

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.C.R. 2037
(Reference to printed resolution)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The resolution as proposed to be amended is reprinted as follows:

2 1. Under the power of the referendum, as vested in the Legislature,
3 the following measure, relating to prohibited weapons, is enacted to
4 become valid as a law if approved by the voters and on proclamation of the
5 Governor:

6 AN ACT
7 AMENDING SECTION 13-3101, ARIZONA REVISED STATUTES; RELATING
8 TO PROHIBITED WEAPONS.

9 Be it enacted by the Legislature of the State of Arizona:

10 Section 1. Section 13-3101, Arizona Revised Statutes,
11 is amended to read:

12 13-3101. Definitions

13 [A.] In this chapter, unless the context otherwise
14 requires:

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

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

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

25 4. "Firearm" means any loaded or unloaded handgun,
26 pistol, revolver, rifle, shotgun or other weapon that will
27 expel, is designed to expel or may readily be converted to
28 expel a projectile by the action of an explosive. Firearm

1 does not include a firearm in permanently inoperable
2 condition.

3 5. "Improvised explosive device" means a device that
4 incorporates explosives or destructive, lethal, noxious,
5 pyrotechnic or incendiary chemicals and that is designed to
6 destroy, disfigure, terrify or harass.

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

16 7. "Prohibited possessor" means any person:

17 (a) Who has been found to constitute a danger to self
18 or to others or to have a persistent or acute disability or
19 grave disability pursuant to court order pursuant to section
20 36-540, and whose right to possess a firearm has not been
21 restored pursuant to section 13-925.

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

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

28 (d) Who is at the time of possession serving a term of
29 probation pursuant to a conviction for a domestic violence
30 offense as defined in section 13-3601 or a felony offense,
31 parole, community supervision, work furlough, home arrest or
32 release on any other basis or who is serving a term of
33 probation or parole pursuant to the interstate compact under
34 title 31, chapter 3, article 4.1.

35 (e) Who is an undocumented alien or a nonimmigrant
36 alien traveling with or without documentation in this state
37 for business or pleasure or who is studying in this state and
38 who maintains a foreign residence abroad. This subdivision
39 does not apply to:

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

43 (ii) Nonimmigrant aliens who enter the United States to
44 participate in a competitive target shooting event or to
45 display firearms at a sports or hunting trade show that is
46 sponsored by a national, state or local firearms trade

1 organization devoted to the competitive use or other sporting
2 use of firearms.

3 (iii) Certain diplomats.

4 (iv) Officials of foreign governments or distinguished
5 foreign visitors who are designated by the United States
6 department of state.

7 (v) Persons who have received a waiver from the United
8 States attorney general.

9 (f) Who has been found incompetent pursuant to rule 11,
10 Arizona rules of criminal procedure, and who subsequently has
11 not been found competent.

12 (g) Who is found guilty except insane.

13 [8. "Prohibited weapon":

14 (a) Includes the following:

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

18 ~~(ii) A device that is designed, made or adapted to~~
19 ~~muffle the report of a firearm.~~

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

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

28 ~~(v)~~ [(ii) A breakable container that contains a
29 flammable liquid with a flash point of one hundred fifty
30 degrees Fahrenheit or less and that has a wick or similar
31 device capable of being ignited.]

32 ~~(vi)~~ [(iii) A chemical or combination of chemicals,
33 compounds or materials, including dry ice, that is possessed
34 or manufactured for the purpose of generating a gas to cause a
35 mechanical failure, rupture or bursting or an explosion or
36 detonation of the chemical or combination of chemicals,
37 compounds or materials.]

38 ~~(vii)~~ [(iv) An improvised explosive device.

39 ~~(viii)~~ [(v) Any combination of parts or materials that
40 is designed and intended for use in making or converting a
41 device into an item set forth in item (i). ~~(v)~~ [(ii)] or
42 ~~(vii)~~ [(iv) of this subdivision.

43 (b) Does not include:

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

1 (ii) ~~Any propellant, propellant actuated devices or~~
 2 ~~propellant actuated industrial tools that are manufactured,~~
 3 ~~imported or distributed for their intended purposes.~~

4 (iii) ~~A device that is commercially manufactured~~
 5 ~~primarily for the purpose of illumination.]~~

6 ~~[9.] [8.]~~ "Trafficking" means to sell, transfer,
 7 distribute, dispense or otherwise dispose of a weapon or
 8 explosive to another person, or to buy, receive, possess or
 9 obtain control of a weapon or explosive, with the intent to
 10 sell, transfer, distribute, dispense or otherwise dispose of
 11 the weapon or explosive to another person.

12 ~~[B. The items set forth in subsection A, paragraph 8,~~
 13 ~~subdivision (a).] ~~items~~ [ITEM] [~~(i)~~], [~~(ii)~~], [~~(iii)~~] and [~~(iv)~~] [of~~
 14 ~~this section do not include any firearms or devices that are~~
 15 ~~possessed, manufactured or transferred in compliance with~~
 16 ~~federal law.]~~

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

19 ~~13-3102. Misconduct involving weapons; defenses;~~
 20 ~~classification; definitions~~

21 ~~A. A person commits misconduct involving weapons by~~
 22 ~~knowingly:~~

23 ~~1. Carrying a deadly weapon except a pocket knife~~
 24 ~~concealed on his person or within his immediate control in or~~
 25 ~~on a means of transportation;~~

26 ~~(a) In the furtherance of a serious offense as defined~~
 27 ~~in section 13-706, a violent crime as defined in section~~
 28 ~~13-901.03 or any other felony offense; or~~

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

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

36 ~~3. Manufacturing, possessing, transporting, selling or~~
 37 ~~transferring a prohibited weapon, except that if the violation~~
 38 ~~involves dry ice, a person commits misconduct involving~~
 39 ~~weapons by knowingly possessing the dry ice with the intent to~~
 40 ~~cause injury to or death of another person or to cause damage~~
 41 ~~to the property of another person; or~~

42 ~~4. 3. Possessing a deadly weapon or prohibited weapon~~
 43 ~~if such person is a prohibited possessor; or~~

44 ~~5. 4. Selling or transferring a deadly weapon to a~~
 45 ~~prohibited possessor; or~~

46 ~~6. 5. Defacing a deadly weapon; or~~

1 ~~7. 6. Possessing a defaced deadly weapon knowing the~~
2 ~~deadly weapon was defaced; or~~

3 ~~8. 7. Using or possessing a deadly weapon during the~~
4 ~~commission of any felony offense included in chapter 34 of~~
5 ~~this title; or~~

6 ~~9. 8. Discharging a firearm at an occupied structure~~
7 ~~in order to assist, promote or further the interests of a~~
8 ~~criminal street gang, a criminal syndicate or a racketeering~~
9 ~~enterprise; or~~

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

18 ~~11. 10. Unless specifically authorized by law,~~
19 ~~entering an election polling place on the day of any election~~
20 ~~carrying a deadly weapon; or~~

21 ~~12. 11. Possessing a deadly weapon on school grounds;~~
22 ~~or~~

23 ~~13. 12. Unless specifically authorized by law,~~
24 ~~entering a nuclear or hydroelectric generating station~~
25 ~~carrying a deadly weapon on his person or within the immediate~~
26 ~~control of any person; or~~

27 ~~14. 13. Supplying, selling or giving possession or~~
28 ~~control of a firearm to another person if the person knows or~~
29 ~~has reason to know that the other person would use the firearm~~
30 ~~in the commission of any felony; or~~

31 ~~15. 14. Using, possessing or exercising control over a~~
32 ~~deadly weapon in furtherance of any act of terrorism as~~
33 ~~defined in section 13-2301 or possessing or exercising control~~
34 ~~over a deadly weapon knowing or having reason to know that it~~
35 ~~will be used to facilitate any act of terrorism as defined in~~
36 ~~section 13-2301; or~~

37 ~~16. 15. Trafficking in weapons or explosives for~~
38 ~~financial gain in order to assist, promote or further the~~
39 ~~interests of a criminal street gang, a criminal syndicate or a~~
40 ~~racketeering enterprise.~~

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

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

46 ~~2. A member of the sheriff's volunteer posse or reserve~~
47 ~~organization who has received and passed firearms training~~

1 ~~that is approved by the Arizona peace officer standards and~~
2 ~~training board and who is authorized by the sheriff to carry a~~
3 ~~concealed weapon pursuant to section 11-441.~~

4 ~~3. A firearm that is carried in:~~

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

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

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

10 ~~(d) Luggage.~~

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

15 ~~C. Subsection A, paragraphs 2, 3, 7 6, 9, 10, 11, AND~~
16 ~~12 and 13 of this section shall not apply to:~~

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

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

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

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

30 ~~D. Subsection A, paragraph 10 9 of this section does~~
31 ~~not apply to an elected or appointed judicial officer in the~~
32 ~~court facility where the judicial officer works if the~~
33 ~~judicial officer has demonstrated competence with a firearm as~~
34 ~~prescribed in section 13-3112, subsection N, except that the~~
35 ~~judicial officer shall comply with any rule or policy adopted~~
36 ~~by the presiding judge of the superior court while in the~~
37 ~~court facility. For the purposes of this subsection,~~
38 ~~appointed judicial officer does not include a hearing officer~~
39 ~~or a judicial officer pro tempore who is not a full-time~~
40 ~~officer.~~

41 ~~E. Subsection A, paragraphs 3 and 7 PARAGRAPH 6 of this~~
42 ~~section shall not apply to:~~

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

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

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

8 ~~2. The regular and lawful transporting as merchandise;~~
9 ~~or~~

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

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

24 ~~G. F. Subsection A, paragraph 10 9 of this section~~
25 ~~shall not apply to shooting ranges or shooting events, hunting~~
26 ~~areas or similar locations or activities.~~

27 ~~H. G. Subsection A, paragraph 12 11 of this section~~
28 ~~shall not apply to a weapon if such weapon is possessed for~~
29 ~~the purposes of preparing for, conducting or participating in~~
30 ~~hunter or firearm safety courses.~~

31 ~~I. H. Subsection A, paragraph 12 11 of this section~~
32 ~~shall not apply to the possession of a:~~

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

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

41 ~~3. Firearm by a person who possesses a certificate of~~
42 ~~firearms proficiency pursuant to section 13-3112, subsection F~~
43 ~~and who is authorized to carry a concealed firearm pursuant to~~
44 ~~the law enforcement officers safety act of 2004 (P.L. 108-277;~~
45 ~~118 Stat. 865; 18 United States Code sections 926B and 926C).~~

46 ~~J. I. Subsection A, paragraphs 2, 3, 7 6 and 13 12 of~~
47 ~~this section shall not apply to commercial nuclear generating~~

1 ~~station armed nuclear security guards during the performance~~
2 ~~of official duties or during any security training exercises~~
3 ~~sponsored by the commercial nuclear generating station or~~
4 ~~local, state or federal authorities.~~

5 ~~K. J. The operator of the establishment or the sponsor~~
6 ~~of the event or the employee of the operator or sponsor or the~~
7 ~~agent of the sponsor, including a public entity or public~~
8 ~~employee, is not liable for acts or omissions pursuant to~~
9 ~~subsection A, paragraph 10 9 of this section unless the~~
10 ~~operator, sponsor, employee or agent intended to cause injury~~
11 ~~or was grossly negligent.~~

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

16 ~~M. L. Misconduct involving weapons under subsection A,~~
17 ~~paragraph 15 14 of this section is a class 2 felony.~~
18 ~~Misconduct involving weapons under subsection A, paragraph 9,~~
19 ~~14 or 16 8, 13 OR 15 of this section is a class 3 felony.~~
20 ~~Misconduct involving weapons under subsection A, paragraph 3,~~
21 ~~4, 8 7 or 13 12 of this section is a class 4 felony.~~
22 ~~Misconduct involving weapons under subsection A, paragraph 12~~
23 ~~11 of this section is a class 1 misdemeanor unless the~~
24 ~~violation occurs in connection with conduct that violates~~
25 ~~section 13-2308, subsection A, paragraph 5, section 13-2312,~~
26 ~~subsection C, section 13-3409 or section 13-3411, in which~~
27 ~~case the offense is a class 6 felony. Misconduct involving~~
28 ~~weapons under subsection A, paragraph 1, subdivision (a) of~~
29 ~~this section or subsection A, paragraph 4, 5, OR 6 or 7 of~~
30 ~~this section is a class 6 felony. Misconduct involving~~
31 ~~weapons under subsection A, paragraph 1, subdivision (b) of~~
32 ~~this section or subsection A, paragraph 9 OR 10 or 11 of this~~
33 ~~section is a class 1 misdemeanor. Misconduct involving~~
34 ~~weapons under subsection A, paragraph 2 of this section is a~~
35 ~~class 3 misdemeanor.~~

36 ~~N. For the purposes of this section:~~

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

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

45 ~~3. "Public event" means a specifically named or~~
46 ~~sponsored event of limited duration that is either conducted~~
47 ~~by a public entity or conducted by a private entity with a~~

1 ~~permit or license granted by a public entity. Public event~~
2 ~~does not include an unsponsored gathering of people in a~~
3 ~~public place.~~

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

6 ~~5. "School grounds" means in, or on the grounds of, a~~
7 ~~school.>>~~

8 ~~<<Sec. 3. Section 13-3110, Arizona Revised Statutes, is~~
9 ~~amended to read:~~

10 ~~13-3110. Misconduct involving simulated explosive~~
11 ~~devices; classification; definition~~

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

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

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

25 ~~D. For the purposes of this section, "simulated~~
26 ~~explosive device" means a simulation of a prohibited weapon~~
27 ~~described in section 13-3101, subsection A, paragraph 8,~~
28 ~~subdivision (a), item (i), (v) or (vii) that a reasonable~~
29 ~~person would believe is such a prohibited weapon ANY OF THE~~
30 ~~FOLLOWING:~~

31 ~~1. AN ITEM THAT IS A BOMB, GRENADE, ROCKET HAVING A~~
32 ~~PROPELLANT CHARGE OF MORE THAN FOUR OUNCES OR MINE AND THAT IS~~
33 ~~EXPLOSIVE, INCENDIARY OR POISON GAS.~~

34 ~~2. A BREAKABLE CONTAINER THAT CONTAINS A FLAMMABLE~~
35 ~~LIQUID WITH A FLASH POINT OF ONE HUNDRED FIFTY DEGREES~~
36 ~~FAHRENHEIT OR LESS AND THAT HAS A WICK OR SIMILAR DEVICE~~
37 ~~CAPABLE OF BEING IGNITED.~~

38 ~~3. AN IMPROVISED EXPLOSIVE DEVICE.>>~~

39 ~~Sec. 2. Legislative Intent~~

40 ~~The legislature intends, by this measure, to restore to~~
41 ~~the people their right to keep and bear arms without~~
42 ~~infringement by the State of Arizona.~~

43 ~~<<Sec. 5. Conforming legislation~~

44 ~~The legislative council staff shall prepare proposed~~
45 ~~legislation conforming the Arizona Revised Statutes to the~~
46 ~~provisions of this act for consideration in the fifty-eight~~
47 ~~legislature, first regular session.>>~~

1 Sec. 3. Short Title
2 This measure may be cited as the "Shall Not Be Infringed
3 Act".
4 2. The Secretary of State shall submit this proposition to the
5 voters at the next general election as provided by article IV, part 1,
6 section 1, Constitution of Arizona.

7 Enroll and engross to conform
8 Amend title to conform

QUANG H. NGUYEN

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