

REFERENCE TITLE: prohibited possessors; gun storage

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

HB 2430

Introduced by
Representative Gallardo

AN ACT

AMENDING SECTION 13-3101, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3114; 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 13-3101, Arizona Revised Statutes, is amended to
3 read:
4 13-3101. Definitions
5 A. In this chapter, unless the context otherwise requires:
6 1. "Deadly weapon" means anything that is designed for lethal
7 use. The term includes a firearm.
8 2. "Deface" means to remove, alter or destroy the manufacturer's
9 serial number.
10 3. "Explosive" means any dynamite, nitroglycerine, black powder or
11 other similar explosive material, including plastic explosives. Explosive
12 does not include ammunition or ammunition components such as primers,
13 percussion caps, smokeless powder, black powder and black powder substitutes
14 used for hand loading purposes.
15 4. "Firearm" means any loaded or unloaded handgun, pistol, revolver,
16 rifle, shotgun or other weapon that will expel, is designed to expel or may
17 readily be converted to expel a projectile by the action of an explosive.
18 Firearm does not include a firearm in permanently inoperable condition.
19 5. "Occupied structure" means any building, object, vehicle,
20 watercraft, aircraft or place with sides and a floor that is separately
21 securable from any other structure attached to it, that is used for lodging,
22 business, transportation, recreation or storage and in which one or more
23 human beings either are or are likely to be present or so near as to be in
24 equivalent danger at the time the discharge of a firearm occurs. Occupied
25 structure includes any dwelling house, whether occupied, unoccupied or
26 vacant.
27 6. "Prohibited possessor" means any person:
28 (a) Who has been found to constitute a danger to himself or to others
29 pursuant to court order under section 36-540, and whose court ordered
30 treatment has not been terminated by court order.
31 (b) Who has been convicted within or without this state of a felony or
32 who has been adjudicated delinquent for a felony and whose civil right to
33 possess or carry a gun or firearm has not been restored.
34 (c) Who is at the time of possession serving a term of imprisonment in
35 any correctional or detention facility.
36 (d) Who is at the time of possession serving a term of probation
37 pursuant to a conviction for a domestic violence offense as defined in
38 section 13-3601 or a felony offense, parole, community supervision, work
39 furlough, home arrest or release on any other basis or who is serving a term
40 of probation or parole pursuant to the interstate compact under title 31,
41 chapter 3, article 4.
42 (e) Who is a prohibited possessor under 18 United States Code section
43 922(g)(5), except as provided by 18 United States Code section 922(y).
44 (f) WHO HAS BEEN CONVICTED OF A VIOLATION OF SECTION 13-3114.

1 7. "Prohibited weapon" means, but does not include fireworks imported,
2 distributed or used in compliance with state laws or local ordinances, any
3 propellant, propellant actuated devices or propellant actuated industrial
4 tools that are manufactured, imported or distributed for their intended
5 purposes or a device that is commercially manufactured primarily for the
6 purpose of illumination, including any of the following:

7 (a) Explosive, incendiary or poison gas:

8 (i) Bomb.

9 (ii) Grenade.

10 (iii) Rocket having a propellant charge of more than four ounces.

11 (iv) Mine.

12 (b) Device that is designed, made or adapted to muffle the report of a
13 firearm.

14 (c) Firearm that is capable of shooting more than one shot
15 automatically, without manual reloading, by a single function of the trigger.

16 (d) Rifle with a barrel length of less than sixteen inches, or shotgun
17 with a barrel length of less than eighteen inches, or any firearm that is
18 made from a rifle or shotgun and that, as modified, has an overall length of
19 less than twenty-six inches.

20 (e) Instrument, including a nunchaku, that consists of two or more
21 sticks, clubs, bars or rods to be used as handles, connected by a rope, cord,
22 wire or chain, in the design of a weapon used in connection with the practice
23 of a system of self-defense.

24 (f) Breakable container that contains a flammable liquid with a flash
25 point of one hundred fifty degrees Fahrenheit or less and that has a wick or
26 similar device capable of being ignited.

27 (g) Chemical or combination of chemicals, compounds or materials,
28 including dry ice, that is placed in a sealed or unsealed container for the
29 purpose of generating a gas to cause a mechanical failure, rupture or
30 bursting of the container.

31 (h) Combination of parts or materials that is designed and intended
32 for use in making or converting a device into an item set forth in
33 subdivision (a) or (f) of this paragraph.

34 B. The items set forth in subsection A, paragraph 7, subdivisions (a),
35 (b), (c) and (d) of this section do not include any firearms or devices that
36 are registered in the national firearms registry and transfer records of the
37 United States treasury department or any firearm that has been classified as
38 a curio or relic by the United States treasury department.

39 Sec. 2. Title 13, chapter 31, Arizona Revised Statutes, is amended by
40 adding section 13-3114, to read:

41 13-3114. Misconduct involving storage of loaded firearms;
42 liability; classification

43 A. IT IS UNLAWFUL FOR A PERSON TO STORE OR KEEP ANY LOADED FIREARM ON
44 ANY PREMISES UNDER THE PERSON'S CONTROL IF THE PERSON KNOWS OR REASONABLY

1 SHOULD KNOW THAT A MINOR IS LIKELY TO GAIN ACCESS TO THE FIREARM WITHOUT THE
2 PERMISSION OF THE MINOR'S PARENT OR GUARDIAN, UNLESS THE PERSON EITHER:
3 1. KEEPS THE FIREARM IN A SECURELY LOCKED BOX OR OTHER CONTAINER OR IN
4 A LOCATION THAT A REASONABLE PERSON WOULD BELIEVE TO BE SECURE.
5 2. CARRIES THE FIREARM ON HIS PERSON OR WITHIN SUCH CLOSE PROXIMITY TO
6 HIS PERSON THAT THE PERSON CAN READILY RETRIEVE AND USE THE FIREARM AS IF IT
7 WAS CARRIED ON HIS PERSON.
8 B. THIS SECTION DOES NOT APPLY IF THE MINOR OBTAINS THE FIREARM AS A
9 RESULT OF AN UNLAWFUL ENTRY TO ANY PREMISES BY ANY PERSON.
10 C. A PERSON WHO FAILS TO SECURELY STORE OR KEEP A LOADED FIREARM IN
11 VIOLATION OF SUBSECTION A IS STRICTLY LIABLE FOR DAMAGES IF A MINOR OBTAINS
12 THE FIREARM AND CAUSES INJURY OR DEATH TO HIMSELF OR ANOTHER PERSON EXCEPT
13 THAT THE PERSON IS NOT LIABLE IF THE PERSON FILED A POLICE REPORT BEFORE THE
14 INJURY TO OR DEATH OF A MINOR OR OTHER PERSON OCCURRED AND THE POLICE REPORT
15 SHOWS THAT THE FIREARM WAS STOLEN.
16 D. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT
17 IF A MINOR OBTAINS A FIREARM THAT IS STORED OR KEPT IN VIOLATION OF
18 SUBSECTION A AND THE MINOR EITHER:
19 1. KILLS HIMSELF OR ANOTHER PERSON, IT IS A CLASS 3 FELONY.
20 2. INJURES HIMSELF OR ANOTHER PERSON, IT IS A CLASS 4 FELONY.