

LEGAL TIP OF THE WEEK
May 25, 2012

"Have Gun, Will Carry," Part One

Arizona's gun laws are among the most permissive in the United States. Under Arizona law, private citizens may choose to carry firearms in their vehicle or on their person in either an open or concealed manner. However, these laws apply differently to certain categories of people. For example, we've been asked about citizens between 18-20 years of age. Can they possess or carry a firearm in any capacity? As Phoenix police officers, you may encounter a situation where you have lawfully detained an armed citizen over the age of 18 (but not yet 21) either on the street or during a traffic stop. Your challenge will be to understand how state gun laws apply to these individuals and whether they have violated Arizona law based on their mode of carry.

1. General According to state law, a person 18 years of age may purchase any non-NFA firearm from any source, however, there is a federal age limit of 21 years on handgun purchases from federal firearms licensees (FFLs). This means that 18-20 year old citizens may lawfully purchase or receive firearms through non-FFLs, such as private sellers at gun shows.

2. Open Carry Except for prohibited possessors, A.R.S. Sect. 13-3102 permits citizens 18 years and older to openly carry a loaded firearm on their person or in their vehicle provided that the firearm, holster, case or scabbard in which the firearm is carried is visible. However, they are prohibited from carrying into venues that are statutorily off-limits to them or have otherwise taken steps to limit the citizen's right to carry. This generally includes the following places (*see A.R.S. Sect. 13-3102 for a full list plus any applicable exceptions):

- Secured areas of airports.*
- K-12 School grounds.*
- Establishments which are licensed to sell alcohol for consumption on the premises.*

- Any private property or private establishment where the owner or any other person having lawful control over the property has given reasonable notice forbidding the carriage of deadly weapons or firearms.*

3. Concealed Carry Although Arizona continues to issue permits, "Constitutional Carry" (est. July 29, 2010) allows any citizen who can legally own/purchase a firearm and is 21 years or older to carry it loaded and concealed on their person (in a holster, scabbard, or luggage) without any type of permit or license. A.R.S. Sect. 13-3102 permits citizens 18 years and older to store a firearm in a vehicle provided the firearm is inside a case, holster, scabbard, pack or luggage, or is located within a storage compartment, map pocket, trunk or glove compartment. Additionally, if the firearm is in a holster, it can be concealed anywhere in the vehicle without violating the law. This does not permit the 18-20 year old to conceal an unholstered gun underneath his seat. (He'd have to wait until he's 21 to do that.) Remember that the prohibitions that apply to venues where citizens cannot carry openly also apply to permit and non-permit holders who carry concealed firearms. (*Permit holders may carry into restaurants that serve alcohol if they do not consume alcohol.)

Finally, it is a Class One misdemeanor if a citizen fails to inform you that he is carrying a concealed firearm after you make contact with him during a lawful traffic or criminal investigation, arrest or detention, or investigatory stop based on reasonable suspicion ("Terry Stop") and ask him if he is carrying a concealed deadly weapon. You may take temporary custody of the firearm for the duration of that contact under Arizona law. Therefore, in order to promote officer safety, we advise you to make this part of your standard operating procedure during all lawful stops, investigations and detentions.