



## GUN LAW UPDATE 2007 — 2008

Changes to Ed. 23 that will eventually  
appear in Edition 24

### From 2007

Page • Bill • Statute • Chapter • Description (“D” indicates the change only affects the law in Appendix D.)

**D • SB 1084 • §13-1204 • CH47.** The definitions and penalties for aggravated assault have been rewritten, shortening the statute by 68 words and arranging it in more logical fashion. Conditions that amount to an aggravated assault do not appear to have changed.

**D • SB 1222 • §13-1202, 13-2409, 13-2512 • CH287.** In 13-1202, threatening or intimidating is now a class 6 felony for criminal street gang members. In 13-2409, obstructing justice is now a class 3 felony for criminal street gang members. In 13-2512, hindering prosecution is now a class 3 felony for criminal street gang members.

**59 • SB 1250 • §13-3112 • CH35.** Removes the requirement to obtain fingerprints on first renewal of a CCW permit. Last year a bill passed eliminating fingerprint requirement after second renewal. DPS interpreted this to mean the second time you renew your permit after Aug. 2005, you don’t need fingerprints—or roughly in the year 2015. SB 1250 eliminates the fingerprint renewal requirement altogether by deleting a few lines in the law. Starting Dec. 31, 2007, when you renew your concealed-weapons permit, you will no longer be required to submit a set of fingerprints. For procedures on renewing without submitting fingerprints, check with the DPS CCW Unit: <http://www.dps.state.az.us/ccw/>.

**46 • SB 1258 • §26-303 • CH101.** Prohibits the governor or adjutant general from confiscating lawfully held firearms, ammo or their components during a state of emergency, invoking federal and state constitutional guarantees. This important limit has been placed on many officials, after highly publicized abuses in Louisiana following hurricane Katrina. Specifically, emergency powers, “shall not be construed to allow the imposition of additional restrictions on the lawful possession, transfer, sale, transportation, carrying, storage, display or use of firearms or ammunition or firearms or ammunition components.” Authorities can, however, move large supplies of ammo “out of the way of dangerous conditions.” The governor had previously refused to sign this common-sense bill because, she said, it would prevent moving an ammo stockpile during a forest fire. AzCDL added the language to neutralize that excuse, which led to the law’s passage.

**D • HB 2116 •** Allows people to let their grandchildren use their big game permits and tags to take big game under certain limited circumstances.

**D • HB 2117 •** Allows people to let physically disabled minor children use their big game permits and tags to take big game under certain limited circumstances.

**D • HB 2457 • §38-1102 • CH79.** A new statute specifies that peace officers cannot be disarmed by any government entity in the state, including the state itself, as long as the officers are qualified and in compliance with department regulations. A handful of exceptions include jails and similar holding facilities, courts at court discretion, secure police facilities, places federally prohibited for peace officers and similar. Officers can also be disarmed for cause, such as physical or mental impairment, and departments can decide how many and what type of arms and ammo officers may carry. This is slightly outside *The Arizona Gun Owner’s Guide’s* scope, which focuses on private firearms issues, but it’s interesting to note that the assault on the right to keep and bear has gotten sufficiently intense to motivate police to attempt to guarantee their own powers by statute.

**56 • HB 2469 • §13-3112 • CH45.** Reduces the penalty for not carrying your CCW permit with you to a petty offense (from the current Class 2 misdemeanor). It also restricts the application of the law to concealed-weapons-permit holders, and clarifies that permit

holders can only be charged if they are carrying a concealed weapon when they fail to present their permit at the request of a law enforcement officer. If, on appearing in court after being cited for failure to have your permit with you, you produce a legible permit that was valid at the time of the violation, you “shall not be convicted.”

**D • HB 2638 • §9-461.05 • CH236.** The “effective date” for a previous land-use amendment affecting shooting ranges is spelled out, Aug. 25, 2004.

**D • HB 2787 • §13-610 • CH261.** The paragraph that says government can collect a DNA sample from you for certain gun-related offenses (and other crimes) is renumbered, and expanded to include additional crimes and an arrest (before any conviction) for repeat offenders, “involving the discharge, use or threatening exhibition of a deadly weapon.”

### From 2008

**D • HB 2251 • Title 15 and 17 • CH37.** Changes to hunting and fishing licenses, expands training opportunities for youngsters, defines penalties for guides who violate the rules.

**23 • HB 2486 • §13-3101 • CH3.** Adds undocumented immigrants to the prohibited possessor list, and narrow exceptions for nonimmigrant visa legitimate hunters, competitors and persons with a waiver from the U.S. Attorney General.

**37 • HB 2574 • §28-8429 • CH116.** Carrying a deadly weapon in the secure area of an airport is a class 1 misdemeanor, with exceptions for the proper authorities; makes clear that carrying in other areas or for lawful transport in general is OK.

**57, 68 • HB 2634 • §13-3112 • CH269.** Allows a former felon whose conviction has been expunged, set aside or vacated to possibly obtain a CCW permit. Previously, only a presidential pardon would do—clearing your record had been deemed inadequate.

**58, 63 • SB 1070 • §13-3112 • CH263.** Documents showing proper completion of an approved training class are valid for CCW-permit application for five years from the date of training. A current or expired permit is also suitable proof for the application. Properly DPS-approved or NRA-certified instructors are valid trainers.

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**D • HB 2444 • §13-1204 • CH179.** Adds constables to the list of people against whom an assault is aggravated; renumbering.

**D • SB 1336 • §13-1405 • CH210.** Adds teacher, clergyman or priest to the list for class 2 felony for sexual conduct with a minor.

**85, 118 • SB 1153 • §§13-3101, 3102, 3110, 3112 • CH274.** Minor grammar in each section; makes misconduct with a simulated explosive device a class 5 felony (was class 1 misdemeanor); adds improvised explosive device and ‘gas-pressure bomb’ to the list of class 5 felony devices. Adds use of dry ice as a weapon as a class 4 felony.

**HB 2207 • CH301.** 128-page supposedly technical fix bill changes Title 13 §§105, 107, 501, 604, 610, 701, 702, 703, 707, 751, 905, 906, 909, 910, 912.01, 1104, 1105, 1204, 1304, 1405, 1406, 1410, 2308.01, 3107, 3113, 3601; 15-341.

Mostly overhaul of sentencing but makes other significant changes. Replaces somewhat haphazard enumerated penalties by using “dangerous offense” (§13-105 and §13-704) and “serious offense” (§13-706). Also codifies aggravating and mitigating circumstance (§13-702), and applies uniform first-time and repeat-offender penalties. Changes each statute by renumbering to comply, and grammatical changes (e.g. “such person” becomes “the person,” “which” becomes “that” as needed, etc.

119 • §13-105 (definitions): Adds new item number one, defining “**absconder**” (person who skips out on probation) forcing all other numbers to increment up; minor grammar (e.g., “thusly defined” becomes “defined,” “his or her” becomes “the person’s,” etc.); “**Dangerous offense**” defined as: “an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person”; “**historical prior felony conviction**” increases sentences, defined to include numerous felonies including a prior with deadly

weapon or dangerous instrument, and serious physical injury, certain drug offenses, syndicates, aggravated DUI, skips, priors, (374 words long); **“preconviction custody”** defined for felony charges here or elsewhere; renumbering (list goes to 42, was 38).

D • §13-604 is repealed and replaced as part of revamp to sentencing; non-dangerous class 6 felony can be reduced to class 1 misdemeanor at court discretion if it’s otherwise “unduly harsh,” with conditions; other wobblers can be reduced at prosecutor’s request, with conditions.

84 • §13-701 felony categories have been deleted here and moved to §13-702 et. seq.; 701 now defines aggravating and mitigating sentencing factors, which among others includes use of deadly weapon or dangerous instrument, wearing body armor, heinous cruel or depraved acts, value of any property damaged, use of accomplice, acting for pay, acts against public servants, emotional, physical or financial harm, death of an unborn, priors, acts against aged or infirm, hate component (malice) to favored groups, DUI, ambush, retaliation against crime reporting, acts in presence of a child, impersonating an LEO, illegal immigrant, use of a handheld or remote stun gun, anything else state deems relevant, more. Mitigating includes age, awareness of wrongfulness, duress, minimal involvement, renunciation during act, anything else state deems relevant. 1,395 words.

D • §13-702 Replaces all language concerning first-time felony offenses with the new penalty structure, including designated prison terms for mitigated, minimum, presumptive, maximum and aggravated sentencing; The term “dangerous offense” exercises ambiguous control, and replaces the formerly ubiquitous “the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.” All the new penalty ranges here and below in the revamp scheme, because they stipulate time frames for repeat, aggravated and maximums, include longer prison terms.

D • §13-703 et. seq. death sentence is now §13-751 et. seq. in new chapter 7.1 Capital Sentencing; New §13-703 now has complex (1,239 words) repeat-offense descriptions and penalties with aggravating and mitigating standards and three sets of conditional penalties.

D • §13-704 is now dangerous-offense sentencing, with repeat-dangerous-offense descriptions and penalties, which includes certain gun-related offenses (as defined in §13-105, with some prosecutorial discretion). Seven separate sets of prison terms (dangerous, repeat dangerous, lower three felony classes, etc.) specified.

119 • §13-706 is now serious, violent or aggravated sentencing; defines **“serious offense”** to include 12 crimes from murder 1 and 2 to sexual conduct with a minor under 15, and including aggravated assault involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, armed robbery, burglary 1 (armed); 12 other serious crimes including a repeat of murder 1 and 2, plus drive by shooting and shooting at occupied residence, moved to a “violent or aggravated felony” class for sentencing. It’s a confusing scheme, with some apparent errors and contradictions that may need fixing.

There seems to be a critical error here, since some of the violations under “serious offense” are comparatively low (e.g., underage consensual sex, technically a class 2 felony) but are now lumped together at the level of murder 1 (capital offense) or armed robbery. In contrast “dangerous offense,” categorized separately, could involve relatively minor firearm violations (mere discharge or threatening display) but receives different penalty treatment, which prosecutors typically only allege for violent felonies; needs analysis to see if punishments rightly fit the crimes, and if “serious” or “dangerous” is uniformly the higher crime. See for example §13-909 and 910 below which seems inverse of what it should be - - “serious” (very bad list) allows restoration of RKBA but “dangerous” (not very bad list) does not, and *serious* is defined, whereas *dangerous* appears to be an optional charge. It

looks like a plea bargaining tool for prosecutors, who can allege dangerousness and threaten a greater sentence, to help obtain a defendant’s plea agreement.

D • §13-707 remains misdemeanor sentencing with the same jail times, but with new repeat offender stipulations -- second offense in two years (excluding jail time served) is next higher class of offense, presumably including felony though this isn’t specified.

D • §13-751, formerly §13-703, death sentence, now includes, as an aggravating factor for determining sentence, use of a remote stun gun or an authorized remote stun gun (a handheld zapper, or a Taser-like device, respectively).

48 • §13-905, restoration of RKBA after probation for two or more felonies, as determined by the releasing judge: for dangerous offense, no restoration; at court’s discretion, for serious offense person may apply ten years later, any other felony wait two years to apply. Numerous inconsequential and politically correct grammatical changes (e.g., “such court” becomes “the court,” “his offense” becomes “the offense,” “his right” becomes “the right,” etc.) here and in the other restoration laws.

48 • §13-906, restoration of RKBA after release from prison for two or more felonies, as determined by the releasing judge; for dangerous offense, no restoration; at court’s discretion, for serious offense person may apply ten years later, any other felony wait two years.

48 • §13-909, restoration of RKBA after probation for two or more federal felonies, and §13-910, restoration of RKBA after release from prison for two or more federal felonies, same as above (i.e., two or more felonies judge’s discretion, for dangerous offense, none, serious offense apply after ten years, any other felony, apply after two years, all at court discretion and only upon felon’s application for restoration).

48 • §13-912.01, restoration of RKBA for delinquent minors, who must wait until 30 years old for dangerous offenses, or two years after discharge for other felonies.

Minorstuff: §§13-107 (renumbering), 610 (renumbering), 1104 (renumbering), 1105 (renumbering), 1204 (grammar and renumbering), 1304 (grammar and renumbering), 1405 (renumbering), 1406 (renumbering), 1410 (renumbering), 2308.01 (terrorism life sentence to conform to new sentencing guidelines), 3107 (renumbering, grammar, BB-range clarification), 3113 (renumbering), 3601 (renumbering), 15-341 (renumbering).

### **2009 (Effective Sep. 30, 2009, details will be posted on our website.)**

- SB 1113** CCW in liquor-licensed places, but not drink, no-gun signs may be posted
- SB 1088** Domestic violence protection extended to romantic or sexual partners
- SB 1168** Parking lots cannot ban firearms locked in vehicles, with some exceptions
- SB 1243** Defensive display of a firearm in self defense defined and protected
- SB 1437** AZ Gun Safety Program instructor definition expanded
- SB 1449** Retroactive self-defense clarification (Harold Fish law)

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4848 E. Cactus #505-440 • Scottsdale, AZ 85032 • Fax 602-494-0679

602-996-4020 • 1-800-707-4020

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