

(3) applicant is not a member of any organization that advocates the overthrowing of the government of American Samoa or that of the United States.

(c) A license shall be issued only for this ownership and possession of 12, 16, 20 and 410 gauge shotguns and shotgun shells and 22 caliber rifles and their ammunitions.

(d) Licenses issued prior to the enactment of subsection (c) remain valid. No additional licenses shall be issued for renewals of existing licenses provided in 46.4227 and transfers of arms validly licensed provided in 46.4229(b).

**46.4222. License - Required for import.**

(a) It is unlawful of any person to import arms into American Samoa without having obtained a license therefor from the Commissioner of Public Safety.

(b) A license to import arms shall not be issued by the Commissioner of Public Safety unless the application has been approved by the Attorney General.

(c) Unless otherwise authorized, only those shotguns and rifles referred to in section 46.221(c) ASCA may be imported with licenses.

(d) The customs officers may confiscate any guns that are being imported into the Territory in violation of law. Confiscated guns must be surrendered to the custody of the Commissioner of Public Safety within 5 days of confiscation.

**46.4223. License - Required for the sale of arms.**

(a) It is unlawful for any person to sell or in any other way transfer the right of possession of any arms without having obtained from the Commissioner of Public Safety a license to sell arms. The application for such license shall contain such information as may be required by the Commissioner of Public Safety.

(b) A license to sell arms shall not be issued by the Treasurer unless the application for the license has been approved by the Governor or his designated representative. No license shall be issued for the sale of arms other than shotguns and .22 caliber rifles as set out in 46.221(c) and ammunition therefor.

**46.4224. License - Information required.**

(a) Every person who obtains a license to possess, import, or sell arms shall, upon the

written request of the Governor or his designated representative, furnish such information concerning such arms as may be reasonably required.

(b) Each license issued shall specify the number, quantity, and description of the arms which may be possessed, imported, or sold, or otherwise transferred under it.

**46.4225. License - Possession required when carrying arms.** Every person to whom a license to possess arms is issued, shall when carrying such arms or any part thereof, have with him the license to possess such arms, and shall produce the same for inspection upon demand of any officer or official of the government.

**46.4226. License - Revocation.** Any license issued under authority of this title may be altered or revoked by the Governor or his designated representative at any time for good cause.

**46.4227. License - Renewal.**

(a) Licenses to possess arms shall expire on 10 January of the year following their issue. Each holder of a license to possess arms shall, between the 1<sup>st</sup> and the 10<sup>th</sup> of January of each year, submit his license to possess arms for the previous year, together with the annual license fee, to the Commissioner of Public Safety.

(b) The Commissioner of Public Safety may renew the license with or without examining the arms for which the license is to be issued; but the holder of the license shall, upon the demand of the Commissioner of Public Safety, submit the arms to him for examination.

**46.4228. Marking arms for identification.**

Each person to whom a license to possess arms is issued shall, upon receipt of such arms, produce at the office of the Commissioner of Public Safety his license to possess arms, together with the arms specified in said license. Such arms shall be examined and compared with the license and, if found to correspond therewith, shall be marked with such letter as may be designated by the Commissioner of Public Safety and also marked with a number indicating the order of the license, and registration as specified in the license, unless the arm has plainly visible and distinctive serial number stamped on it. Such arms when duly marked shall be redelivered to the licensee, together with license. If the

provisions of this section are not complied with, the license shall be revoked, and the arms may be confiscated as though no license had been issued.

**46.4229. Sales to persons without licenses - Grandfather clause.**

(a) No person shall sell or otherwise transfer any arms to any person who does not hold a valid and existing license to possess the particular firearms to be sold.

(b) Arms no longer permitted to be licensed but for which current, valid licenses were issued prior to the effective date of section 46.4221(c) may, in the discretion of the Commissioner of Public Safety and in the manner provided in this chapter, be transferred to persons obtaining licenses therefor.

**46.4233. Authorized possession and use of arms without license.**

(a) This chapter does not prohibit the possession and use of arms and other police weapons by any member of the police force, armed forces of the United States or employees if the government of the United States and law enforcement officers of other states or territories if these arms are properly issued by the issuing authorities and are brought into the Territory in the course of performance of official duties.

(b) The Governor or his designated representative may authorize the pulenu'u or police of any village to possess and use arms in connection with his official duties without first obtaining a license therefor.

(c) The Governor may enter into reciprocal agreements with states whose law enforcement officers may be assigned on official duty in the Territory to permit these law enforcement officers to carry firearms without registration.

**46.4234. Violation - Penalty.**

(a) Any person who violates any of the provisions of this chapter or who refuses to obey any lawful order issued under the authority of this chapter is guilty of a class A misdemeanor and shall, upon conviction, be sentenced accordingly, and any arms involved may be confiscated by the government. ...

[Current through March 2007]

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### Title 13. Criminal Code

#### Chapter 9. Probation and Restoration of Civil Rights

##### 13-904. Suspension of civil rights and occupational disabilities.

A. A conviction for a felony suspends the following civil rights of the person sentenced:

1. The right to vote.
2. The right to hold public office of trust or profit.
3. The right to serve as a juror.
4. During any period of imprisonment any other civil rights the suspension of which is reasonably necessary for the security of the institution in which the person sentenced is confined or for the reasonable protection of the public.
5. The right to possess a gun or firearm.

B. Persons sentenced to imprisonment shall not thereby be rendered incompetent as witnesses upon the trial of a criminal action or proceeding, or incapable of making and acknowledging a sale or conveyance of property.

C. A person sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if such person was not convicted and sentenced.

D. The conviction of a person for any offense shall not work forfeiture of any property, except if a forfeiture is expressly imposed by law. All forfeitures to the state, unless expressly imposed by law, are abolished.

E. A person shall not be disqualified from employment by this state or any of its agencies or political subdivisions, nor shall a person whose civil rights have been restored be

disqualified to engage in any occupation for which a license, permit or certificate is required to be issued by this state solely because of a prior conviction for a felony or misdemeanor within or without this state. A person may be denied employment by this state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction of a felony or misdemeanor if the offense has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought.

F. Subsection E of this section is not applicable to any law enforcement agency.

G. Any complaints concerning a violation of subsection E of this section shall be adjudicated in accordance with the procedures set forth in

title 41, chapter 6 and title 12, chapter 7, article 6.

H. A person who is adjudicated delinquent under section 8-341 for a felony does not have the right to carry or possess a gun or firearm.

**13-905. Restoration of civil rights; persons completing probation.**

A. A person who has been convicted of two or more felonies and whose period of probation has been completed may have any civil rights which were lost or suspended by his felony conviction restored by the judge who discharges him at the end of the term of probation. ...

C. If the person was convicted of a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in section 13-604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge from probation.

**13-906. Applications by persons discharged from prison.**

A. Upon proper application, a person who has been convicted of two or more felonies and who has received an absolute discharge from imprisonment may have any civil rights which were lost or suspended by his conviction restored by the superior court judge by whom the person was sentenced or his successors in office from the county in which he was originally sentenced. ...

C. If the person was convicted of a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in section 13-604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his absolute discharge from imprisonment. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his absolute discharge from imprisonment.

**13-907. Setting aside judgment of convicted person on discharge; application; release from disabilities; exceptions.**

A. Except as otherwise provided in this section, every person convicted of a criminal offense, on fulfillment of the conditions of probation or sentence and discharge by the court, may apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge.

B. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing.

C. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by:

1. The department of transportation pursuant to section 28-3304, 28-3306, 28-3307, 28-3308

or 28-3319, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing section 28-3304, 28-3306, 28-3307, 28-3308, 28-3319 as if the judgment of guilt had not been set aside. ...

**13-909. Restoration of civil rights; persons completing probation for federal offenses.**

A. A person who has been convicted of two or more felonies and whose period of probation has been completed may have any civil rights which were lost or suspended by his felony conviction in a United States district court restored by the presiding judge of the superior court in the county in which he now resides, upon filing of an affidavit of discharge from the judge who discharged him at the end of the term of probation.

B. Upon proper application, a person who has been discharged from probation either prior to or after adoption of this chapter may have any civil rights which were lost or suspended by his felony conviction restored by an application filed with the clerk of the superior court in the county in which he now resides. The clerk of the superior court shall process the application upon request of the person involved or his attorney.

C. If the person was convicted of an offense which would be a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in section 13-604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge from probation.

**13-910. Applications by persons discharged from federal prison.**

A. Upon proper application, a person who has been convicted of two or more felonies and who has received an absolute discharge from imprisonment in a federal prison may have any civil rights which were lost or suspended by his conviction restored by the presiding judge of the superior court in the county in which he now resides.

B. A person who is subject to the provisions of subsection A of this section may file, no sooner than two years from the date of his absolute discharge, an application for restoration of civil rights that shall be accompanied by a certificate of absolute discharge from the director of the federal bureau of prisons, unless it is shown to be impossible to obtain such certificate. Such application shall be filed with the clerk of the superior court in the county in which the person now resides, and such clerk shall be responsible for processing applications for restoration of civil rights upon request of the person involved or his attorney.

C. If the person was convicted of an offense which would be a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of an offense which would be a serious offense as defined in section 13-604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of

his absolute discharge from imprisonment. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his absolute discharge from imprisonment.

**13-912. Restoration of civil rights for first offenders; exception.**

A. Any person who has not previously been convicted of any other felony shall automatically be restored any civil rights that were lost or suspended by the conviction if the person both:

1. Completes a term of probation or receives an absolute discharge from imprisonment.

2. Pays any fine or restitution imposed.

B. This section does not apply to a person's right to possess weapons as defined in section 13-3101 unless the person applies to a court pursuant to section 13-905 or 13-906.

**13-912.01. Restoration of civil rights; persons adjudicated delinquent.**

A. A person who was adjudicated delinquent and whose period of probation has been completed may have his right to possess or carry a gun or firearm restored by the judge who discharges the person at the end of his term of probation.

B. A person who was adjudicated delinquent and who has been discharged from probation, on proper application, may have his right to carry or possess a gun or firearm restored by the judge of the juvenile court in the county where the person was adjudicated delinquent or his successors. The clerk of the superior court shall process the application on the request of the person involved or the person's attorney. The applicant shall serve a copy of the application on the county attorney.

C. If the person's adjudication was for a dangerous offense under section 13-604, a serious offense as defined in section 13-604, burglary in the first degree, burglary in the second degree or arson, the person may not file for the restoration of his right to possess or carry a gun or firearm until the person attains thirty years of age. If the person's adjudication was for any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge.

**Chapter 31. Weapons and Explosives**

**13-3101. Definitions.**

A. In this chapter, unless the context otherwise requires:

1. "Deadly weapon" means anything that is designed for lethal use. The term includes a firearm.

2. "Deface" means to remove, alter or destroy the manufacturer's serial number.

3. "Explosive" means any dynamite, nitroglycerine, black powder or other similar explosive material, including plastic explosives. Explosive does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.

4. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will expel, is designed to expel or may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.

5. "Improvised explosive device" means a device that incorporates explosives or

destructive, lethal, noxious, pyrotechnic or incendiary chemicals and that is designed to destroy, disfigure, terrify or harass.

**6.** "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any other structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.

**7.** "Prohibited possessor" means any person:

(a) Who has been found to constitute a danger to himself or to others pursuant to court order under section 36-540, and whose court ordered treatment has not been terminated by court order.

(b) Who has been convicted within or without this state of a felony or who has been adjudicated delinquent for a felony and whose civil right to possess or carry a gun or firearm has not been restored.

(c) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility.

(d) Who is at the time of possession serving a term of probation pursuant to a conviction for a domestic violence offense as defined in section 13-3601 or a felony offense, parole, community supervision, work furlough, home arrest or release on any other basis or who is serving a term of probation or parole pursuant to the interstate compact under title 31, chapter 3, article 4.

(e) Who is an undocumented alien or a non-immigrant alien traveling with or without documentation in this state for business or pleasure or who is studying in this state and who maintains a foreign residence abroad. This subsection does not apply to:

(i) nonimmigrant aliens who possess a valid hunting license or permit that is lawfully issued by a state in the United States.

(ii) nonimmigrant aliens who enter the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show that is sponsored by a national, state or local firearms trade organization, devoted to the competitive use or other sporting use of firearms.

(iii) certain diplomats.

(iv) officials of foreign governments or distinguished foreign visitors who are designated by the United States Department of State.

(v) persons who have received a waiver from the United States Attorney General.

**8.** "Prohibited weapon":

(A) Includes the following:

(I) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas.

(II) A device that is designed made or adapted to muffle the report of a firearm.

(III) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger.

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

(V) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a

rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense.

(VI) A breakable container that contains a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of being ignited.

(VII) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an explosion or detonation of the chemical or combination of chemicals, compounds or materials.

(VIII) An improvised explosive device.

(IX) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in item (I), (VI) or (VIII) of this subdivision.

(B) Does not include:

(I) Any fireworks that are imported, distributed or used in compliance with state laws or local ordinances.

(II) Any propellant, propellant actuated devices or propellant actuated industrial tools that are manufactured, imported or distributed for their intended purposes.

(III) A device that is commercially manufactured primarily for the purpose of illumination.

(B) The items set forth in subsection A, paragraph 8, subdivision (a), items (I), (II), (III) and (IV) of this section do not include any firearms or devices that are registered in the national firearms registry and transfer records of the United States treasury department or any firearm that has been classified as a curio or relic by the United States treasury department.

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

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon without a permit pursuant to section 13-3112 except a pocket knife concealed on his person; or

2. Carrying a deadly weapon without a permit pursuant to section 13-3112 concealed within immediate control of any person in or on a means of transportation; 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.

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

C. Subsection A, paragraphs 1, 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 or correctional officer of the state department of 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, 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.

E. 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.

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

in a belt holster that is wholly or partially visible, or carried in a scabbard or case designed for carrying weapons that is wholly or partially visible or carried in luggage. Subsection A, paragraph 2 of this section shall not apply to a weapon or weapons carried in 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.

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

**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, con-tests 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.

**J.** 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.

**K.** Misconduct involving weapons under subsection A, paragraph 9, 14 or 15 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 5, 6 or 7 of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, 2, 10 or 11 of this section is a class 1 misdemeanor.

**L.** For the purposes of this section:

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

2. "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.

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

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

#### **13-3102.01. Storage of deadly weapons; definitions.**

**A.** If an operator of a public establishment or a sponsor of a public event requests that a person carrying a deadly weapon remove the weapon, the operator or sponsor shall provide temporary and secure storage. The storage shall be readily accessible on entry into the establishment or event and allow for the immediate retrieval of the weapon on exit from the establishment or event.

**B.** This section does not apply to the licensed premises of any public establishment or public event with a license issued pursuant to title 4.

**C.** 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 this section unless the operator, sponsor, employee or agent intended to cause injury or was grossly negligent.

**D.** For the purposes of this section, "public establishment" and "public event" have the same meanings prescribed in section 13-3102.

#### **13-3103. Misconduct involving explosives; classification**

**A.** A person commits misconduct involving explosives by knowingly:

1. Keeping or storing a greater quantity than fifty pounds of explosives in or upon any building or premises within a distance of one-half mile of the exterior limits of a city or town, except in vessels, railroad cars or vehicles receiving and keeping them in the course of and for the purpose of transportation; or

2. Keeping or storing percussion caps or any blasting powder within two hundred feet of a building or premises where explosives are kept or stored; or

3. Selling, transporting or possessing explosives without having plainly marked, in a conspicuous place on the box or package containing the explosive, its name, explosive character and date of manufacture.

4. This section shall not apply to any person who legally keeps, stores or transports explosives, percussion caps or blasting powder as a part of their business.

**B.** Misconduct involving explosives is a class 1 misdemeanor.

#### **13-3105. Forfeiture of weapons and explosives.**

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

**B.** Upon the conviction of any person for the violation of section 13-2904, subsection A, paragraph 6 or section 13-3102, subsection A, paragraph 1, 2, 8 or 10, the court may order the forfeiture of the deadly weapon or dangerous instrument involved in the offense.

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

#### **13-3106. Firearm purchase in other states.**

A person residing in this state, or a corporation or other business entity maintaining a place of business in this state, may purchase or otherwise obtain firearms anywhere in the United States if such purchase or acquisition fully complies with the laws of this state and the state in which the purchase or acquisition is made and the purchaser and seller, prior to the sale or delivery for sale, have complied with all the requirements of the federal gun control act of 1968, Public Law 90-618, section 922, subsection (c) and the code of federal regulations, volume 26, section 178.96, subsection (c).

#### **13-3108. Firearms regulated by state; state preemption; violation; classification.**

**A.** Except as provided in subsection C of this section, a political subdivision of this state shall not enact any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer or use of firearms or ammunition or any firearm or ammunition components in this state.

**B.** A political subdivision of this state shall not require the licensing or registration of firearms or ammunition or any firearm or ammunition components or prohibit the ownership, purchase, sale or transfer of firearms or ammunition or any firearm or ammunition components.

**C.** This section does not prohibit a political subdivision of this state from enacting and enforcing any ordinance or rule pursuant to state law, to implement or enforce state law or relating to any of the following:

1. Imposing any privilege or use tax on the retail sale, lease or rental of, or the gross proceeds or gross income from the sale, lease or rental of, firearms or ammunition or any firearm or ammunition components at a rate that applies generally to other items of tangible personal property.

2. Prohibiting a minor who is unaccompanied by a parent, grandparent or guardian or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the minor's parent, grandparent or guardian from knowingly possessing or carrying on the minor's person, within the minor's immediate control or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property that is owned or leased by the minor or the minor's parent, grandparent or guardian. Any ordinance or rule that is adopted pursuant to this paragraph shall not apply to a minor who is fourteen, fifteen, sixteen or seventeen years of age and who is engaged in any of the following:

(a) Lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

(b) Lawful transportation of an unloaded firearm for the purpose of lawful hunting.

(c) Lawful transportation of an unloaded firearm between the hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

(d) Any activity that is related to the production of crops, livestock, poultry, livestock products, poultry products or ratites or storage of agricultural commodities.

3. The use of land and structures, including a business relating to firearms or ammunition or their components or a shooting range in the same manner as other commercial businesses. Notwithstanding any other law, this paragraph does not authorize a political subdivision to reg-

ulate the sale or transfer of firearms on property it owns, leases, operates or controls in a manner that is different than or inconsistent with state law. For the purposes of this paragraph, a use permit or other contract that provides for the use of property owned, leased, operated or controlled by a political subdivision shall not be considered a sale, conveyance or disposition of property.

4. Regulating employees or independent contractors of the political subdivision who are acting within the course and scope of their employment or contract.

5. Limiting firearms possession in parks or preserves of one square mile or less in area to persons who possess a concealed weapons permit issued pursuant to section 13-3112. The political subdivision shall post reasonable notice at each park or preserve. The notice shall state the following: "Carrying a firearm in this park is limited to persons who possess a permit issued pursuant to section 13-3112." In parks or preserves that are more than one square mile in area, a political subdivision may designate developed or improved areas in which the political subdivision may limit firearms possession to persons who possess a concealed weapons permit issued pursuant to section 13-3112. The political subdivision shall post reasonable notice at each designated developed or improved area. The notice shall state the following: "Carrying a firearm in this developed or improved area is limited to persons with a permit issued pursuant to section 13-3112." For the purposes of this paragraph, "developed or improved area" means an area of property developed for public recreation or family activity, including picnic areas, concessions, playgrounds, amphitheaters, racquet courts, swimming areas, golf courses, zoos, horseback riding facilities and boat landing and docking facilities. Developed or improved area does not include campgrounds, trails, paths or roadways except trails, paths and roadways directly associated with and adjacent to designated developed or improved areas. Any notice that is required by this paragraph shall be conspicuously posted at all public entrances and at intervals of one-fourth mile or less where the park, preserve or developed or improved area has an open perimeter. Any limitation imposed by a political subdivision pursuant to this paragraph shall not apply to a person:

(a) Engaged in a permitted firearms or hunter safety course conducted in a park by a certified hunter safety instructor or certified firearms safety instructor.

(b) At a properly supervised range, as defined in section 13-3107, at a permitted shooting event, at a permitted firearms show or in a permitted hunting area.

(c) Legally transporting, carrying, storing or possessing a firearm in a vehicle.

(d) Going directly to or from an area where the person is lawfully engaged in hunting, marksmanship practice or recreational shooting.

(e) Traversing a trailhead area in order to gain access to areas where the possession of firearms is not limited.

(f) Using trails, paths or roadways to go directly to or from an area where the possession of firearms is not limited and where no reasonable alternate means of access is available.

6. Limiting or prohibiting the discharge of firearms in parks and preserves except:

(a) As allowed pursuant to chapter 4 of this title.

(b) On a properly supervised range as defined in section 13-3107.

(c) In an area recommended as a hunting area by the Arizona game and fish department and approved and posted as required by the political subdivision's chief law enforcement officer. Any such area may be closed when deemed unsafe by the political subdivision's chief law enforcement officer or the director of the Arizona game and fish department.

(d) To control nuisance wildlife by permit from the Arizona game and fish department or the United States fish and wildlife service.

(e) By special permit of the chief law enforcement officer of the political subdivision.

(f) As required by an animal control officer in performing duties specified in section 9-499.04 and title 11, chapter 7, article 6.

(g) In self defense or defense of another person against an animal attack if a reasonable person would believe that deadly physical force against the animal is immediately necessary and reasonable under the circumstances to protect oneself or the other person.

D. A violation of any ordinance established pursuant to subsection c, paragraph 6 of this section is a class 2 misdemeanor unless the political subdivision designates a lesser classification by ordinance.

**13-3109. Sale or gift of firearm to minor; classification.**

A. Except as provided in subsection C of this section, a person who sells or gives to a minor, without written consent of the minor's parent or legal guardian, a firearm, ammunition or a toy pistol by which dangerous and explosive substances may be discharged is guilty of a class 6 felony.

B. Nothing in this section shall be construed to require reporting sales of firearms, nor shall registration of firearms or firearms sales be required.

C. The temporary transfer of firearms and ammunition by firearms safety instructors, hunter safety instructors, competition coaches or their assistants shall be allowed if the minor's parent or guardian has given consent for the minor to participate in activities such as firearms or hunting safety courses, firearms competition or training. With the consent of the minor's parent or guardian, the temporary transfer of firearms and ammunition by an adult accompanying minors engaged in hunting or formal or informal target shooting activities shall be allowed for those purposes.

**13-3111. Minors prohibited from carrying or possessing firearms; exceptions; seizure and forfeiture; penalties; classification.**

A. Except as provided in subsection B, an unemancipated person who is under eighteen years of age and who is unaccompanied by a parent, grandparent or guardian, or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the unemancipated person's parent or guardian, shall not knowingly carry or possess on his person, within his immediate control, or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property owned or leased by the minor or the minor's parent, grandparent or guardian.

B. This section does not apply to a person who is fourteen, fifteen, sixteen or seventeen years of age and who is any of the following:

1. Engaged in lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

2. Engaged in lawful transportation of an unloaded firearm for the purpose of lawful hunting.

3. Engaged in lawful transportation of an unloaded firearm between the hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.

4. Engaged in activities requiring the use of a firearm that are related to the production of crops, livestock, poultry, livestock products, poultry products, or ratites or in the production or storage of agricultural commodities.

C. If the minor is not exempt under subsection B and is in possession of a firearm, a peace officer shall seize the firearm at the time the violation occurs.

D. In addition to any other penalty provided by law, a person who violates subsection A shall be subject to the following penalties:

1. If adjudicated a delinquent juvenile for an offense involving an unloaded firearm, a fine of not more than two hundred fifty dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.

2. If adjudicated a delinquent juvenile for an offense involving a loaded firearm, a fine of not more than five hundred dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.

3. If adjudicated a delinquent juvenile for an offense involving a loaded or unloaded firearm, if the person possessed the firearm while the person was the driver or an occupant of a motor vehicle, a fine of not more than five hundred dollars and the court shall order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of adjudication, the court shall direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age. If the court finds that no other means of transportation is available, the driving privileges of the child may be restricted to travel between the child's home, school and place of employment during specified periods of time according to the child's school and employment schedule.

E. Firearms seized pursuant to subsection C shall be held by the law enforcement agency responsible for the seizure until the charges have been adjudicated or disposed of otherwise or the person is convicted. Upon adjudication or conviction of a person for a violation of this section, the court shall order the firearm forfeited. However, the law enforcement agency shall return the firearm to the lawful owner if the identity of that person is known.

F. If the court finds that the parent or guardian of a minor found responsible for violating this section knew or reasonably should have known of the minor's unlawful conduct and made no effort to prohibit it, the parent or guardian is jointly and severally responsible for any fine imposed pursuant to this section or for any civil

actual damages resulting from the unlawful use of the firearm by the minor.

**G.** This section is supplemental to any other law imposing a criminal penalty for the use or exhibition of a deadly weapon. A minor who violates this section may be prosecuted and adjudicated delinquent for any other criminal conduct involving the use or exhibition of the deadly weapon.

**H.** A person who violates subsection A is guilty of a class 6 felony.

**13-3113. Adjudicated delinquents; firearm possession; violation; classification.** A person who was previously adjudicated delinquent for an offense that would be a felony if committed by an adult and who possesses, uses or carries a firearm within ten years from the date of his adjudication or his release or escape from custody is guilty of a class 5 felony for a first offense and a class 4 felony for a second or subsequent offense if the person was previously adjudicated for an offense that if committed as an adult would constitute:

1. Burglary in the first degree.
2. Burglary in the second degree.
3. Arson.

4. Any felony offense involving the use or threatening exhibition of a deadly weapon or dangerous instrument.

5. A serious offense as defined in section 13-604.

**13-3115. Forensics firearms identification system**

The department of public safety is authorized to establish and maintain a forensics firearms identification system designed to provide investigative information on criminal street gangs and the unlawful use of firearms.

**13-3117. Remote stun guns; sales records; use; classification; definitions.**

**A.** It is unlawful for a person or entity to do any of the following:

1. Sell an authorized remote stun gun without keeping an accurate sales record as to the identity of the purchaser with the manufacturer of the authorized remote stun gun. The identification that is required by this paragraph shall be verified with a government issued identification. This requirement does not apply to secondary sales.

2. Knowingly use or threaten to use a remote stun gun or an authorized remote stun gun against a law enforcement officer who is en-

gaged in the performance of the officer's official duties.

**B.** This section does not:

1. Preclude the prosecution of any person for the use of a remote stun gun or an authorized remote stun gun during the commission of any criminal offense.

2. Preclude any justification defense under chapter 4 of this title.

**C.** The regulation of remote stun guns and authorized remote stun guns is a matter of statewide concern.

**D.** A violation of:

1. Subsection A, paragraph 1 is a petty offense.

2. Subsection A, paragraph 2 is a class 4 felony.

**E.** For the purposes of this section:

1. "Authorized remote stun gun" means a remote stun gun that has all of the following:

(a) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(b) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(c) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(d) A training program that is offered by the manufacturer.

2. "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

**13-3118. Possession or storage of firearms; restrictions prohibited; exceptions.**

(a) Except for the legislature, this state and any agency or political subdivision of this state shall not enact or implement any law, rule or ordinance relating to the possession or storage of firearms other than as provided in statute.

(b) This section does not prohibit:

(1) a state, county or municipal judicial department, law enforcement agency or

prosecutorial agency from prohibiting a deadly weapon pursuant to section 13-3102(a)(10).

(2) a political subdivision of this state from enacting any rule or ordinance requiring a business that obtains a secondhand firearm by purchase, trade or consignment to retain the firearm for a period of not more than ten days at its place of business or another storage location that is approved by the applicable law enforcement agency.

## Title 15. Education

### Chapter 3. Local Governance of Schools

#### Article 3. Powers and Duties of School District Governing Boards

**15-341. General powers and duties; immunity; delegation.**

**A.** The governing board shall: ...

25. Notwithstanding section 13-3108, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator. ...

## Title 44. Trade and Commerce

### Chapter 11. Regulations Concerning Particular Businesses

#### Article 3. Pawnbrokers

**44-1627. Licensing; requirements.**

**A.** A person shall not act as a pawnbroker until licensed by the sheriff of the county in which the person regularly conducts business.

**B.** A pawnbroker shall obtain a separate license for each pawnshop owned by that pawnbroker.

**C.** A pawnbroker license may not be sold or transferred without the approval of the sheriff or the sheriff's designee.

**D.** A pawnbroker shall not conduct business at a location other than a licensed location except for firearms transactions that are permitted by a federally licensed firearms dealer at an organized gun show. ...

[Current through the First Regular Session of the 48th Legislature 2007]

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# ARKANSAS

## ARK. CODE

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### Title 5. Criminal Offenses

#### Chapter 73. Weapons

##### Subchapter 1. Possession and Use Generally

**5-73-101. Definitions.** As used in this chapter:

(1) "Blasting agent" means any material or mixture consisting of fuel and oxidizer intended for blasting if finished product as mixed for use or shipment cannot be detonated by means of a No. 8 test blasting cap when unconfined;

(2) "Contraband" means any explosive material that was used with the knowledge and consent of the owner to facilitate a violation of this subchapter, as well as any explosive

material possessed under circumstances prohibited by law;

(3) "Destruction Device" means:

(A) Any of the following:

(i) Any explosive, incendiary or poison gas;

(ii) Bomb;

(iii) Grenade;

(iv) Rocket having a propellant charge of more than four ounces (4 ozs);

(v) Missile having an explosive or incendiary charge of more than one-quarter ounce;

(vi) Mine; or

(vii) Similar device; and

(B) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision

(3)(A) and from which a destructive device may be readily assembled for use as a weapon;

(4)(A) "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation.

(B) A detonator may not contain more than ten (10) grams of total explosives by weight, excluding ignition or delay charges, and may include, without limitation, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and non-instantaneous and delay blasting caps that use detonating cord, shock tube, or any other replacement for electric leg wires;