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REFERENCE TITLE: **firearms; university; college; campus**

State of Arizona
House of Representatives
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HB 2072

Introduced by
Representatives Borrelli, Barton, Campbell, Cobb, Finchem, Montenegro, Petersen, Townsend: Boyer,
Fann, Kern, Leach, Livingston, Mitchell, Shope, Senators Barto, Farnsworth D, Lesko

AN ACT

AMENDING SECTIONS 13-2911 AND 13-3102, 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 13-2911, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

H. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, THE CHIEF ADMINISTRATIVE OFFICER OR THE CHIEF ADMINISTRATIVE OFFICER'S DESIGNEE OR THE GOVERNING BOARD OF A PUBLIC UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE MAY NOT ADOPT OR ENFORCE ANY POLICY OR RULE THAT RESTRICTS OR PROHIBITS A FACULTY MEMBER OR REGISTERED STUDENT FROM CARRYING OR TRANSPORTING A FIREARM ON THE PROPERTY OF THE PUBLIC UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE IF THE FACULTY MEMBER OR REGISTERED STUDENT POSSESSES A VALID PERMIT ISSUED PURSUANT TO SECTION 13-3112 AND IS REGISTERED WITH THE INSTITUTION'S ADMINISTRATION INDICATING THAT THE FACULTY MEMBER OR REGISTERED STUDENT IS ARMED AND POSSESSES A VALID PERMIT THAT IS ISSUED PURSUANT TO SECTION 13-3112. THE CHIEF ADMINISTRATIVE OFFICER OR THE CHIEF ADMINISTRATIVE OFFICER'S DESIGNEE OR THE GOVERNING BOARD OF THE PUBLIC UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE SHALL ADOPT AND ENFORCE GUIDELINES FOR THE USE OF A FIREARM IN AN ACTIVE SHOOTER INCIDENT. THE GUIDELINES MAY BE MODELED AFTER THE FEDERAL BUREAU OF INVESTIGATION OR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY PROTOCOLS OR GUIDELINES FOR AN ACTIVE SHOOTER INCIDENT.

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

H. J. Interference with or disruption of an educational institution pursuant to subsection A, paragraph 1 of this section is a class 6 felony. Interference with or disruption of an educational institution pursuant to subsection A, paragraph 2 or 3 of this section is a class 1 misdemeanor.

H. K. For the purposes of this section:

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

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

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

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

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

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

A. A person commits misconduct involving weapons by knowingly:

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

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

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

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

3. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon, except that if the violation involves dry ice, a person commits misconduct involving weapons by knowingly possessing the dry ice with the

intent to cause injury to or death of another person or to cause damage to the property of another person; or

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

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

6. Defacing a deadly weapon; or

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

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

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

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

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

12. Possessing a deadly weapon on school grounds; or

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

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

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

16. Trafficking in weapons or explosives for financial gain in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Subsection A, paragraph 2 of this section shall not apply to:

1. A person in his dwelling, on his business premises or on real property owned or leased by that person or that person's parent, grandparent or legal guardian.

2. A member of the sheriff's volunteer posse or reserve organization who has received and passed firearms training that is approved by the Arizona peace officer standards and training board and who is authorized by the sheriff to carry a concealed weapon pursuant to section 11-441.

3. A firearm that is carried in:

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

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

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

(d) Luggage.

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

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

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

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

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

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

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

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

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

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

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

2. The regular and lawful transporting as merchandise; or

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

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

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

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

2. A FACULTY MEMBER OR REGISTERED STUDENT OF A PUBLIC UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE WHO IS CARRYING OR TRANSPORTING A FIREARM ON THE PROPERTY OF THE PUBLIC UNIVERSITY, COLLEGE OR COMMUNITY COLLEGE IF THE FACULTY MEMBER OR REGISTERED STUDENT POSSESSES A VALID PERMIT ISSUED PURSUANT TO SECTION 13-3112 AND IS REGISTERED WITH THE INSTITUTION'S ADMINISTRATION INDICATING THAT THE FACULTY MEMBER OR REGISTERED STUDENT IS ARMED AND POSSESSES A VALID PERMIT THAT IS ISSUED PURSUANT TO SECTION 13-3112.

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

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

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

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

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

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

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

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

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

N. For the purposes of this section:

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

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

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

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

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