

ARKANSAS
ARK. CODE

Title 5. Criminal Offenses

Chapter 73. Weapons

Subchapter 1. Possession and Use Generally

5-73-101. Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Instrument of crime" means anything manifestly designed, made, adapted, or commonly used for criminal purposes.

(2) "Minor" means any person under eighteen (18) years of age.

(3) "Violent felony conviction" means a conviction for any felony offense against the person codified in Title 5, Chapters 10 through 14, Arkansas Code, or any other offense containing as an element of the offense one of the following;

(A) The use of physical force;

(B) The use or threatened use of serious physical force;

(C) The infliction of physical harm; or

(D) The creation of a substantial risk of serious physical harm.

5-73-102. Possessing instrument of crime.

(a) A person commits the offense of possessing an instrument of crime if he possesses any instrument of crime with a purpose to employ it criminally.

(b) Possessing an instrument of crime is a Class A misdemeanor.

5-73-103. Possession of firearms by certain persons.

(a) Except as provided in subsection (d) of this section or unless authorized by and subject to such conditions as prescribed by the Governor, or his designee, or the Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department, or other bureau or office designated by the Treasury Department, no person shall possess or own any firearm who has been:

(1) Convicted of a felony; or

(2) Adjudicated mentally ill; or

(3) Committed involuntarily to any mental institution.

(b) A determination by a jury or a court that a person committed a felony:

(1) Shall constitute a conviction for purposes of subsection (a) of this section even though the court suspended imposition of sentence or placed the defendant on probation;

[Publisher's Note: In the 1995 Ark. Acts 595, this subsection read – "(1) Shall constitute a conviction for purposes of subsection (a) of this section even though the court suspended imposition of sentence or placed the defendant on probation or execution of sentence or had conviction expunged or was entitled to have conviction expunged;". The 1995 Ark. Acts 1325 was subsequently enacted and did not include the italicized language. Notwithstanding, the Arkansas Attorney General has taken the position that this language should still be given effect.]

(2) Shall not constitute a conviction for purposes of subsection (a) of this section if the person is subsequently granted a pardon explicitly restoring the ability to possess a firearm.

(c)(1) A person who violates this section commits a Class B felony if:

(i) The person has a prior violent felony conviction; or

(ii) The current possession of a firearm involves the commission of another crime; or

(iii) The person has been previously convicted under § 5-73-103 or a similar provision from another jurisdiction.

(2) A person who violates this section commits a Class D felony if the person has been previously convicted of a felony and the person's present conduct or the prior felony conviction does not fall within subdivision (c)(1) of this section.

(3) Otherwise, the person commits a Class A misdemeanor.

(d) The Governor shall have authority, without granting a pardon, to restore the right of a convicted felon or an adjudicated delinquent to own and possess a firearm upon the recommendation of the chief law enforcement officer in the jurisdiction in which the person resides, so long as the underlying felony or delinquency adjudication:

(1) Did not involve the use of a weapon; and

(2) Occurred more than eight (8) years ago.

5-73-104. Criminal use of prohibited weapons.

(a) A person commits the offense of criminal use of prohibited weapons if, except as authorized by law, he uses, possesses, makes, repairs, sells, or otherwise deals in any bomb, machine gun, sawed-off shotgun or rifle, firearm specially made or specially adapted for silent discharge, metal knuckles, or other implement for the infliction of serious physical injury or death which serves no common lawful purpose.

(b) It is a defense to prosecution under this section that:

(1) The person was a law enforcement officer, prison guard, or member of the armed forces acting in the course and scope of his duty at the time he used or possessed the prohibited weapon; or

(2) The defendant used, possessed, made, repaired, sold, or otherwise dealt in any of the above enumerated articles under circumstances negating any likelihood that the weapon could be used unlawfully.

(c) Criminal use of prohibited weapons is a Class B felony if the weapon is a bomb, machine gun, or firearm specially made or specially adapted for silent discharge. Otherwise, it is a Class D felony.

5-73-105. Legitimate manufacture, repair, and transportation of prohibited weapons. Section 5-73-104 shall not be construed to prohibit the manufacture, repair, transportation, or sale of the weapons enumerated therein to or for authorized representatives of the armed forces or to or for the authorized representatives of any law enforcement agency.

5-73-106. Defacing a firearm.

(a) A person commits the offense of defacing a firearm when he knowingly removes, defaces, mars, covers, alters, or destroys the manufacturer's serial number or identification mark of a firearm.

(b) Defacing a firearm is a Class D felony.

5-73-107. Possession of a defaced firearm.

(a) A person commits the offense of possession of a defaced firearm if he knowingly possesses a firearm with a manufacturer's serial number or other identification mark required by law which has been removed, defaced, marred, altered, or destroyed.

(b) It is a defense to a prosecution under this section that the person reported such possession to the police or other governmental agency prior to arrest or the issuance of an arrest warrant or summons.

(c)(1) Possession of a defaced firearm is a Class D felony.

(2) If the manufacturer's serial number or other identification mark required by law is merely covered or obstructed, but still retrievable, then possession of a defaced firearm is a Class A misdemeanor.

5-73-109. Furnishing a deadly weapon to a minor.

(a) A person commits the offense of furnishing a deadly weapon to a minor when he sells, barter, leases, gives, rents, or otherwise furnishes a firearm or other deadly weapon to a minor without the consent of a parent, guardian, or other person responsible for general supervision of his welfare.

(b) Furnishing a deadly weapon to a minor is a Class A misdemeanor, unless the deadly weapon is:

(1) A handgun;

(2) A sawed-off or short-barreled shotgun, as defined in § 5-1-102(21);

(3) A sawed-off or short-barreled rifle, as defined in § 5-1-102(22);

(4) A firearm that has been specially made or specially adapted for silent discharge;

(5) A machine gun;

(6) An explosive or incendiary device, as defined in § 5-71-301;

(7) Metal knuckles;

(8) A defaced firearm, as defined in § 5-73-107; or

(9) Other implement for the infliction of serious physical injury or death that serves no common lawful purpose, in which case it is a Class B felony.

5-73-119. Handguns - Possession by minor or possession on school property.

(a)(1)(A) No person in this state under the age of eighteen (18) years shall possess a handgun.

(B)(i) A violation of subdivision (a)(1)(A) of this section shall be a Class A misdemeanor.

(ii) A violation of subdivision (a)(1)(A) of this section shall be a Class D felony if the person has previously:

(a) Been adjudicated delinquent for a violation of subdivision (a)(1)(A) of this section; or

(b) Been adjudicated delinquent for any offense which would be a felony if committed by an adult; or

(c) Pleaded guilty or nolo contendere to, or been found guilty of, a felony in circuit court while under the age of eighteen (18) years.

(2)(A) No person in this state shall possess a firearm:

(i) Upon the developed property of the public or private schools, K-12; or

(ii) In or upon any school bus; or

(iii) At a designated bus stop as identified on the route lists published by school districts each year.

(B) A violation of subdivision (a)(2)(A) of this section shall be a Class D felony, and no sentence imposed for violation thereof shall be suspended or probated or treated as a first offense under § 16-93-301 et seq.

(3)(A) No person in this state shall possess a handgun upon the property of any private institution of higher education or the publicly supported institutions of higher education in this state on or about his person, in a vehicle occupied by him, or otherwise readily available for use with a purpose to employ it as a weapon against a person.

(B) A violation of subdivision (a)(3)(A) of this section shall be a Class D felony.

(b) A "handgun" is a firearm, capable of firing rimfire ammunition or centerfire ammunition, which is designed or constructed to be fired with one (1) hand.

(c) It is a defense to prosecution under this section that at the time of the act of possessing a handgun or firearm:

(1) The person is in his own dwelling or place of business or on property in which he has a possessory or proprietary interest; or

(2) The person is a law enforcement officer, prison guard, or member of the armed forces acting in the course and scope of his official duties; or

(3) The person is assisting a law enforcement officer, prison guard, or member of the armed forces acting in the course and scope of his official duties pursuant to the direction or request of the law enforcement officer, prison guard, or member of the armed forces; or

(4) The person is a licensed security guard acting in the course and scope of his duties; or

(5) The person is hunting game with a handgun or firearm which may be hunted with a handgun or firearm under the rules and regulations of the Arkansas State Game and Fish Commission or is en route to or from a hunting area for the purpose of hunting game with a handgun or firearm; or

(6) The person is a certified law enforcement officer; or

(7) The person is on a journey, unless the person is eighteen (18) years old or less; or

(8) The person is participating in a certified hunting safety course sponsored by the Arkansas State Game and Fish Commission or a firearm safety course recognized and approved by the Arkansas State Game and Fish Commission or by a state or national nonprofit organization qualified and experienced in firearm safety; or

(9) The person is participating in a school-approved educational course or sporting activity involving the use of firearms; or

(10) The person is a minor engaged in lawful marksmanship competition or practice or other lawful recreational shooting under the supervision of his parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis, or is traveling to or from this activity with an unloaded handgun or firearm accompanied by his parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis.

5-73-120. Carrying a weapon.

(a) A person commits the offense of carrying a weapon if he possesses a handgun, knife, or club on or about his person, in a vehicle occupied by him, or otherwise readily available for use with a purpose to employ it as a weapon against a person.

(b) As used in this section, unless the context otherwise requires:

(1) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made, or adapted to be fired with one (1) hand;

(2) "Knife" means any bladed hand instrument that is capable of inflicting serious physical injury or death by cutting or stabbing. It includes a dirk, sword or spear in a cane, razor, ice pick, and a

throwing star, switchblade, and butterfly knife; and

(3) "Club" means any instrument that is specially designed, made, or adapted for the purpose of inflicting serious physical injury or death by striking, including a blackjack, billie, and sap.

(c) It is a defense to a prosecution under this section that at the time of the act of carrying:

(1) The person is in his own dwelling, place of business, or on property in which he has a possessory or proprietary interest; or

(2) The person is a law enforcement officer, prison guard, or member of the armed forces, acting in the course and scope of his official duties; or

(3) The person is assisting a law enforcement officer, prison guard, or member of the armed forces acting in the course and scope of official duties pursuant to the direction or request of the law enforcement officer, prison guard, or member of the armed forces; or

(4) The person is carrying a weapon when upon a journey; or

(5) The person is a licensed security guard acting in the course and scope of his duties; or

(6) The person is hunting game with a handgun which may be hunted with a handgun under rules and regulations of the Arkansas State Game and Fish Commission or is en route to or from a hunting area for the purpose of hunting game with a handgun; or

(7) The person is a certified law enforcement officer; or

(8) The person is in a motor vehicle, and the person has a license to carry a concealed weapon pursuant to § 5-73-301 et seq.

(d)(1) Any person who carries a weapon into an establishment that sells alcoholic beverages shall be deemed guilty of a misdemeanor and subject to a fine of not more than two thousand five hundred dollars (\$2,500) or imprisonment for not more than one (1) year, or both.

(2) Otherwise, carrying a weapon is a Class A misdemeanor.

5-73-125. Interstate sale and purchase of shotguns, rifles, and ammunition.

(a) The sale of shotguns and rifles and ammunition in this state to residents of adjacent states is authorized pursuant to regulations issued by the Secretary of the Treasury under the Federal Gun Control Act of 1968 as the act is in effect on March 4, 1969.

(b) A resident of this state shall be permitted to purchase a rifle, shotgun, or ammunition in an adjacent state as expressly authorized pursuant to the regulations issued under the Federal Gun Control Act of 1968 as the act is in effect on March 4, 1969.

5-73-129. Furnishing a handgun or a prohibited weapon to a felon.

(a) A person commits the offense of furnishing a handgun to a felon if he sells, barter, leases, gives, rents, or otherwise furnishes a handgun to a person who he knows has been found guilty of, or who has pleaded guilty or nolo contendere to, a felony.

(b) A person commits the offense of furnishing a prohibited weapon to a felon if he sells, barter, leases, gives, rents, or otherwise furnishes:

(1) A sawed-off shotgun or rifle;

(2) A firearm that has been specially made or specially adapted for silent discharge;

(3) A machine gun;

(4) A bomb;

(5) Metal knuckles;

(6) A defaced firearm, as defined in § 5-73-107; or

(7) Other implement for the infliction of serious physical injury or death that serves no common lawful purpose, to a person who has been found guilty of, or who has pleaded guilty or nolo contendere to, a felony.

(c) Furnishing a handgun or a prohibited weapon to a felon is a Class B felony.

5-73-132. Sale, rental, or transfer of firearm to person prohibited from possessing firearms.

(a) A person shall not sell, rent, or transfer a firearm to any person who he knows is prohibited by state or federal law from possessing the firearm.

(b)(1) Violation of this section is a Class A misdemeanor, unless the firearm is:

(A) A handgun;

(B) A sawed-off or short-barrelled shotgun, as defined in § 5-1-102(21);

(C) A sawed-off or short-barrelled rifle, as defined in § 5-1-102(22);

(D) A firearm that has been specially made or specially adapted for silent discharge;

(E) A machine gun;

(F) An explosive or incendiary device, as defined in § 5-71-301(2);

(G) A defaced firearm, as defined in § 5-73-107; or

(H) Other implement for the infliction of serious physical injury or death that serves no common lawful purpose.

(2) If the firearm is listed in subdivision (b)(1) of this section, a violation of this section is a Class B felony.

Subchapter 2. Uniform Machinegun Act

5-73-201. Title. This subchapter may be cited as the "Uniform Machine Gun Act."

5-73-202. Definitions. As used in this subchapter, unless the context otherwise requires:

(1) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, from which more than five (5) shots or bullets may be rapidly, or automatically, or semi-automatically, discharged from a magazine, by a single function of the firing device;

(2) "Crime of violence" means any of the following crimes or an attempt to commit any of them: Murder, manslaughter, kidnapping, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, and larceny;

(3) "Person" includes firm, partnership, association, or corporation.

5-73-203. Uniformity of interpretation. This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

5-73-204. Possession or use for offensive or aggressive purposes unlawful. Possession or use of a machine gun for offensive or aggressive purpose is declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than ten (10) years.

5-73-205. Presumption of offensive or aggressive purpose. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(2) When in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the

United States of America, its territories or insular possessions; or

(3) When the machine gun is of the kind described in § 5-73-209 and has not been registered as in said section required; or

(4) When empty or loaded pistol shells of 30 (.30 in. or 7.63 mm.) or larger caliber which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

5-73-206. Evidence of possession or use.

The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

5-73-207. Manufacture for military, nonaggressive, or nonoffensive use. Nothing contained in this subchapter shall prohibit or interfere with:

(1) The manufacture for and sale of machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose;

(2) The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

(3) The possession of a machine gun other than one adapted to use pistol cartridges of 30 (.30 in. or 7.63 mm.) or larger caliber, for a purpose manifestly not aggressive or offensive.

5-73-208. Registration by manufacturers.

(a) Every manufacturer shall keep a register of all machine guns manufactured or handled by him.

(b) This register shall show:

(1) The model and serial number, date of manufacture, sale, loan, gift, delivery, or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given, or delivered, or from whom it was received;

(2) The purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given, or delivered, or from whom received.

(c) Upon demand every manufacturer shall permit any marshal, sheriff, or police officer to

inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection.

(d) A violation of any provision of this section shall be punishable by a fine of not less than ... [sic] ... hundred dollars.

Subchapter 3. Concealed Handguns

5-73-301. Definitions. As used in this subchapter:

(1) "Director" means the Director of the Department of Arkansas State Police;

(2) "Handgun" means any firearm, other than a fully loaded automatic firearm, with a barrel length of less than twelve inches (12") that is designed, made, or adapted to be fired with one (1) hand;

(3) "Concealed" means to cover from observation so as to prevent public view; and [sic][.]

5-73-302. Authority to issue license.

(a) The director is authorized to issue licenses to carry concealed handguns to persons qualified as provided in this subchapter.

(b) Such licenses shall be valid throughout the state for a period of four (4) years from the date of issuance.

(c) Licenses issued to former elected or appointed sheriffs of any county of this State shall be renewed every four (4) years and shall be revocable on the same grounds as other permits and they must meet the same qualifications as all other applicants. However, the former elected or appointed sheriffs shall be exempt from the fee prescribed by § 5-73-311(a)(3) and from the training requirements of § 5-73-309(11) for issuance.

5-73-314. Lost or destroyed permit - Change of address.

(a) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license or handgun lost or disposed of, the licensee shall notify the director in writing of such change or loss or disposition....

5-73-315. Possession of license - Identification of licensee.

(a) Any person possessing a valid license issued pursuant to this subchapter may carry a concealed handgun.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a concealed handgun and must display both the license and proper identification upon demand by a law enforcement officer.

5-73-317. Rules and regulations. The director is authorized to promulgate rules and regulations to permit the efficient administration of this subchapter.

Title 14. Local Government

Chapter 16. Powers of Counties Generally

14-16-504. Regulation by local unit of government.

(a) As used in this section, "local unit of government" means a city, town, or county.

(b)(1)(A) A local unit of government shall not enact any ordinance or regulation pertaining to, or regulate in any other manner, the ownership, transfer, transportation, carrying, or possession of firearms, ammunition for firearms, or components of firearms, except as otherwise provided in state or federal law.

(B) This shall not prevent the enactment of an ordinance regulating or forbidding the unsafe discharge of a firearm. ...

(c)(1) Notwithstanding subsection (b) of this section, the governing body of a local unit of government, following the proclamation by the Governor of a state of emergency, may enact an emergency ordinance regulating the transfer, transportation, or carrying of firearms or components of firearms.

(2) Such emergency ordinance shall not be effective for a period of more than twenty (20) days and shall be enacted by a two-thirds (2/3) majority of the governing body.

Chapter 54. Powers of Municipalities Generally

14-54-1411. Firearms and ammunition.
[Same as §14-16-504, above.]

[Current through 2002 1st Extraordinary Session]