or educational
34 institution as a result of a violation of this section.

35 ~~I.~~ J. Notwithstanding section 15-341 and subsection D of this
36 section, the governing board of an educational institution may not adopt
37 or enforce any policy or rule that prohibits the lawful possession or
38 carrying of a deadly weapon on a public right-of-way by a person or on or
39 within a person's means of transportation.

40 ~~J.~~ K. Interference with or disruption of an educational
41 institution pursuant to subsection A, paragraph 1 of this section is a
42 class 6 felony. Interference with or disruption of an educational
43 institution pursuant to subsection A, paragraph 2 or 3 of this section is
44 a class 1 misdemeanor.

1 ~~K~~. L. For the purposes of this section:

2 1. "Educational institution" means, except as otherwise provided,
3 any university, college, community college, high school or common school
4 in this state.

5 2. "Governing board" means the body, whether appointed or elected,
6 that has responsibility for the maintenance and government of an
7 educational institution.

8 3. "Interference with or disruption of" includes any act that might
9 reasonably lead to the evacuation or closure of any property of the
10 educational institution or the postponement, cancellation or suspension of
11 any class or other school activity. For the purposes of this paragraph,
12 an actual evacuation, closure, postponement, cancellation or suspension is
13 not required for the act to be considered an interference or disruption.

14 4. "Property of an educational institution" means all land,
15 buildings and other facilities that are owned, operated or controlled by
16 the governing board of an educational institution and that are devoted to
17 educational purposes.

18 5. "Public right-of-way" means any highway, street, road,
19 thoroughfare, path, alley or other right-of-way that is publicly
20 accessible and that is established and maintained by this state or a
21 political subdivision of this state. Public right-of-way does not include
22 property of an educational institution.

23 Sec. 2. Section 13-3102, Arizona Revised Statutes, is amended to
24 read:

25 13-3102. Misconduct involving weapons; defenses;
26 classification; definitions

27 A. A person commits misconduct involving weapons by knowingly:

28 1. Carrying a deadly weapon except a pocket knife concealed on his
29 person or within his immediate control in or on a means of transportation:

30 (a) In the furtherance of a serious offense as defined in section
31 13-706, a violent crime as defined in section 13-901.03 or any other
32 felony offense; or

33 (b) When contacted by a law enforcement officer and failing to
34 accurately answer the officer if the officer asks whether the person is
35 carrying a concealed deadly weapon; or

36 2. Carrying a deadly weapon except a pocket knife concealed on his
37 person or concealed within his immediate control in or on a means of
38 transportation if the person is under twenty-one years of age; or

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

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

- 1 5. Selling or transferring a deadly weapon to a prohibited
2 possessor; or
- 3 6. Defacing a deadly weapon; or
- 4 7. Possessing a defaced deadly weapon knowing the deadly weapon was
5 defaced; or
- 6 8. Using or possessing a deadly weapon during the commission of any
7 felony offense included in chapter 34 of this title; or
- 8 9. Discharging a firearm at an occupied structure in order to
9 assist, promote or further the interests of a criminal street gang, a
10 criminal syndicate or a racketeering enterprise; or
- 11 10. Unless specifically authorized by law, entering any public
12 establishment or attending any public event and carrying a deadly weapon
13 on his person after a reasonable request by the operator of the
14 establishment or the sponsor of the event or the sponsor's agent to remove
15 his weapon and place it in the custody of the operator of the
16 establishment or the sponsor of the event for temporary and secure storage
17 of the weapon pursuant to section 13-3102.01; or
- 18 11. Unless specifically authorized by law, entering an election
19 polling place on the day of any election carrying a deadly weapon; or
- 20 12. Possessing a deadly weapon on school grounds; or
- 21 13. Unless specifically authorized by law, entering a nuclear or
22 hydroelectric generating station carrying a deadly weapon on his person or
23 within the immediate control of any person; or
- 24 14. Supplying, selling or giving possession or control of a firearm
25 to another person if the person knows or has reason to know that the other
26 person would use the firearm in the commission of any felony; or
- 27 15. Using, possessing or exercising control over a deadly weapon in
28 furtherance of any act of terrorism as defined in section 13-2301 or
29 possessing or exercising control over a deadly weapon knowing or having
30 reason to know that it will be used to facilitate any act of terrorism as
31 defined in section 13-2301; or
- 32 16. Trafficking in weapons or explosives for financial gain in order
33 to assist, promote or further the interests of a criminal street gang, a
34 criminal syndicate or a racketeering enterprise.
- 35 B. Subsection A, paragraph 2 of this section shall not apply to:
 - 36 1. A person in his dwelling, on his business premises or on real
37 property owned or leased by that person or that person's parent,
38 grandparent or legal guardian.
 - 39 2. A member of the sheriff's volunteer posse or reserve
40 organization who has received and passed firearms training that is
41 approved by the Arizona peace officer standards and training board and who
42 is authorized by the sheriff to carry a concealed weapon pursuant to
43 section 11-441.

1 3. A firearm that is carried in:

2 (a) A manner where any portion of the firearm or holster in which
3 the firearm is carried is visible.

4 (b) A holster that is wholly or partially visible.

5 (c) A scabbard or case designed for carrying weapons that is wholly
6 or partially visible.

7 (d) Luggage.

8 (e) A case, holster, scabbard, pack or luggage that is carried
9 within a means of transportation or within a storage compartment, map
10 pocket, trunk or glove compartment of a means of transportation.

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

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

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

18 3. A warden, deputy warden, community correctional officer,
19 detention officer, special investigator or correctional officer of the
20 state department of corrections or the department of juvenile corrections;
21 or

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

24 D. Subsection A, paragraph 10 of this section does not apply to an
25 elected or appointed judicial officer in the court facility where the
26 judicial officer works if the judicial officer has demonstrated competence
27 with a firearm as prescribed in section 13-3112, subsection N, except that
28 the judicial officer shall comply with any rule or policy adopted by the
29 presiding judge of the superior court while in the court facility. For
30 the purposes of this subsection, appointed judicial officer does not
31 include a hearing officer or a judicial officer pro tempore who is not a
32 full-time officer.

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

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

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

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

- 1 2. The regular and lawful transporting as merchandise; or
- 2 3. Acquisition by a person by operation of law such as by gift,
- 3 devise or descent or in a fiduciary capacity as a recipient of the
- 4 property or former property of an insolvent, incapacitated or deceased
- 5 person.

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

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

18 H. Subsection A, paragraph 12 of this section shall not apply to
19 EITHER OF THE FOLLOWING:

20 1. A weapon if ~~such~~ THE weapon is possessed for the purposes of
21 preparing for, conducting or participating in hunter or firearm safety
22 courses.

23 2. A PARENT OF A STUDENT WHO IS ENROLLED IN THE SCHOOL IF THE
24 PARENT POSSESSES A VALID CONCEALED WEAPONS PERMIT ISSUED PURSUANT TO
25 SECTION 13-3112.

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

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

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

35 3. Firearm by a person who possesses a certificate of firearms
36 proficiency pursuant to section 13-3112, subsection T and who is
37 authorized to carry a concealed firearm pursuant to the law enforcement
38 officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States
39 Code sections 926B and 926C).

40 J. Subsection A, paragraphs 2, 3, 7 and 13 of this section shall
41 not apply to commercial nuclear generating station armed nuclear security
42 guards during the performance of official duties or during any security
43 training exercises sponsored by the commercial nuclear generating station
44 or local, state or federal authorities.

1 K. The operator of the establishment or the sponsor of the event or
2 the employee of the operator or sponsor or the agent of the sponsor,
3 including a public entity or public employee, is not liable for acts or
4 omissions pursuant to subsection A, paragraph 10 of this section unless
5 the operator, sponsor, employee or agent intended to cause injury or was
6 grossly negligent.

7 L. If a law enforcement officer contacts a person who is in
8 possession of a firearm, the law enforcement officer may take temporary
9 custody of the firearm for the duration of that contact.

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

26 N. For the purposes of this section:

27 1. "Contacted by a law enforcement officer" means a lawful traffic
28 or criminal investigation, arrest or detention or an investigatory stop by
29 a law enforcement officer that is based on reasonable suspicion that an
30 offense has been or is about to be committed.

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

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

39 4. "School" means a public or nonpublic kindergarten program,
40 common school or high school.

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