

RealWorld Protective Services & Firearms Training, LLC

*When your life depends on your training!*

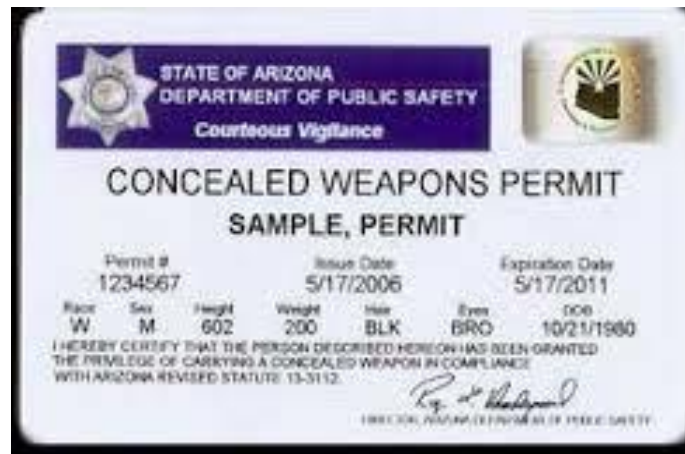
## Concealed Weapons Permit Class

Legal Issues Related to the Use of Deadly Force Training Program

### CCW Course Study Guide

***Lethal (or DEADLY) force is that degree of force that a reasonable and prudent person would consider capable of causing death or crippling injury. It is justifiable ONLY in a situation of immediate, otherwise unavoidable danger of death or grave bodily harm to the innocent.***

Arizona Department of Public Safety



Whether it is how to handle a gun or store it safely, everything taught in one of RealWorld Firearms Training's classes is grounded in decades of experience. Founder Robert Martin, has worked as a civilian and military law-enforcement officer, Certified Executive Protection Agent, Licensed Investigator, and he has trained and carried guns for more than 30 years.

Likewise, his fellow instructor, Andy Gates, spent six in years as a sergeant in the US Marine Corps. Both hold NRA instructor certifications, DPS certified instructors, and are Range Safety Officers, which come in handy during courses such as basic handgun training, CCW, or tactical carbine classes.

For training in the real world, call us and experience the difference!

**Arizona Revised Statutes**

**Title 13 – Chapter 4**

**13-401. Unavailability of justification defense; justification as defense**

A. Even though a person is justified under this chapter in threatening or using physical force or deadly physical force against another, if in doing so such person recklessly injures or kills an innocent third person, the justification afforded by this chapter is unavailable in a prosecution for the reckless injury or killing of the innocent third person.

B. Except as provided in subsection A, justification, as defined in this chapter, is a defense in any prosecution for an offense pursuant to this title.

**Shooting at a criminal, even with legal justification (A.R.S. § 13-401), and hitting a bystander may constitute negligence. The bystander is owed a general duty of care to avoid injury. The bystander might sue for negligence and battery.**

**IMPORTANT NOTICE: In each of the justification examples, where the law justifies the use of deadly force, there is an important exception. Even though the law might justify use of physical or deadly force against one person, that force may not be used recklessly to injure an innocent bystander. There is no justification for the reckless injury or killing of an innocent bystander. (A.R.S. § 13-401). In addition, negligently injuring or killing an innocent bystander can lead to a civil negligence lawsuit.**

**13-402. Justification; execution of public duty**

A. Unless inconsistent with the other sections of this chapter defining justifiable use of physical force or deadly physical force or with some other superseding provision of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by law.

B. The justification afforded by subsection A also applies if:

1. A reasonable person would believe such conduct is required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

2. A reasonable person would believe such conduct is required or authorized to assist a peace officer in the performance of such officer's duties, notwithstanding that the officer exceeded the officer's legal authority.

**13-403. Justification; use of physical force**

The use of physical force upon another person, which would otherwise constitute an offense, is justifiable and not criminal under any of the following circumstances:

1. A parent or guardian and a teacher or other person entrusted with the care and supervision of a minor or incompetent person may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent reasonably necessary and appropriate to maintain discipline.

2. A superintendent or other entrusted official of a jail, prison or correctional institution may use physical force for the preservation of peace, to maintain order or discipline, or to prevent the commission of any felony or misdemeanor.

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3. A person responsible for the maintenance of order in a place where others are assembled or on a common motor carrier of passengers, or a person acting under his direction, may use physical force if and to the extent that a reasonable person would believe it necessary to maintain order, but such person may use deadly physical force only if reasonably necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon that person to the extent reasonably necessary to thwart the result.

5. A duly licensed physician or a registered nurse or a person acting under his direction, or any other person who renders emergency care at the scene of an emergency occurrence, may use reasonable physical force for the purpose of administering a recognized and lawful form of treatment which is reasonably adapted to promoting the physical or mental health of the patient if:

(a) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision except as otherwise provided by law; or

(b) The treatment is administered in an emergency when the person administering such treatment reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

6. A person may otherwise use physical force upon another person as further provided in this chapter.

## **13-404. Justification; self-defense**

A. Except as provided in subsection B of this section, a person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force.

B. The threat or use of physical force against another is not justified:

1. In response to verbal provocation alone; or

2. To resist an arrest that the person knows or should know is being made by a peace officer or by a person acting in a peace officer's presence and at his direction, whether the arrest is lawful or unlawful, unless the physical force used by the peace officer exceeds that allowed by law; or

3. If the person provoked the other's use or attempted use of unlawful physical force, unless:

(a) The person withdraws from the encounter or clearly communicates to the other his intent to do so reasonably believing he cannot safely withdraw from the encounter; and

(b) The other nevertheless continues or attempts to use unlawful physical force against the person.

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## 1. Self-defense (A.R.S. §§ 13-404 & 13-405); “Defensive Display” (A.R.S. § 13-421)

Self-defense is the most critically important part of CCW training on the lawful use of deadly force! Self-defense, by far, is the most likely reason for the justified use of a firearm against another human being. Several scenarios will be reviewed as part of your judgmental shooting training.

a. One would be justified in threatening or using physical force against another person when and to the extent a reasonable person in that position would believe that physical force is immediately necessary to protect oneself against the other person's use or attempted use of unlawful physical force. (A.R.S. § 13-404) The individual would be justified in using deadly physical force when a reasonable person in that position would believe that deadly physical force is immediately necessary to protect oneself against the other person's use or attempted use of unlawful deadly physical force.

(A.R.S. § 13-405). It is important to understand that the law permits a measured self-defense. Generally, one can only use the force necessary to resist the unlawful force. One can resist unlawful physical force with physical force. One can resist unlawful deadly force with deadly force.

b. Effective Sep. 30, 2009, there is a new self-defense justification that permits the “defensive display” of a firearm “when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the use or attempted use of unlawful physical force or deadly physical force.” A.R.S. § 13-421. In other words, a person threatened with unlawful physical force or deadly physical force can respond with a “defensive display of a firearm.”

“Defensive Display” means (1) verbally informing an aggressor that one is armed; (2) exposing or displaying a firearm in a manner that a reasonable person would understand is meant to protect against the aggressor's use or attempted use of unlawful physical force or deadly physical force; or (3) placing one's hand on a firearm that is contained in a pocket, purse or other means of containment or transport. One may not use the defensive display justification if he/she provoked the fight or altercation, and one may not use the defensive display justification if one is committing a “serious offense” or “violent crime” as defined by other statutes (A.R.S. §§ 13-706 and 13-901.03).

The defensive display justification is a much more restrictive version of the statutory right of a police officer to threaten deadly physical force in response to any potential threat of physical force. A.R.S. § 13-410(D). However, witnesses are much more likely to become alarmed if they see a non-police officer draw a firearm, so the “reasonable person” standard in the defensive display statute may be difficult to apply in practice.

Therefore, under most circumstances, the CCW permittee should refrain from actually drawing a gun in self-defense, unless faced with an imminent threat of serious bodily injury or death. If confronted only with a threat of unlawful, non-deadly physical force, defensive display should be restricted to verbally informing the aggressor that you are armed and/or placing your hand on the firearm without drawing it. One cannot use self-defense physical force in response to mere words, no matter how offensive.

Similarly, **ONE CANNOT USE DEADLY FORCE IN RESPONSE TO MERE WORDS** or, in most cases, to resist unlawful physical force. Effective Sep. 30, 2009, “defensive display” can be used in self-defense to resist threats of unlawful physical force or unlawful physical force.

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The difficulty comes when trying to determine what force one may use as a confrontation evolves from mere words to physical force to deadly force. In general, one cannot be the aggressor. In reality, one should avoid any confrontation, unless circumstances require one to defend oneself or another.

**EXAMPLE:** Betty Shopper is walking through a shopping mall with her child, and three, young, males, wearing gang "colors," are walking toward her. As the three, young males walk past her, one of them bumps her shoulder. He immediately turns, flashes a gang sign, "flips her the bird," and starts yelling at her. He uses more profanity than she has ever heard before, and he directs it at her and her child. She ignores him and starts to walk away, but he and the other two, young, males follow.

Now, they are all yelling at Betty and cursing her. They walk circles around her as she walks down the mall. They dare her to "step outside and get some action," and they graphically describe how they are going to "love" her with her child watching. No one comes forward to help, and there are no security personnel or police in view. She is carrying a loaded pistol under her jacket. One of the young males approaches within two inches of her face and screams that he is going to "f\*\*\*" her.

**SHE MUST KEEP HER COOL!** If she pulls her gun and shoots, you may not be justified. Until she is threatened with imminent death or serious physical injury, she cannot use deadly force. Displaying her gun might be a justified "defensive display," but it might lead to a struggle over her gun.

Telling the youths that she is armed is probably a permissible "defensive display," but that gives away a tactical advantage (surprise) and may cause the situation to escalate. Even if one of the youths shoves her, she must keep her cool and her balance! She needs to focus her anger and start planning "what if." She must plan what she will do if one of the youths pulls a knife, if one pulls a gun, if more than one pulls knives or guns, if one produces a club, etc. She must think it through and look for tactical advantage.

What escape routes are available? What cover is available? Which of the youths is closest? She must keep a clear view of all three youths!

She must try to maximize her distance from the youths. Are there any bulges under their clothes that indicate a possible weapon? Is there a restaurant or crowded store where increased security or help is available? How is she going to keep her child safe and out of the line of fire if deadly force becomes justified and necessary? Can she use deadly force without hitting someone else; if so, how does she need to improve her position; if not, can she move into a position where use of deadly force is possible and risk of harm to bystanders is minimized?

She has to focus, think, plan and stay cool, but remember that mere words never justify the use of deadly force, and defensive display means revealing that she is armed.

c. There are important limitations on self-defense. One cannot use force against a police officer, even if one believes he is being illegally arrested, unless the physical force used by the police officer exceeds that allowed by law.

One cannot provoke a fight and then act in self-defense, unless (a) he first withdraws from the fight or clearly communicate his intent to withdraw, but reasonably believes he cannot safely withdraw, and (b) the other person nevertheless continues or attempts to use unlawful physical or deadly force against him. A.R.S. § 13-404(B)(3)(a) & (b).

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## d. Examples of self-defense cases:

Examples from real cases help understand self-defense laws. The goal is to apply the foregoing legal principles to the examples. These examples are drawn from real cases involving real people. The results may seem unfair in some cases, but people can differ on what constitutes a "reasonable" belief that self-defense is required.

Generally, the clearer the need for self-defense, the stronger the likelihood that a claim of self-defense will be convincing to the police, prosecutors, judges and juries. **EXAMPLE:** Wilford Worker is driving to work when a bearded, filthy-looking man in a VW microbus starts honking at Wilford. The VW driver violently shakes his fist at Wilford.

His eyes are red. He follows Wilford through heavy traffic, and runs a red light to keep "on Wilford's tail." Suddenly, Wilford finds himself caught in heavy traffic behind a red light. There are cars on his left and cars on his right.

Wilford cannot drive forward, to the left, to the right, or to the rear. The VW driver jumps from his VW and runs up to Wilford's car door. The VW driver begins beating his fists on the driver's window and windshield of Wilford's car. Wilford pulls his gun and points it at the VW driver!

If Wilford had not pointed the gun at the VW driver, he might have fallen with the justified "defensive display" statute. But Wilford likely crossed the line and committed an aggravated assault because he was not in reasonable apprehension/fear of imminent seriously bodily injury or death. Wilford lost his cool. He did not look to see if the VW driver had a club, knife, or any weapon. Wilford was focused on the VW driver's dirty, bearded, terribly contorted face, instead of scanning for weapons.

Notwithstanding the possible "defensive display" justification, by producing his gun before he had the right to shoot, Wilford risked escalating the situation, and he lost the tactical advantage of surprise. Nonetheless, he made the gun more accessible and ready to use (without the need to point it at the VW driver).

Wilford should have kept an eye on the VW driver's hands, scanned for weapons, had his gun readily accessible and prepared to speed away when traffic began to move. Someone saw the incident and called the police.

The police arrive on the scene, but the VW driver is gone and no one saw his license number. Wilford is lucky! None of them witnesses say Wilford point the gun at the VW driver or even saw the gun. Wilford is not charged, and the police tell him to drive away NOW! Wilford complies and never hears from the police.

## **13-405. Justification: use of deadly physical force**

A. A person is justified in threatening or using deadly physical force against another:

1. If such person would be justified in threatening or using physical force against the other under section 13-404, and

2. When and to the degree a reasonable person would believe that deadly physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly physical force.

B. A person has no duty to retreat before threatening or using deadly physical force pursuant to this section if the person is in a place where the person may legally be and is not engaged in an unlawful act.

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## **13-406. Justification; defense of a third person**

A person is justified in threatening or using physical force or deadly physical force against another to protect a third person if:

1. Under the circumstances as a reasonable person would believe them to be, such person would be justified under section 13-404 or 13-405 in threatening or using physical force or deadly physical force to protect himself against the unlawful physical force or deadly physical force a reasonable person would believe is threatening the third person he seeks to protect; and
2. A reasonable person would believe that such person's intervention is immediately necessary to protect the third person.

**EXAMPLE: As Bill Bankcustomer approaches an ATM late at night to withdraw some cash, Bill stumbles onto a drug arrest. The area around the ATM is deserted, except for a uniformed police officer, the suspect and Bill. Bill is close enough to clearly overhear the officer warning the suspect of his rights and notifying the suspect that he is being arrested for sale of cocaine.**

**Bill personally recognizes the officer from an occasion when Bill was a juror and the officer testified as a witness. Bill informs the officer of his presence and "stands by" as the lone police officer is handcuffing the suspect. Bill has a loaded 1911 style 45 ACP (a semi- automatic pistol) in "condition 1" (cocked with a round in the chamber and the safety on) with night sights in a holster under his jacket, and Bill knows how to use it (Bill has taken several pistol courses and practices regularly).**

**Suddenly, the suspect spins around and seizes the officer's pistol, stands up, points the pistol at the officer's head and snarls "You're a dead mother f---er!" Bill has a clear, unobstructed, profile view of the officer and the suspect who are 15 feet from Bill. The light from the ATM is reflecting off the faces of the officer and the suspect, and they are outlined by the well-lit bank building, which will be an effective "back stop."**

**Although Bill has no legal duty to aid the officer, Bill may legally shoot the drug suspect! The officer would be justified to shoot the suspect in self-defense, so Bill may do so to aid the officer. In analyzing when one can use deadly force in defense of another, it is helpful to use self-defense examples, and imagine that one is coming to the defense of a person who is justified to use self-defense. If so, one is justified to use deadly force to protect another.**

## **13-407. Justification; use of physical force in defense of premises**

A. A person or his agent in lawful possession or control of premises is justified in threatening to use deadly physical force or in threatening or using physical force against another when and to the extent that a reasonable person would believe it immediately necessary to prevent or terminate the commission or attempted commission of a criminal trespass by the other person in or upon the premises.

B. A person may use deadly physical force under subsection A only in the defense of himself or third persons as described in sections 13-405 and 13-406.

C. In this section, "premises" means any real property and any structure, movable or immovable, permanent or temporary, adapted for both human residence and lodging whether occupied or not.

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## **13-408. Justification; use of physical force in defense of property**

A person is justified in using physical force against another when and to the extent that a reasonable person would believe it necessary to prevent what a reasonable person would believe is an attempt or commission by the other person of theft or criminal damage involving tangible movable property under his possession or control, but such person may use deadly physical force under these circumstances as provided in sections 13-405, 13-406 and 13-411.

## **13-409. Justification; use of physical force in law enforcement**

A person is justified in threatening or using physical force against another if in making or assisting in making an arrest or detention or in preventing or assisting in preventing the escape after arrest or detention of that other person, such person uses or threatens to use physical force and all of the following exist:

1. A reasonable person would believe that such force is immediately necessary to effect the arrest or detention or prevent the escape.
2. Such person makes known the purpose of the arrest or detention or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested or detained.
3. A reasonable person would believe the arrest or detention to be lawful.

## **13-410. Justification; use of deadly physical force in law enforcement**

A. The threatened use of deadly physical force by a person against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is:

1. Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or
2. A felon who has escaped from lawful confinement; or
3. A felon who is fleeing from justice or resisting arrest with physical force.

B. The use of deadly physical force by a person other than a peace officer against another is justified pursuant to section 13-409 only if a reasonable person effecting the arrest or preventing the escape would believe the suspect or escapee is actually resisting the discharge of a legal duty with physical force or with the apparent capacity to use deadly physical force.

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.
2. To effect an arrest or prevent the escape from custody of a person whom the peace officer reasonably believes:
  - (a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.



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(b) Is attempting to escape by use of a deadly weapon.

(c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.

(d) Is necessary to lawfully suppress a riot if the person or another person participating in the riot is armed with a deadly weapon.

D. Notwithstanding any other provisions of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it necessary to protect himself against another's potential use of physical force or deadly physical force.

## **13-411. Justification; use of force in crime prevention; applicability**

A. A person is justified in threatening or using both physical force and deadly physical force against another if and to the extent the person reasonably believes that physical force or deadly physical force is immediately necessary to prevent the other's commission of arson of an occupied structure under section 13-1704, burglary in the second or first degree under section 13-1507 or 13-1508, kidnapping under section 13-1304, manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406,

child molestation under section 13-1410, armed robbery under section 13-1904 or aggravated assault under section 13-1204, subsection A, paragraphs 1 and 2.

B. There is no duty to retreat before threatening or using physical force or deadly physical force justified by subsection A of this section.

**There is no duty to retreat before acting with justification, i.e. Arizona is a "stand your ground" jurisdiction. State v. Jackson , 94 Ariz. 117, 382 P.2d 229 (1963); Macias v. State 36 Ariz. 140, 238 P. 711 (1929); State v. Palomarez, 134 Ariz. 486, 657 P.2d 899 (App. 1982); A.R.S. § 13-411.**

### **THE POLICE HAVE NO LEGAL DUTY TO PROTECT AN INDIVIDUAL.**

**Any discussion of justification triggers consideration of alternatives to self- defense. A common misunderstanding is that law enforcement officers have a duty to protect you, if possible. This is not true. Courts have held that neither the state nor the police owe a duty to protect the individual.**

**One federal court even boldly proclaimed, "There is no constitutional right to be protected by the state against being murdered by criminals or madmen."**

**C. A person is presumed to be acting reasonably for the purposes of this section if the person is acting to prevent the commission of any of the offenses listed in subsection A of this section.**

**D. This section is not limited to the use or threatened use of physical or deadly physical force in a person's home, residence, place of business, land the person owns or leases, conveyance of any kind, or any other place in this state where a person has a right to be.**

**EXAMPLE: Constance Taxpayer drives home after work, and is looking forward to seeing her kids. Constance's husband is on a business trip. She plans to take the kids to the movies.**

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**First Scenario - Constance sees a man preparing to throw a "Molotov Cocktail" (fire bomb) through the front window of her house. She yells "Stop," but he lights the rag fuse and moves to throw the Molotov Cocktail into the house. Constance may threaten or use deadly force to stop him.**

**Second Scenario - As Constance enters the house, she hears her children screaming. She rushes into the living room, sees that the back door has been shattered inward, and sees a large, filthy, man trying to drag her youngest child out of the house. Constance yells "Stop," but the man ignores her. Constance may threaten or use deadly force to stop him.**

## **13-412. Duress**

A. Conduct which would otherwise constitute an offense is justified if a reasonable person would believe that he was compelled to engage in the proscribed conduct by the threat or use of immediate physical force against his person or the person of another which resulted or could result in serious physical injury which a reasonable person in the situation would not have resisted.

B. The defense provided by subsection A is unavailable if the person intentionally, knowingly or recklessly placed himself in a situation in which it was probable that he would be subjected to duress.

C. The defense provided by subsection A is unavailable for offenses involving homicide or serious physical injury.

**EXAMPLE: Two thugs break into Howard Homeowner's house, tie and bind Howard and his wife, rummage through their possessions, and begin to argue violently between themselves. One thug is armed and the other is not.**

**While the unarmed thug is outside, "cooling off," the armed thug moves close to Howard and his spouse, unties. Howard, hands him an unloaded shotgun he found in Howard's closet, moves behind Howard's wife, puts his .357 magnum revolver to the wife's head, throws Howard one load of "buckshot" from a box of shells he found with the shotgun, and orders Howard to go outside and shoot the unarmed thug or "I will blow your wife's head off!"**

**The armed thug promises that if Howard does as he is told, the armed thug will leave Howard and his wife unharmed, and Howard can claim that he shot one thug while the other got away. Tough choice! Legally, Howard cannot shoot the unarmed thug in self-defense.**

**Howard would not be justified because the unarmed thug is not an immediate threat to Howard or his spouse and the unarmed thug is no longer in the process of committing burglary or some other offense that might justify use of deadly force. If Howard shoots the unarmed thug, he cannot defend himself by claiming that he was coerced by the armed thug.**

**Will Howard shoot the unarmed thug without (legal) justification (and without a guaranty that the armed thug will leave Howard and his wife unharmed), or refuse to follow the armed thug's instructions and risk that his wife (and perhaps himself) will be killed, or take the risk that he can deal with both thugs with a single load of buckshot without harming his wife? (Hint, there is no legally and morally correct choice.)**

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## **13-413. No civil liability for justified conduct**

No person in this state shall be subject to civil liability for engaging in conduct otherwise justified pursuant to the provisions of this chapter.

**If a person brandishes a firearm in a manner, which causes someone (the victim) reasonably to fear death or injury in violation of a duty owed to the victim, the violator can be sued by the victim for assault, mental distress and other civil remedies and damages. Justification is a defense.**

**A.R.S. § 13-413. One cannot be held liable for a civil wrong (tort) in Arizona if the conduct was justified under the law. (A.R.S. § 13-413). However, being found legally justified in a criminal case does not protect against a civil suit. Pfeil v. Smith, 183 Ariz. 63, 900**

## **13-414. Justification; use of reasonable and necessary means**

A correctional officer as defined in section 41-1661 may use all reasonable and necessary means including deadly force to prevent the attempt of a prisoner sentenced to the custody of the state department of corrections to:

1. Escape from custody or from a correctional facility.
2. Take another person as a hostage.
3. Cause serious bodily harm to another person.

## **13-415. Justification; domestic violence**

If there have been past acts of domestic violence as defined in section 13-3601, subsection A against the defendant by the victim, the state of mind of a reasonable person under sections 13-404, 13-405 and 13-406 shall be determined from the perspective of a reasonable person who has been a victim of those past acts of domestic violence.

## **13-416. Justification; use of reasonable and necessary means; definition**

A. A security officer who is employed by a private contractor may use all reasonable and necessary means, including deadly force, to prevent a prisoner in the custody of the private contractor from the following:

1. Escaping from the custody of a law enforcement officer, an authorized custodial agent or a correctional facility.
2. Taking another person as a hostage or causing death or serious bodily harm to another person.

B. Security officers who are described in subsection A and who are employed by private prisons in this state shall meet or exceed the minimal training standards established by the American correctional association.

C. For the purposes of this section, "private contractor" means a person that contracts with any governmental entity to provide detention or incarceration services for prisoners.

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## 13-417. Necessity defense

A. Conduct that would otherwise constitute an offense is justified if a reasonable person was compelled to engage in the proscribed conduct and the person had no reasonable alternative to avoid imminent public or private injury greater than the injury that might reasonably result from the person's own conduct.

B. An accused person may not assert the defense under subsection A if the person intentionally, knowingly or recklessly placed himself in the situation in which it was probable that the person would have to engage in the proscribed conduct.

C. An accused person may not assert the defense under subsection A for offenses involving homicide or serious physical injury.

**It would seem that the “necessity defense” would not apply to the use of deadly force because the use of deadly force “might result” in death. No threatened injury could be greater than death; therefore, use of deadly force would not constitute a “necessity.” Clearly, if death or serious physical injury actually results, the “necessity defense” would not apply. Whether the threatened use of deadly force might be recognized by a court as a potential “necessity defense” remains unresolved. It is conceivable that a person might threaten the use of deadly force, without causing death or serious physical injury, in order to avoid imminent death or serious injury to the accused person or another person, thereby meeting the requirements for the “necessity defense.”**

### **Self-Defense -- Castle Doctrine**

**Effective April 24, 2006, the “Castle Doctrine” was implemented in Arizona by SB1145 as A.R.S. §§ 13-418 & 13-419:**

**A person is justified in threatening or using physical force or deadly physical force against another person if the person reasonably believes himself or another person to be in imminent peril of death or serious physical injury and the person against whom the physical force or deadly physical force is threatened or used was in the process of unlawfully or forcefully entering, or had unlawfully or forcefully entered, a residential structure or occupied vehicle, or had removed or was attempting to remove another person against the other person's will from the residential structure or occupied vehicle.**

**A person has no duty to retreat before threatening or using physical force or deadly physical force pursuant to this section. A.R.S. § 13-418.**

### **Presumption; exceptions; definition - A.R.S. § 13-419**

**A. A person is presumed to reasonably believe that the threat or use of physical force or deadly physical force is immediately necessary for the purposes of sections 13-404 through 13-408, section 13-418 and section 13-421 if the person knows or has reason to believe that the intruder against whom the force is being used is unlawfully or forcefully entering or has unlawfully or forcefully entered and is present in the person's residential structure or occupied vehicle (amended effective July 20, 2011).**

**B. For purposes of sections 13-404 – 13-408, 13-418 and 13- 421, an intruder who is unlawfully or forcefully entering or has unlawfully or forcefully entered and is present [in another's] residential structure or occupied vehicle is presumed to pose an imminent threat of unlawful deadly harm to anyone in the residence or vehicle. (SB 1469, added effective July 20, 2011).**

**C. These presumptions do not apply if:**

**1. The person against whom physical force or deadly physical force was threatened or used has the right to be in or is a lawful resident of the residential structure or occupied**

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vehicle, including an owner, lessee, invitee or titleholder, and an order of protection or injunction against harassment has not been filed against that person.

2. The person against whom physical force or deadly physical force was threatened or used is the parent or grandparent, or has legal custody or guardianship, of a child or grandchild sought to be removed from the residential structure or occupied vehicle.

3. The person who threatens or uses physical force or deadly physical force is engaged in an unlawful activity or is using the residential structure or occupied vehicle to further an unlawful activity.

## Arizona Revised Statutes Title 4– Chapter 229

### 4-229. Licenses; handguns; posting of notice

A. A person with a permit issued pursuant to section 13-3112 may carry a concealed handgun on the premises of a licensee who is an on-sale retailer unless the licensee posts a sign that clearly prohibits the possession of weapons on the licensed premises. The sign shall conform to the following requirements:

1. Be posted in a conspicuous location accessible to the general public and immediately adjacent to the liquor license posted on the licensed premises.

2. Contain a pictogram that shows a firearm within a red circle and a diagonal red line across the firearm.

3. Contain the words, "no firearms allowed pursuant to A.R.S. section 4-229".

B. A person shall not carry a firearm on the licensed premises of an on-sale retailer if the licensee has posted the notice prescribed in subsection A of this section.

C. It is an affirmative defense to a violation of subsection B of this section if:

1. The person was not informed of the notice prescribed in subsection A of this section before the violation.

2. Any one or more of the following apply:

(a) At the time of the violation, the notice prescribed in subsection A of this section had fallen down.

(b) At the time of the violation, the person was not a resident of this state.

(c) The licensee had posted the notice prescribed in subsection A of this section not more than thirty days before the violation.

D. The department of liquor licenses and control shall prepare the signs required by this section and make them available at no cost to licensees.

E. The signs required by this section shall be composed of block, capital letters printed in black on white laminated paper at a minimum weight of one hundred ten pound index. The lettering and pictogram shall consume a space at least six inches by nine inches. The letters comprising the words "no firearms allowed" shall be at least three-fourths of a vertical inch and all other letters

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shall be at least one-half of a vertical inch. Nothing shall prohibit a licensee from posting additional signs at one or more locations on the premises.

F. This section does not prohibit a person who possesses a handgun from entering the licensed premises for a limited time for the specific purpose of either:

1. Seeking emergency aid.
2. Determining whether a sign has been posted pursuant to subsection A of this section.

## Arizona Revised Statutes Title 13 – Chapter 31

### 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 or to be persistently or acutely disabled or gravely disabled pursuant to court order under section 36-540, and whose right to possess a firearm has not been restored pursuant to section 13-925.
  - (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.

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(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 nonimmigrant 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 subdivision 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,

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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 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



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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 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.

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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, 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 10 of this section shall not apply to shooting ranges or shooting events, hunting areas or similar locations or activities.

G. 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 10 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.

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

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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 W 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).

I. 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.

J. 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.

K. Misconduct involving weapons under subsection A, paragraph 15 of this section is a class 2 felony. Misconduct involving weapons under subsection A, paragraph 9 or 14 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.

L. 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.

**Effective July 29, 2010, carrying or transporting a concealed deadly weapon (not a pocket knife) in furtherance of a serious offense (A.R.S. § 13-706), a violent crime (A.R.S. § 13-901.03), or any felony, is misconduct with weapons. A.R.S. § 13-3102.A.1(a).**

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Effective July 29, 2010, failing to accurately answer a law enforcement question whether one is carrying or transporting a concealed deadly weapon (not a pocket knife) while carrying or transporting a concealed deadly weapon (not a pocket knife) is misconduct with weapons. A.R.S. § 13-3102.A.1 (b).

An Arizona CCW permittee is exempted from the “Brady” background check (18 U.S.C. § 922(s)(1)(C)).

If a police officer stops you while you are driving and armed, follow some common sense rules: (1) keep your hands visible, preferably on the steering wheel; (2) if your gun is accessible in the car or if the officer asks whether you have a gun, inform the officer that you are armed, that you have a CCW permit, and the location of your gun; (3) follow the officer’s instructions (depending upon the officer and the circumstances, you may or may not be asked to surrender your gun during the traffic stop);

(4) if you are asked to surrender your gun, be certain that you communicate with the officer clearly regarding how you are to present the gun, and always remember the four basic safety rules.

3. Surrendering a firearm upon request of law enforcement (A.R.S. § 13-3102.J)

If a law enforcement officer asks for your firearm, you should ask the officer how he would like you to present it to him, and follow his instructions in a safe manner. While the circumstances will determine whether the law enforcement officer can legally seize your firearm for possible forfeiture (A.R.S. §§ 13-3105, 13-3111.F, 13-3601, 13-3602, 13-3624, 13-3895, 13-4305),

**LAW ENFORCEMENT PERSONNEL ARE ALWAYS AUTHORIZED TO REQUEST THAT YOU SURRENDER YOUR FIREARM TEMPORARILY TO ENSURE THEIR OWN SAFETY.**

(A.R.S. § 13- 3102.J). Any person who is lawfully arresting you is authorized to take your firearm and turn it over to the magistrate before whom you are to be taken (A.R.S. § 13-3895).

## **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.

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B. Misconduct involving explosives is a class 1 misdemeanor.

## **13-3104. Depositing explosives; classification**

A. A person commits depositing explosives if with the intent to physically endanger, injure, intimidate or terrify any person, such person knowingly deposits any explosive on, in or near any vehicle, building or place where persons inhabit, frequent or assemble.

B. Depositing explosives is a class 4 felony.

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

A. On the conviction of any person for a violation of any felony in this state in which a deadly weapon, dangerous instrument or explosive was used, displayed or unlawfully possessed by the person, the court shall order the article forfeited and sold to any business that is authorized to receive and dispose of the article under federal, state and local law and that shall sell the article to the public according to federal, state and local law, unless the article is otherwise prohibited from being sold under federal, state or local law, in which case it shall be destroyed or otherwise properly disposed.

B. On the conviction of any person for a violation of section 13-2904, subsection A, paragraph 6 or section 13-3102, subsection A, paragraph 1 or 8, 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 to any business that is authorized to receive and dispose of the article under federal, state and local law and that shall sell the article to the public according to federal, state and local law, unless the article is otherwise prohibited from being sold under federal, state or local law, in which case it shall be 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).

## **13-3107. Unlawful discharge of firearms; exceptions; classification; definitions**

A. A person who with criminal negligence discharges a firearm within or into the limits of any municipality is guilty of a class 6 felony.

B. Notwithstanding the fact that the offense involves the discharge of a deadly weapon, unless a dangerous offense is alleged and proven pursuant to section 13-704, subsection L, section 13-604 applies to this offense.

C. This section does not apply if the firearm is discharged:

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1. As allowed pursuant to chapter 4 of this title.
2. On a properly supervised range.
3. In an area recommended as a hunting area by the Arizona game and fish department, approved and posted as required by the chief of police, but any such area may be closed when deemed unsafe by the chief of police or the director of the Arizona game and fish department.
4. For the control of nuisance wildlife by permit from the Arizona game and fish department or the United States fish and wildlife service.
5. By special permit of the chief of police of the municipality.
6. As required by an animal control officer in the performance of duties as specified in section 9-499.04.
7. Using blanks.
8. More than one mile from any occupied structure as defined in section 13-3101.
9. 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. For the purposes of this section:

1. "Municipality" means any city or town and includes any property that is fully enclosed within the city or town.
2. "Properly supervised range" means a range that is any of the following:
  - (a) Operated by a club affiliated with the national rifle association of America, the amateur trapshooting association, the national skeet association or any other nationally recognized shooting organization, or by any public or private school.
  - (b) Approved by any agency of the federal government, this state or a county or city within which the range is located.
  - (c) Operated with adult supervision for shooting air or carbon dioxide gas operated guns, or for shooting in underground ranges on private or public property.

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

A. Except as provided in subsection E 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, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms or ammunition or any firearm or ammunition components or related accessories 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 related accessories or prohibit the ownership, purchase, sale or transfer of firearms or ammunition or any firearm or ammunition components, or related accessories.

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C. A political subdivision of this state shall not require or maintain a record in any form, whether permanent or temporary, including a list, log or database, of any of the following:

1. Any identifying information of a person who leaves a weapon in temporary storage at any public establishment or public event, except that the operator of the establishment or the sponsor of the event may require that a person provide a government issued identification or a reasonable copy of a government issued identification for the purpose of establishing ownership of the weapon. The operator or sponsor shall store any provided identification with the weapon and shall return the identification to the person when the weapon is retrieved. The operator or sponsor shall not retain records or copies of any identification provided pursuant to this paragraph after the weapon is retrieved.

2. Except in the course of a law enforcement investigation, any identifying information of a person who purchases, sells or transfers a firearm, unless the transaction involves a federally licensed firearms dealer.

3. The description, including the serial number, of a weapon that is left in temporary storage at any public establishment or public event.

D. A political subdivision of this state shall not enact any rule or ordinance that relates to firearms and is more prohibitive than or that has a penalty that is greater than any state law penalty. A political subdivision's rule or ordinance that relates to firearms and that is inconsistent with or more restrictive than state law, whether enacted before or after the effective date of the amendment to this section, is null and void.

E. This section does not prohibit a political subdivision of this state from enacting and enforcing any ordinance or rule pursuant to 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 for the purpose of attending 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.

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3. The regulation 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 regulate 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 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 approved as a hunting area by the Arizona game and fish department. Any such area may be closed when deemed unsafe by 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.

F. A violation of any ordinance established pursuant to subsection E, paragraph 5 of this section is a class 2 misdemeanor unless the political subdivision designates a lesser classification by ordinance.

G. For the purposes of this section, "political subdivision" includes a political subdivision acting in any capacity, including under police power, in a proprietary capacity or otherwise.

## **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



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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.

**It is a federal crime to sell or give a juvenile (under 18 years old) a handgun or handgun ammunition. 18 U.S.C. §922(x). There are exceptions for temporary transfers, ownership without possession, etc. Temporary transfers for training, sport shooting, hunting, etc. require written consent by a parent. Written consent by the parent is even required when the parent is present with the juvenile for the hunting, training, etc. Violations are punishable by fines and imprisonment up to one year, or under certain circumstances, up to ten years. 18 U.S.C. § 924(a)(6).**

## **13-3110. Misconduct involving simulated explosive devices; classification; definition**

A. A person commits misconduct involving simulated explosive devices by intentionally giving or sending to another person or placing in a private or public place a simulated explosive device with the intent to terrify, intimidate, threaten or harass.

B. The placing or sending of a simulated explosive device without written notice attached to the device in a conspicuous place that the device has been rendered inert and is possessed for the purpose of curio or relic collection, display or other similar purpose is prima facie evidence of intent to terrify, intimidate, threaten or harass.

C. Misconduct involving simulated explosive devices is a class 5 felony.

D. For the purposes of this section, "simulated explosive device" means a simulation of a prohibited weapon described in section 13-3101, subsection A, paragraph 8, subdivision (a), item (i), (vi) or (viii) that a reasonable person would believe is such a prohibited weapon.

## **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.

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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 raites 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.

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## 13-3112. Concealed weapons; qualification; application; permit to carry; civil penalty; report; applicability

A. The department of public safety shall issue a permit to carry a concealed weapon to a person who is qualified under this section. The person shall carry the permit at all times when the person is in actual possession of the concealed weapon and is required by any other law to carry the permit. If the person is in actual possession of the concealed weapon and is required by any other law to carry the permit, the person shall present the permit for inspection to any law enforcement officer on request.

B. The permit of a person who is arrested or indicted for an offense that would make the person unqualified under section 13-3101, subsection A, paragraph 7 or this section shall be immediately suspended and seized. The permit of a person who becomes unqualified on conviction of that offense shall be revoked. The permit shall be restored on presentation of documentation from the court if the permittee is found not guilty or the charges are dismissed. The permit shall be restored on presentation of documentation from the county attorney that the charges against the permittee were dropped or dismissed.

C. A permittee who carries a concealed weapon, who is required by any other law to carry a permit and who fails to present the permit for inspection on the request of a law enforcement officer commits a violation of this subsection and is subject to a civil penalty of not more than three hundred dollars. The department of public safety shall be notified of all violations of this subsection and shall immediately suspend the permit. A permittee shall not be convicted of a violation of this section if the permittee produces to the court a legible permit that is issued to the permittee and that was valid at the time the permittee failed to present the permit for inspection.

D. A law enforcement officer shall not confiscate or forfeit a weapon that is otherwise lawfully possessed by a permittee whose permit is suspended pursuant to subsection C of this section, except that a law enforcement officer may take temporary custody of a firearm during an investigatory stop of the permittee.

E. The department of public safety shall issue a permit to an applicant who meets all of the following conditions:

1. Is a resident of this state or a United States citizen?
2. Is twenty-one years of age or older.
3. Is not under indictment for and has not been convicted in any jurisdiction of a felony unless that conviction has been expunged, set aside or vacated or the applicant's rights have been restored and the applicant is currently not a prohibited possessor under state or federal law.
4. Does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution.
5. Is not unlawfully present in the United States.
6. Has ever satisfactorily completed a firearms safety training program authorized by the department of public safety pursuant to subsection N, paragraph 1 of this section or has ever demonstrated competence with a firearm as prescribed by subsection N, paragraph 2, 3, 4, 5, 6, 7, 8 or 9 of this section and provides adequate documentation that the person has satisfactorily completed a training program or demonstrated competence with a firearm in any state or political

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subdivision in the United States. For the purposes of this paragraph, "adequate documentation" means:

(a) A certificate, card or document of completion from a firearms safety training program authorized pursuant to subsection N, paragraph 1 of this section, dated not more than five years earlier than the date of application, that has affixed to it the stamp, signature or seal of the instructor or organization that conducted the program, or a current or expired permit issued by the department of public safety pursuant to this section.

(b) An original or copy of a certificate, card or document that shows the applicant has completed any course or class prescribed by subsection N, paragraph 2, 3, 4, 5, 8 or 9 of this section or an affidavit from the instructor, school, club or organization that conducted or taught the course or class attesting to the applicant's completion of the course or class.

(c) An original or a copy of a United States department of defense form 214 (DD-214) indicating an honorable discharge or general discharge under honorable conditions, a certificate of completion of basic training or any other document demonstrating proof of the applicant's current or former service in the United States armed forces as prescribed by subsection N, paragraph 6 of this section.

(d) An original or a copy of a concealed weapon, firearm or handgun permit or a license as prescribed by subsection N, paragraph 7 of this section.

F. The application shall be completed on a form prescribed by the department of public safety. The form shall not require the applicant to disclose the type of firearm for which a permit is sought. The applicant shall attest under penalty of perjury that all of the statements made by the applicant are true, that the applicant has been furnished a copy of chapters 4 and 31 of this title and that the applicant is knowledgeable about the provisions contained in those chapters. The applicant shall submit the application to the department with any documentation prescribed by subsection E of this section, two sets of fingerprints and a reasonable fee determined by the director of the department.

G. On receipt of a concealed weapon permit application, the department of public safety shall conduct a check of the applicant's criminal history record pursuant to section 41-1750. The department of public safety may exchange fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

H. The department of public safety shall complete all of the required qualification checks within sixty days after receipt of the application and shall issue a permit within fifteen working days after completing the qualification checks if the applicant meets all of the conditions specified in subsection E of this section. If a permit is denied, the department of public safety shall notify the applicant in writing within fifteen working days after the completion of all of the required qualification checks and shall state the reasons why the application was denied. On receipt of the notification of the denial, the applicant has twenty days to submit any additional documentation to the department. On receipt of the additional documentation, the department shall reconsider its decision and inform the applicant within twenty days of the result of the reconsideration. If denied, the applicant shall be informed that the applicant may request a hearing pursuant to title 41, chapter 6, article 10. For the purposes of this subsection, "receipt of the application" means the first day that the department has physical control of the application and that is presumed to be on the date of delivery as evidenced by proof of delivery by the United States postal service or a written receipt, which shall be provided by the department on request of the applicant.

I. On issuance, a permit is valid for five years, except a permit that is held by a member of the United States armed forces, including a member of the Arizona national guard or a member of the

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reserves of any military establishment of the United States, who is on federal active duty and who is deployed overseas shall be extended until ninety days after the end of the member's overseas deployment.

J. The department of public safety shall maintain a computerized permit record system that is accessible to criminal justice agencies for the purpose of confirming the permit status of any person who is contacted by a law enforcement officer and who claims to hold a valid permit issued by this state. This information and any other records that are maintained regarding applicants, permit holders or instructors shall not be available to any other person or entity except on an order from a state or federal court. A criminal justice agency or other entity shall not use the computerized permit record system to conduct inquiries on whether a person is a concealed weapons permit holder unless the criminal justice agency or other entity has reasonable suspicion to believe the person is carrying a concealed weapon and the person is subject to a lawful criminal investigation, arrest, detention or an investigatory stop.

K. A permit issued pursuant to this section is renewable every five years. Before a permit may be renewed, a criminal history records check shall be conducted pursuant to section 41-1750 within sixty days after receipt of the application for renewal. For the purposes of permit renewal, the permit holder is not required to submit additional fingerprints.

L. Applications for renewal shall be accompanied by a fee determined by the director of the department of public safety.

M. The department of public safety shall suspend or revoke a permit issued under this section if the permit holder becomes ineligible pursuant to subsection E of this section. The department of public safety shall notify the permit holder in writing within fifteen working days after the revocation or suspension and shall state the reasons for the revocation or suspension.

N. An applicant shall demonstrate competence with a firearm through any of the following:

1. Completion of any firearms training program that is approved by the department of public safety and that is conducted by instructors who are authorized by the department of public safety or who possess current national rifle association instructor certifications in pistol and personal protection and who submit to a background investigation, including a check for warrants and a criminal history records check.

2. Completion of any firearms safety or training course or class that is available to the general public, that is offered by a law enforcement agency, a junior college, a college or a private or public institution, academy, organization or firearms training school and that is approved by the department of public safety.

3. Completion of any hunter education or hunter safety course approved by the Arizona game and fish department or a similar agency of another state.

4. Completion of any national rifle association firearms safety or training course.

5. Completion of any law enforcement firearms safety or training course or class that is offered for security guards, investigators, special deputies or other divisions or subdivisions of law enforcement or security enforcement and that is approved by the department of public safety.

6. Evidence of current military service or proof of honorable discharge or general discharge under honorable conditions from the United States armed forces.

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7. A valid current or expired concealed weapon, firearm or handgun permit or license that is issued by another state or a political subdivision of another state and that has a training or testing requirement for initial issuance.

8. Completion of any governmental police agency firearms training course and qualification to carry a firearm in the course of normal police duties.

9. Completion of any other firearms training that the department of public safety deems acceptable.

O. If authorized pursuant to subsection N, paragraph 1 of this section, the organization on behalf of each of its instructors shall submit to the department of public safety two sets of fingerprints and a fee to be determined by the director of the department of public safety. On receipt of the fingerprints and fee, the department of public safety shall conduct a check of each instructor's criminal history record pursuant to section 41-1750. The department of public safety may exchange this fingerprint card information with the federal bureau of investigation for federal criminal history record checks.

P. The proprietary interest of all authorized instructors and programs shall be safeguarded, and the contents of any training program shall not be disclosed to any person or entity other than a bona fide criminal justice agency, except on an order from a state or federal court.

Q. If the department of public safety rejects a program, the rejected organization may request a hearing pursuant to title 41, chapter 6, article 10.

R. The department of public safety shall maintain information comparing the number of permits requested, the number of permits issued and the number of permits denied. The department shall annually report this information to the governor and the legislature.

S. The director of the department of public safety shall adopt rules for the purpose of implementing and administering this section including fees relating to permits that are issued pursuant to this section.

T. This state and any political subdivision of this state shall recognize a concealed weapon, firearm or handgun permit or license that is issued by another state or a political subdivision of another state if both:

1. The permit or license is recognized as valid in the issuing state.

2. The permit or license holder is all of the following:

(a) Legally present in this state.

(b) Not legally prohibited from possessing a firearm in this state.

U. For the purpose of establishing mutual permit or license recognition with other states, the department of public safety shall enter into a written agreement if another state requires a written agreement.

V. Notwithstanding the provisions of this section, a person with a concealed weapons permit from another state may not carry a concealed weapon in this state if the person is under twenty-one years of age or is under indictment for, or has been convicted of, a felony offense in any

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jurisdiction, unless that conviction is expunged, set aside or vacated or the person's rights have been restored and the person is currently not a prohibited possessor under state or federal law.

W. The department of public safety may issue certificates of firearms proficiency according to the Arizona peace officer standards and training board firearms qualification for the purposes of implementing the law enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States Code sections 926B and 926C). A law enforcement agency shall issue to a law enforcement officer who has honorably retired a photographic identification that states that the officer has honorably retired from the agency. The chief law enforcement officer shall determine whether an officer has honorably retired and the determination is not subject to review. A law enforcement agency has no obligation to revoke, alter or modify the honorable discharge photographic identification based on conduct that the agency becomes aware of or that occurs after the officer has separated from the agency.

## **13-3113. Adjudicated delinquents; firearm possession; 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 13-706.

## **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.

## **13-3116. Misconduct involving body armor; classification; definition**

- A. A person commits misconduct involving body armor by knowingly wearing or otherwise using body armor during the commission of any felony offense.
- B. Misconduct involving body armor is a class 4 felony.
- C. For purposes of this section, "body armor" means any clothing or equipment designed in whole or in part to minimize the risk of injury from a deadly weapon.

## **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:

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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 engaged 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.

## **Defending oneself in a shooting investigation.**

**One of the easiest rules to remember but the most difficult rule to follow concerns how to respond to police when they are investigating a shooting incident in which you are involved.**

**The rule is simple - DO NOT GIVE THE POLICE A STATEMENT!**



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You should be polite but firm with the police, and tell them that you will not give a statement and that you want to talk to your lawyer.

The reasons for this rule are simple. First, you will not be in any condition to give a complete, well-reasoned statement for some time after you have shot someone.

Your body and mind will be going through some of the most stressful moments of your life. Even combat does not prepare someone for being asked to give a legal statement after a shooting. Your statement will be full of inaccuracies, missing details, excited word choices that you will later regret, confusing or even conflicting sequences of events, etc.

This is why police officers are trained to seek legal advice before giving statements about shootings in which they have been involved. Police officers are always taken from the scene of a shooting, and their statements are prepared after several interviews over a period of time.

You should do the same with your lawyer. Second, the police officer who is interviewing you is not your friend (or enemy). The officer will probably not know you. The investigating officer will be looking at your case as one more shooting. Unlike you, this will not be the most important thing in the officer's life.

The officer may or may not accurately hear what you say. The officer may or may not accurately write down what the officer thinks you said. The officer may or may not accurately recall the meaning of his notes when he makes his report hours or days later. The officer will likely destroy his notes, and his subsequent report will be the official report of his interview with you.

The officer will be anxious to close your case so he can get to the long line of other cases assigned to him. Worst of all, the officer might not believe in a citizen's right to self-defense with a firearm.

Third, you will need the help of someone who is familiar with criminal and civil procedural rules. There is much to be considered in deciding when, how and to whom a statement will be given. Even if the officer truly wants to help you, he has not been trained to protect your legal rights under criminal and civil law.

Having examined the reasons for the foregoing, simple rule, you must recognize in advance that you will be under tremendous pressure to ignore the rule and to talk to the police. First, you will have a tremendous psychological need to tell your story. You will feel the need to justify the traumatic and harrowing event to yourself and others.

The police may play upon your need to talk. They have a legitimate desire and duty to gather as much information as promptly as possible. They may try to persuade you to talk. If you inform them, you want to talk to a lawyer, they cannot ask you questions, but they can still talk to you and about you.

If you "volunteer" information, they can use it as they choose. They may talk to one another about your refusal to give a statement. They may talk within your hearing about things they believe point to your guilt. They can legally say almost anything to trick or deceive you into talking, so long as they do not violate your request for a lawyer by asking you questions. The courts have recognized deception as a legitimate law enforcement investigative technique, and such techniques are commonly used.

Once you start talking, the police, these comments are not intended to be critical of law enforcement. The simple reality is that law enforcement's need to gather as much information as promptly as possible often conflicts with the citizen's need to calm down,

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seek legal advice, and ensure that only complete and accurate information is included in any legal statement.

These comments are not intended to be critical of law enforcement. The simple reality is that law enforcement's need to gather as much information as promptly as possible often conflicts with the citizen's need to calm down, seek legal advice, and ensure that only complete and accurate information is included in any legal statement

## Indian Reservations

Because each tribal council makes the rules that apply on its reservation, the firearms rules on Indian reservations vary greatly. For the most part, non-Indians are prohibited from carrying guns on the reservations, except with the permission of the tribal council.

Therefore, a CCW permit probably has no meaning on most Indian reservations. However, so long as one remains on state or federal highways that pass through the reservations, a CCW permit will likely be honored in Arizona.

If Arizona CCW permits are acceptable in another state, the same rule would likely apply when traveling on state or federal highways across Indian reservations in that state.

## GENERAL RULES

A. When carrying concealed, do not "advertise" that you are doing so.

Carrying a concealed firearm is not a macho game - it is a precious right and a grave responsibility. Many people detest or fear firearms. If someone with a rabid hatred of firearms sees you displaying your firearm, you can bet that you will be subjected to everything from spiteful stares and harassment to criminal complaints.

Keep your firearm out of sight, and respectfully decline requests to show it to others in any public setting. The wisdom of this rule is highlighted by the law in states like Florida, Utah and Texas (not Arizona) and some foreign countries to the effect that displaying a lawfully concealed weapon (without justification) is a criminal offense.

In addition, concealment of your firearm gives you an important tactical edge if you are confronted with a life threatening situation. The average assailant does not expect his next victim to be carrying a firearm. The tactical advantage of surprise and the important one or two seconds that the surprise might buy you will be lost if your assailant knows you are armed.

B. As noted earlier, generally an Arizona concealed-weapon permit does not grant you any right to carry a firearm, concealed or otherwise, in any other state.

C. Do not freely show your concealed firearm to friends and associates upon request. You risk accidental shootings, accidentally alarming or offending bystanders, accidentally committing assault or reckless endangerment, and a variety of other problems. Your instructor can give you examples.

D. Remember, the success or failure of Arizona's concealed carry law depends, in large part, upon how you exercise this valuable right.

However, new CCW reciprocity laws may make your CCW permit good in another state. If you use your CCW permit to carry a concealed gun in another state that recognizes your permit, you will be responsible for following that state's laws regarding the carrying and use of firearms!

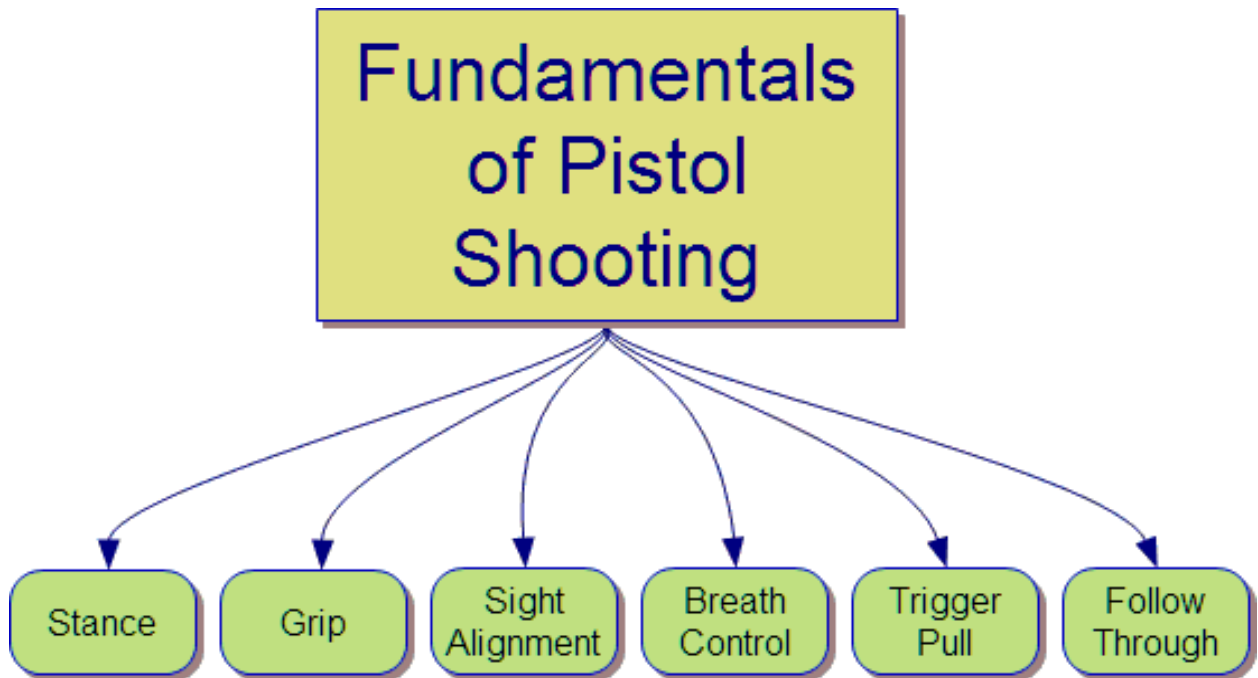
Arizona law does not follow you to other states!

Excerpts from and credited to: Michael P. Anthony

DEFENSIVE FIREARMS USE IN ARIZONA - LEGAL GUIDE

By Michael P. Anthony

(Version 15.1 - June 2012)



### **Four Cardinal Gun Rules**

- Always treat every firearm as if it is loaded.
- Always point your firearm in a safe direction.
- Always keep your finger outside of the trigger guard until you are on target and ready to shoot.
- Always be sure of your target and what is beyond it.

### **Firearms Safety**

Firearms safety topics covered include; safe gun handling, weapon selection, firearm nomenclature and manipulation, ammunition options, storage & maintenance, loading and unloading, and what is the a safe direction; fundamentals of pistol shooting including; grip options, stance options, sighting fundamentals, and trigger control.

### **An Important Word About Children and Guns**

Even if you do not own a gun, there is a good chance that your children will encounter one someday. Your children's friends might live in homes with guns, or your children might find one that a criminal has discarded. There are about 200 million firearms in the U.S., so some sort of encounter is almost inevitable.

To prepare for this, we suggest you teach your children these steps to follow when encountering a gun:

1. Stop!
2. Do not touch.
3. Leave the area.
4. Tell an adult.

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## Factors and Considerations for Accurate Shooting

To shoot a pistol accurately you must first decide which eye to look at the sights with and which hand to hold the pistol. Next, you must learn and consistently apply several fundamental techniques, such as *Position*, *Grip*, *Breath Control*, *Sight Alignment*, *Trigger Squeeze*, and *Follow Through*. Finally, you must practice regularly. Shooting a pistol is a skill, which must be maintained.

<b>Dominant Eye</b>	To identify your dominant eye, hold your arms out straight in front of you, make a small opening with your hands, and look through that opening at a distant object. Then close your eyes one at a time without moving your hands, and see, which eye is actually lined up with the opening - that is your dominant eye. About 10% of people do not have a dominant eye - they see two objects, or both openings. If you do not have a dominant eye, then you may choose whichever eye you like.
<b>Stance/Position</b>	The most generally useful position is the two-handed, armed stance, sometimes called the <i>Isoceles</i> stance. You should face the target, grip the pistol with both hands and extend your arms until just shy of them locking. Try for a relaxed stance, lean somewhat forward with your knees slightly bent. Your neck should be straight and your shoulders should be relaxed, not hunched up.
<b>Grip</b>	You want a grip, which lets you hold the pistol firmly and comfortably, line up the sights with your eye and the target, and pull the trigger straight rearwards using the center of the first pad of your trigger finger. Your grip should also transmit recoil straight backwards. The best grip is taken by putting your shooting hand as far up the blackstrap as it will go, placing your trigger finger against the frame outside the trigger guard, and wrapping your other three fingers around the grip. A two-handed grip is taken by wrapping your non-shooting hand around your shooting hand and squeezing with your non-shooting hand to increase total grip strength. Place your non-shooting thumb alongside your shooting thumb and wrap your non-shooting fingers around your shooting fingers, then squeeze firmly with both hands.
<b>Sight Alignment</b>	This is the most important skill of all of the fundamentals. You must remember to focus your dominant eye on the front sight of the pistol. The rear sight and target should appear blurry and out of focus. Most pistols have a square front post and a square rear notch. The top of the front and rear sights should be on the same horizontal line and there should be an equal amount of visible space through the notch on each side of the aligned front sight. Keeping the sights aligned with each other

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	(maintaining sight picture) is more important than keeping the sights precisely pointed at the target (maintaining point of aim).
<b>Breath Control</b>	It is nearly impossible to keep your arms stationary while you breathe. So you should take a deep breath, let it mostly out and then hold your breath through the sight alignment and remainder of the shot. Remember to breathe between shots - lack of oxygen will make you tremble.
<b>Trigger Pull</b>	Once the sight picture is obtained and the sights are aligned on the target, you must squeeze the trigger to fire the shot, without disturbing the sight alignment. This takes a lot of practice. Generally, you want a smooth, even motion with steadily increasing force, the force exerted straight to the rear. For target shooting your trigger stroke should take one to two seconds - much shorter, you will be jerking the pistol, much longer, and you will start trembling. Defensive shooting must be done faster, but still with a squeeze, not a quick jerking motion.
<b>Follow Through</b>	To shoot accurately, you must maintain all of the fundamentals above until the bullet has departed the barrel. Continue to concentrate on maintaining your stance, grip, sight picture, and trigger squeeze before, during, and after the shot sequence.

We will demonstrate and everyone will practice-shooting mechanics with the orange training guns to establish sound shooting fundamentals.

Each student will have an opportunity to practice firearms handling drills with our state-of-the-art *LASER Shot Training Software System*. You will receive instant feedback on shot placement and see where the shots hit the full-sized target. This training includes realistic shot sounds and laser replica Glock handgun and is an excellent way to work on shooting fundamentals.

*\*\*All students will receive pertinent law information packet and Certificate of Completion. CCW form packet is issued and on-site fingerprinting option on two DPS cards is available for additional fee.*

***Note: Cost of Course does not include AZ DPS Permit processing fee of \$60, which is submitted by applicant upon completion of course directly to DPS.***