

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO H.B. 2439  
(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

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, except that if the violation involves dry ice, a person  
14 commits misconduct involving weapons by knowingly possessing the dry ice with  
15 the intent to cause injury to or death of another person or to cause damage  
16 to the property of another person; or

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

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

21 6. Defacing a deadly weapon; or

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

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

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

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

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

13           12. Possessing a deadly weapon on school grounds; or

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

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

20           15. Using, possessing or exercising control over a deadly weapon in  
21 furtherance of any act of terrorism as defined in section 13-2301 or  
22 possessing or exercising control over a deadly weapon knowing or having  
23 reason to know that it will be used to facilitate any act of terrorism as  
24 defined in section 13-2301.

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

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

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

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

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

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

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

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

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

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

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

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

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

31           F. Subsection A, paragraph 1 of this section shall not apply to a  
32 weapon or weapons:

1           1. Carried in a ~~belt holster that is wholly or partially~~ MANNER WHERE  
2 ANY PORTION OF THE WEAPON OR HOLSTER IN WHICH THE WEAPON IS CARRIED IS  
3 visible. ~~, or~~

4           2. Carried in a scabbard or case designed for carrying weapons ~~that is~~  
5 ~~wholly or partially~~ AND ANY PORTION OF THE WEAPON, SCABBARD OR CASE IS  
6 visible. ~~or~~

7           3. Carried in luggage.

8           G. Subsection A, paragraph 2 of this section shall not apply to a  
9 weapon or weapons carried in a case, holster, CLOSED PURSE, scabbard, pack or  
10 luggage that is carried within a means of transportation or within a storage  
11 compartment, map pocket, trunk or glove compartment of a means of  
12 transportation.

13 ~~G.~~ H. Subsection A, paragraph 10 of this section shall not apply to:

14           1. Shooting ranges or shooting events, hunting areas or similar  
15 locations or activities.

16           2. A PERSON WHO POSSESSES A VALID PERMIT PURSUANT TO SECTION 13-3112  
17 UNLESS THE PUBLIC ESTABLISHMENT OR PUBLIC EVENT IS A SECURED POLICE FACILITY.

18 ~~H.~~ I. Subsection A, paragraph 3 of this section shall not apply to a  
19 weapon described in section 13-3101, subsection A, paragraph 8, subdivision  
20 (a), item (v), if such weapon is possessed for the purposes of preparing for,  
21 conducting or participating in lawful exhibitions, demonstrations, contests  
22 or athletic events involving the use of such weapon. Subsection A, paragraph  
23 12 of this section shall not apply to a weapon if such weapon is possessed  
24 for the purposes of preparing for, conducting or participating in hunter or  
25 firearm safety courses.

26 ~~I.~~ J. 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 the  
31 outside of the means of transportation and the means of transportation shall  
32 be locked.

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

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

9           ~~K.~~ L. Misconduct involving weapons under subsection A, paragraph 9,  
10 14 or 15 of this section is a class 3 felony. Misconduct involving weapons  
11 under subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4  
12 felony. Misconduct involving weapons under subsection A, paragraph 12 of  
13 this section is a class 1 misdemeanor unless the violation occurs in  
14 connection with conduct that violates section 13-2308, subsection A,  
15 paragraph 5, section 13-2312, subsection C, section 13-3409 or section  
16 13-3411, in which case the offense is a class 6 felony. Misconduct involving  
17 weapons under subsection A, paragraph 5, 6 or 7 of this section is a class 6  
18 felony. Misconduct involving weapons under subsection A, paragraph ~~1, 2,~~ 10  
19 or 11 of this section is a class 1 misdemeanor. MISCONDUCT INVOLVING WEAPONS  
20 UNDER SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION IS A PETTY OFFENSE  
21 UNLESS THE VIOLATION OCCURS IN THE COMMISSION OR ATTEMPTED COMMISSION OF:

22           1. A SERIOUS OFFENSE AS DEFINED IN SECTION 13-706 OR A VIOLENT CRIME  
23 AS DEFINED IN SECTION 13-901.03, IN WHICH CASE THE OFFENSE IS A CLASS 6  
24 FELONY.

25           2. A FELONY THAT IS NOT INCLUDED IN PARAGRAPH 1 OF THIS SUBSECTION, IN  
26 WHICH CASE THE OFFENSE IS A CLASS 1 MISDEMEANOR.

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

28           1. "CONTROLLED ACCESS" MEANS ACCESS TO A PUBLIC FACILITY THAT IS  
29 CONTROLLED OR RESTRICTED BY THE PRESENCE OF AT LEAST TWO OR MORE OF THE  
30 FOLLOWING:

31           (a) A STATE OR FEDERAL CERTIFIED LAW ENFORCEMENT OFFICER.

32           (b) A UNIFORMED SECURITY OFFICER.

1 (c) METAL DETECTION, X-RAY, SCREENING OR OTHER WEAPON DETECTION  
2 EQUIPMENT.

3 (d) VIDEO SURVEILLANCE EQUIPMENT.

4 (e) BIOMETRIC ENTRY LOCKING DEVICES.

5 ~~1.~~ 2. "Public establishment" means a structure, vehicle or craft that  
6 is owned, leased or operated by this state or a political subdivision of this  
7 state.

8 ~~2.~~ 3. "Public event" means a specifically named or sponsored event of  
9 limited duration that is either conducted by a public entity or conducted by  
10 a private entity with a permit or license granted by a public entity. Public  
11 event does not include an unsponsored gathering of people in a public place.

12 ~~3.~~ 4. "School" means a public or nonpublic kindergarten program,  
13 common school or high school.

14 ~~4.~~ 5. "School grounds" means in, or on the grounds of, a school.

15 6. "SECURED POLICE FACILITY" MEANS A BUILDING OR STRUCTURE OR A  
16 PORTION OF A BUILDING OR STRUCTURE THAT IS USED PRIMARILY BY A PUBLIC AGENCY  
17 AND THAT IS NOT ACCESSIBLE TO THE GENERAL PUBLIC EXCEPT BY CONTROLLED ACCESS.

18 Sec. 2. Section 13-3105, Arizona Revised Statutes, is amended to read:

19 13-3105. Forfeiture of weapons and explosives

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

24 B. Upon the conviction of any person for the violation of section  
25 13-2904, subsection A, paragraph 6, ~~or~~ section 13-3102, subsection A,  
26 paragraph ~~1, 2,~~ 8 or 10, ~~OR SECTION 13-3102, SUBSECTION A, PARAGRAPH 1 OR 2~~  
27 ~~THAT IS CLASSIFIED AS A FELONY OR MISDEMEANOR OFFENSE,~~ the court may order  
28 the forfeiture of the deadly weapon or dangerous instrument involved in the  
29 offense.

1           C. If at any time the court finds pursuant to rule 11 of the Arizona  
2 rules of criminal procedure that a person who is charged with a violation of  
3 this title is incompetent, the court shall order that any deadly weapon,  
4 dangerous instrument or explosive used, displayed or unlawfully possessed by  
5 the person during the commission of the alleged offense be forfeited and  
6 sold, ~~destroyed or otherwise properly disposed.~~"

7       Renumber to conform

8       Amend title to conform

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9:54 AM  
C: sp