State Laws and Published Ordinances – American Samoa

American Samoa Bar Association 2019

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Title 46 – Criminal Justice
Chapter 42 – Weapons

Section 46.4201. Definitions.

(b) "**Deface**" means to alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

(c) "**Explosive weapon**" means any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

(d) "**Firearm**" means any weapon that is designed or adapted to expel a projectile by the action of an explosive.

(e) "**Firearm silencer**" means any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

(g) "**Intoxicated**" means substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

(j) "**Machine gun**" means any firearm that is capable of firing more than 2 shots automatically, without manual reloading, by a single function of the trigger.

(l) "**Rifle**" means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

(m) "**Short barrel**" means a barrel length of less than 16 inches for a rifle and 18 inches for a shotgun, or an overall rifle or shotgun length of less than 26 inches.

(n) "**Shotgun**" means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth-bore barrel by a single function of the trigger.

(o) "**Spring gun**" means any fused, timed, or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

Section 46.4202. Prohibited weapons.

(a) A person commits a crime if he knowingly possesses, manufactures, transports, repairs or sells:

(1) an explosive weapon;

(2) a machine gun;

(4) a short barreled rifle or shotgun;

(5) a firearm silencer;

(8) any other arms, as defined in section 46.4220, for which a valid license from the Commissioner of Public Safety has not been obtained.

(b) A person does not commit a crime under this section if his conduct:

(1) was incident to the performance of official duty by the armed forces, a governmental law enforcement agency, or a penal institution;

(2) was incident to engaging in a lawful commercial or business transaction with an organization listed in paragraph (b) (1); or

(3) was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise;

(4) was incident to displaying the weapon in a public museum or exhibition: or

(5) was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in paragraph (a) (1), (3), (4) or (5), it must be in a nonfunctioning condition that it cannot readily be made operable. No machine gun may be possessed, manufactured, transported, repaired, or sold as a curio, ornament, or keepsake even if it is inoperable and cannot readily be made operable.

(c) The defendant has the burden of injecting the issue of an exemption under subsection (b).

(d) A crime under paragraph (a) (1), (2), (3), (4) or (5) is a class C felony; a crime under paragraph (a) (6), (7) or (8) is a class A misdemeanor.

Section 46.4204. Defacing a firearm.

(a) A person commits the crime of defacing a firearm if he knowingly defaces any firearm.

(b) Defacing a firearm is a class A misdemeanor.

Section 46.4205. Possession of a defaced firearm.

(a) A person commits the crime of possession of a defaced firearm if he knowingly possesses a firearm which does not have the manufacturer's or importer's serial number engraved or cast on the receiver or frame of the firearm.

(b) Possession of a defaced firearm is a class B misdemeanor.

Section 46.4206. Unlawful transfer of weapons.

(a) A person commits the crime of unlawful transfer of weapons if he:

(1) knowingly sells, leases, loans, gives away, or delivers a firearm or ammunition for a firearm to any person who, under the provisions of 46.4207, is not lawfully entitled to possess it;

(2) knowingly sells, leases, loans, gives away, or delivers a knife, rifle, shotgun or blackjack to a person less than 18 years old without the consent of the child's custodial parent or guardian, or recklessly sells, leases, loans, gives away, or delivers any other firearm to a person less than 18 years old; provided, that this does not prohibit the delivery of those weapons to any peace officer or member of the armed forces while performing his official duty; or

(3) recklessly sells, leases, loans, gives away, or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

(b) Unlawful transfer of weapons under paragraph (a) (1) is a class D felony; unlawful transfer of weapons under paragraphs (a) (2) and (3) is a class A misdemeanor.

Section 46.4207. Unlawful possession of firearms and firearm ammunition.

(a) A person commits the crime of unlawful possession of a firearm or firearm ammunition if he has any firearm or firearm ammunition in his possession, and

(1) he has been convicted of a dangerous felony or confined therefor in this territory or elsewhere during the 5–year period immediately preceding the date of that possession; or

(2) he is a fugitive from justice, an habitual drunkard, a drug addict, or is currently abjudged mentally incompetent.

(b) Unlawful possession of a firearm or firearm ammunition is a class C felony.

Section 46.4220. Definition of "arms".

As used in 46.4220 through 46.4234, **"arms"**, includes guns, rifles, pistols, air rifles, air pistols, gas rifles, gas pistols, ammunition, shells, cartridges, gunpowder, dynamite, nitroglycerine, blasting powder, fireworks, and all other firearms and explosives and materials for the manufacture of the same.

Section 46.4221. License – Required when.

(a) It is unlawful for any person, whether permanently or temporarily resident within American Samoa or whether on shore or on board any vessel, anchored, moored, or docked in any harbor in American Samoa, to have in his possession any arms without first having obtained a license therefor from the Commissioner of Public Safety.

(b) A license to possess arms shall not be issued by the Commissioner of Public Safety unless the application therefor has been approved by the attorney general, and that such approval shall be given only after a background investigation has been conducted on the applicant; and that the:

(1) applicant is not a convicted felon; and

(2) applicant does not have any mental disorder or any disease which may endanger the public if a license to possess arm(s) is issued to him; and

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

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

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

Section 46.4222. License – Required for import.

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

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

(c) Unless otherwise authorized, only those shotguns and rifles referred to in section 46.4221(c) A.S.C.A., may be imported with license.

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

Section 46.4223. License – Required for sale of arms.

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

(b) A license to sell arms shall not be issued by the Treasurer unless the application for the license has been approved by the Governor or his designated representative. No license shall be issued for the sale of arms other than shotguns and .22 caliber rifles as set out in 46.4221 (c) and ammunition therefor.

Section 46.4224. License – Information required.

(a) Every person who obtains a license to possess, import, or sell arms shall, upon the written request of the Governor or his designated representative, furnish such information concerning such arms as may be reasonably required.

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

Section 46.4227. License – Renewal.

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

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

Section 46.4228. Marking arms for identification.

Each person to whom a license to possess arms is issued shall, upon receipt of such arms, produce at the office of the Commissioner of Public Safety his license to possess arms, together with the arms specified in said license. Such arms shall be examined and compared with the license and, if found to correspond therewith, shall be marked with such letters as may be designated by the Commissioner of Public Safety and also marked with a number indicating the order of the license, and registration as specified in the license, unless the arm has a plainly visible and distinctive serial number stamped on it. Such arms when duly marked shall be redelivered to the licensee, together with the license. If the provisions of this section are not complied with, the license shall be revoked, and the arms may be confiscated as though no license had been issued.

Section 46.4229. Sales to persons without licenses–Grandfather clause.

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

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

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

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

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

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

Section 46.4234. Violation – Penalty.

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

(b) All arms confiscated as provided in subsection (a) shall be delivered to the Commissioner of Public Safety who shall, within thirty days of receipt of the confiscated arms, file a return under oath with the court ordering the confiscation informing the court that the arms have been destroyed or assigned to the inventory of a territorial law enforcement agency. A copy of said report shall be filed with the Attorney General at the same time.

Title 47 – Domestic and Family Violence
Chapter 02 – Civil Orders for Protection

Section 47.0204. Order for protection – Modification of orders – Relief available ex parte – Relief available after hearing – Duties of the Court – Duration or order.

(b) A court may grant the following relief without notice and hearing in an order for protection or a modification issued ex parte: (5) Prohibit the respondent from using or possessing a firearm or other weapon specified by the court;

Chapter 04 – Criminal Violations

Section 47.0403 Violation of certain orders for protection is misdemeanor.

(e) An order prohibiting the respondent from using or possessing a firearm or other weapon specified by the Court.