

# Arkansas Code

## Title 5 – Chapter 73

### Weapons (Generally)

#### 5-73-101. Definitions.

- As used in this chapter:
  - (1) "Blasting agent" means any material or mixture consisting of fuel and oxidizer intended for blasting if the finished product as mixed for use or shipment cannot be detonated by means of a No. 8 test blasting cap when unconfined;
  - (2) "Collegiate athletic event" means a sporting or athletic contest, event, or practice of an individual or team of individuals in which one (1) or more individuals or a team of individuals sponsored by, funded by, represented by, or associated with a public or private university, college, or community college competes against themselves or another individual or team of individuals;
  - (3) "Contraband" means any explosive material that was used with the knowledge and consent of the owner to facilitate a violation of this subchapter, as well as any explosive material possessed under circumstances prohibited by law;
  - (4) "Destructive device" means:
    - (A) Any of the following:
      - (i) Any explosive, incendiary, or poison gas;
      - (ii) Bomb;
      - (iii) Grenade;
      - (iv) Rocket having a propellant charge of more than four ounces (4 oz.);
      - (v) Missile having an explosive or incendiary charge of more than one-quarter ounce (.25 oz.);
      - (vi) Mine; or
      - (vii) Similar device; and
    - (B) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision (4)(A) of this section and from which a destructive device may be readily assembled for use as a weapon;
  - (5)
    - (A) "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation.
    - (B) A detonator may not contain more than ten grams (10g) of total explosives by weight, excluding ignition or delay charges, and may include, without limitation, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and noninstantaneous and delay blasting caps that use detonating cord, shock tube, or any other replacement for electric leg wires;

- (6) "Distribute" means to sell, issue, give, transfer, or otherwise dispose of explosive material;
- (7) "Explosive material" means an explosive, blasting agent, or detonator;
- (8)
  - (A) "Explosive" means any chemical compound mixture or device, the primary or common purpose of which is to function by explosion.
  - (B) "Explosive" includes, without limitation:
    - (i) Dynamite and any other high explosive;
    - (ii) Black powder;
    - (iii) Pellet powder;
    - (iv) An initiating explosive;
    - (v) A detonator;
    - (vi) A safety fuse;
    - (vii) A squib;
    - (viii) A detonating cord;
    - (ix) An igniter cord;
    - (x) An igniter;
    - (xi) Any material determined to be within the scope of 18 U.S.C. § 841 et seq.; and
    - (xii) Any material classified as an explosive other than consumer fireworks, 1.4 (Class C, Common), by the hazardous materials regulations of the United States Department of Transportation;
- (9) "Instrument of crime" means anything manifestly designed, made, adapted, or commonly used for a criminal purpose;
- (10) "Minor" means any person under eighteen (18) years of age; and
- (11) "Violent felony conviction" means a conviction for any felony offense against the person which is codified in § 5-10-101 et seq., § 5-11-101 et seq., § 5-12-101 et seq., § 5-13-201 et seq., § 5-13-301 et seq., § 5-14-101 et seq., and § 5-14-201 et seq., or any other offense containing as an element of the offense one (1) 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 or she 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 or her designee, or the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other bureau or office designated by the United States Department of Justice, no person shall possess or own any firearm who has been:
  - (1) Convicted of a felony;
  - (2) Adjudicated mentally ill; or
  - (3) Committed involuntarily to any mental institution.
  
- (b)
  - (1) Except as provided in subdivisions (b)(2) and (3) of this section, a determination by a jury or a court that a person committed a felony constitutes a conviction for purposes of subsection (a) of this section even though the court suspended imposition of sentence or placed the defendant on probation.
  - (2) Subdivision (b)(1) of this section does not apply to a person whose case was dismissed and expunged under § 16-93-301 et seq. or § 16-98-303(g).
  - (3) The determination by the jury or court that the person committed a felony does 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:
  - (A) The person has a prior violent felony conviction;
  - (B) The person's current possession of a firearm involves the commission of another crime; or
  - (C) The person has been previously convicted under this section or a similar provision from another jurisdiction.
    - (2) A person who violates this section commits a Class D felony if he or she has been previously convicted of a felony and his or her 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 may restore without granting a pardon 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 or she uses, possesses, makes, repairs, sells, or otherwise deals in any:
  - (1) Bomb;
  - (2) Machine gun;
  - (3) Sawed-off shotgun or rifle;
  - (4) Firearm specially made or specially adapted for silent discharge;
  - (5) Metal knuckles; or
  - (6) Other implement for the infliction of serious physical injury or death.
- (b) It is a defense to prosecution under this section that:
  - (1) The defendant was a law enforcement officer, prosecuting attorney, deputy prosecuting attorney, prison guard, or member of the armed forces acting in the course and scope of his or her duty at the time he or she used or possessed the prohibited weapon; or
  - (2) The defendant used, possessed, made, repaired, sold, or otherwise dealt in any article enumerated in subsection (a) of this section under circumstances negating any likelihood that the weapon could be used as a weapon.
- (c)
  - (1) 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.
  - (2) Criminal use of prohibited weapons is a Class A misdemeanor if the offense is possession of metal knuckles.
  - (3) Otherwise, criminal use of prohibited weapons 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 in § 5-73-104 to or for an authorized representative of:
  - (1) The armed forces; or
  - (2) Any law enforcement agency.

### **5-73-106. Defacing a firearm.**

- (a) A person commits the offense of defacing a firearm if he or she 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 or she knowingly possesses a firearm with a manufacturer's serial number or other identification mark required by law that has been removed, defaced, marred, altered, or destroyed.
- (b) It is a defense to a prosecution under this section that:
  - (1) The person reported the possession to the police or other governmental agency prior to arrest or the issuance of an arrest warrant or summons; or
  - (2) The firearm was manufactured prior to January 1, 1968.
- (c)
  - (1) Possession of a defaced firearm is a Class D felony.
  - (2) However, possession of a defaced firearm is a Class A misdemeanor if the manufacturer's serial number or other identification mark required by law is merely covered or obstructed, but still retrievable.

### **5-73-108. Criminal acts involving explosives.**

- (a) (1) A person commits the offense of criminal possession of explosive material or a destructive device if the person:
  - (A) Sells, possesses, manufactures, transfers, or transports explosive material or a destructive device; and
  - (B) Either:
    - (i) Has the purpose of using that explosive material or destructive device to commit an offense; or
    - (ii) Knows or should know that another person intends to use that explosive material or destructive device to commit an offense.
      - (2) Criminal possession of explosive material or a destructive device is a Class B felony.
- (b) (1) A person commits the offense of criminal distribution of explosive material if he or she knowingly distributes explosive material to any individual who:
  - (A) Has pleaded guilty or nolo contendere to or been found guilty of a crime in state or federal court punishable by imprisonment for a term exceeding one (1) year;
  - (B) Is a fugitive from justice;
  - (C) Is an unlawful user of or addicted to any controlled substance;

- (D) Has been adjudicated as having a mental disease or defect or has been committed to an institution or residential treatment facility because of a mental disease or defect;
  - (E) Is under twenty-one (21) years of age;
  - (F) Is an alien, other than an alien who is:
    - (i) Lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), as it existed on January 1, 2009;
    - (ii) In lawful nonimmigrant status, a refugee admitted under 8 U.S.C. § 1157, as it existed on January 1, 2009, or in asylum status under 8 U.S.C. § 1158, as it existed on January 1, 2009, and either:
      - (a) A foreign law enforcement officer of a friendly foreign government, as determined by the United States Secretary of State under 18 U.S.C. § 842, entering the United States on official law enforcement business, and the distribution of explosive material is in furtherance of this official law enforcement business; or
      - (b) A person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed under 18 U.S.C. § 843, as it existed on January 1, 2009, and the distribution of explosive material is in furtherance of the person's power;
    - (iii) A member of a North Atlantic Treaty Organization or other friendly foreign military force, as determined by the United States Attorney General in consultation with the United States Secretary of Defense under 18 U.S.C. § 842, who is present in the United States under military orders for training or other military purpose authorized by the United States, and the distribution of explosive material is in furtherance of the military orders for training or authorized military purpose; or
    - (iv) Lawfully present in the United States in cooperation with the Director of the Central Intelligence Agency, and the distribution of explosive material is in furtherance of the cooperation;
  - (G) Has been dishonorably discharged from any branch of the United States Armed Forces; or
  - (H) Has renounced his or her United States citizenship.
    - (2) Criminal distribution of explosive material is a Class C felony.
- (c) (1) A person commits the offense of possession of stolen explosive material if he or she:
    - (A) Receives, possesses, transports, ships, conceals, stores, barter, sells, disposes of, or pledges or accepts as security for a loan any stolen explosive materials; and
    - (B) Knows or has reasonable cause to believe that the explosive material was stolen.
      - (2) Possession of stolen explosive material is a Class C felony.
  - (d) (1) A person commits the offense of unlawful receipt or possession of an explosive material if the person receives or possesses explosive material and:

- (A) Has pleaded guilty or nolo contendere to or has been found guilty in any state or federal court of a crime punishable by imprisonment for a term exceeding one (1) year;
- (B) Is a fugitive from justice;
- (C) Is an unlawful user of or addicted to any controlled substance;
- (D) Has been adjudicated to have a mental disease or defect or has been committed to an institution or residential treatment facility because of a mental disease or defect;
- (E) Is under twenty-one (21) years of age;
- (F) Is an alien, other than an alien who is:
  - (i) Lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), as it existed on January 1, 2009; or
  - (ii) In lawful nonimmigrant status, a refugee admitted under 8 U.S.C. § 1157, as it existed on January 1, 2009, or in asylum status under 8 U.S.C. § 1158, as it existed on January 1, 2009, and either:
    - (a) A foreign law enforcement officer of a friendly foreign government, as determined by the United States Secretary of State under 18 U.S.C. § 842, entering the United States on official law enforcement business, and the receipt or possession of the explosive material is in furtherance of this official law enforcement business; or
    - (b) A person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed under 18 U.S.C. § 843, as it existed on January 1, 2009, and the receipt or possession of the explosive material is in furtherance of the person's power;
  - (iii) A member of a North Atlantic Treaty Organization or other friendly foreign military force, as determined by the United States Attorney General in consultation with the United States Secretary of Defense under 18 U.S.C. § 842, who is present in the United States under military orders for training or other military purpose authorized by the United States, and the receipt or possession of the explosive material is in furtherance of the military orders for training or authorized military purpose; or
  - (iv) Lawfully present in the United States in cooperation with the Director of the Central Intelligence Agency, and the receipt or possession of the explosive material is in furtherance of the cooperation;
- (G) Has been dishonorably discharged from any branch of the United States Armed Forces; or
- (H) Has renounced his or her United States citizenship.
  - (2) Unlawful receipt or possession of explosive material is a Class C felony.
  - (3) It is a defense to prosecution under this subsection if at the time of the receiving or possessing the explosive material the person was acting within the scope of his or her employment with a business authorized to use explosive material.

- (e) It is a Class A misdemeanor for any person to store any explosive material in a manner not in conformity with the Arkansas Fire Prevention Code.
- (f) A person who commits theft of any explosive material with the purpose to cause harm to a person or property is guilty of a Class B felony.
- (g) Any explosive material determined to be contraband is subject to seizure by a law enforcement officer and to being destroyed in conformity with the Arkansas Fire Prevention Code.
- (h) As used in this section, "alien" means a person who is not a citizen or national of the United States.

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

- (a) A person commits the offense of furnishing a deadly weapon to a minor if he or she 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 the minor's welfare.
- (b)
  - (1) Furnishing a deadly weapon to a minor is a Class A misdemeanor.
  - (2) However, furnishing a deadly weapon to a minor is a Class B felony if the deadly weapon is:
    - (A) A handgun;
    - (B) A sawed-off or short-barrelled shotgun, as defined in § 5-1-102;
    - (C) A sawed-off or short-barrelled rifle, as defined in § 5-1-102;
    - (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;
    - (G) Metal knuckles;
    - (H) A defaced firearm, as defined in § 5-73-107; or
    - (I) Another implement for the infliction of serious physical injury or death that serves no common lawful purpose.

## **5-73-110. Disarming minors and mentally defective or mentally irresponsible persons -- Disposition of property seized.**

- (a) Subject to constitutional limitation, nothing in this section and §§ 5-73-101 -- 5-73-109 shall be construed to prohibit a law enforcement officer from disarming, without arresting, a minor or person who reasonably appears to be mentally defective or otherwise mentally irresponsible when that person is in possession of a deadly weapon.
- (b) Property seized under subsection (a) of this section shall be:
  - (1) Held for seventy-two (72) hours by the law enforcement agency employing the law enforcement officer who seized the property; and
  - (2) After the seventy-two-hour hold and upon request and presentation of valid proof of ownership, returned to the:
    - (A) Owner, if he or she is eighteen (18) years of age or older and may lawfully possess the property; or
    - (B) Parent or legal guardian of the owner, if the owner is a minor and the parent or legal guardian may lawfully possess the property.

## **5-73-111. Unlawful procurement of a firearm.**

- (a) As used in this section:
  - (1) "Ammunition" means any cartridge, shell, or projectile designed for use in a firearm;
  - (2) "False information" means information that portrays an unlawful transaction as lawful or a lawful transaction as unlawful;
  - (3) "Licensed dealer" means a person who is licensed under 18 U.S.C. § 923, as it existed on January 1, 2013, to engage in the business of dealing in firearms; and
  - (4) "Private seller" means a person other than a licensed dealer who sells or offers for sale a firearm or ammunition.
- (b) A person commits the offense of unlawful procurement of a firearm or ammunition if he or she knowingly:
  - (1) Solicits, persuades, encourages, or entices a licensed dealer or private seller to transfer a firearm or ammunition under unlawful circumstances; or
  - (2) Provides false information to a licensed dealer or private seller with a purpose to deceive the licensed dealer or private seller concerning the lawfulness of a transfer of a firearm or ammunition.
- (c) It is a defense to prosecution under this section if the person is:
  - (1) A law enforcement officer acting in his or her official capacity; or
  - (2) Acting at the direction of a law enforcement officer.

- (d) Unlawful procurement of a firearm or ammunition is a Class D felony.

## **5-73-112. Certification by a chief law enforcement officer regarding receipt or manufacture of a firearm.**

- (a) As used in this section:
  - (1) "Certification" means the participation and assent of the chief law enforcement officer or his or her designee necessary under federal law for the approval of an application to transfer or manufacture a firearm; and
  - (2) "Firearm" means the same as defined in § 5845(a) of the National Firearms Act, 26 U.S.C. § 5801 et seq. as it existed on January 1, 2015.
- (b)
  - (1) When certification by the chief law enforcement officer of a jurisdiction is required by federal law or regulation for the transfer or manufacture of a firearm within fifteen (15) days of receipt of a request for certification, the chief law enforcement officer or his or her designee shall provide the certification if the applicant is not prohibited by law from receiving or manufacturing the firearm or is not the subject of a proceeding that could result in the applicant's being prohibited by law from receiving or manufacturing the firearm.
  - (2) If the applicant is prohibited by law from receiving or manufacturing the firearm or is the subject of a proceeding that could result in a prohibition against his or her receiving or manufacturing the firearm, the chief law enforcement officer or his or her designee shall provide written notification to the applicant that states the reasons for his or her findings and that the certification is denied.
- (c)
  - (1) An applicant whose request for certification is denied may appeal the denial to the circuit court where the applicant resides.
  - (2) The circuit court shall review the denial de novo.
  - (3) If the circuit court finds that the applicant is not prohibited by law from receiving or manufacturing the firearm or is not the subject of a proceeding that could result in a prohibition against his or her receiving or manufacturing the firearm, the circuit court shall order the chief law enforcement officer to issue the certification to the applicant.
- (d) Except as provided in subdivision (c)(3) of this section, the chief law enforcement officer of a jurisdiction and his or her employees who act in good faith are immune from civil liability arising from any act or omission in making a certification under this section.

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

- (a)
  - (1) No person in this state under eighteen (18) years of age shall possess a handgun.
  - (2)
    - (A) A violation of subdivision (a)(1) of this section is a Class A misdemeanor.
    - (B) A violation of subdivision (a)(1) of this section is a Class D felony if the person has previously:
      - (i) Been adjudicated delinquent for a violation of subdivision (a)(1) of this section;
      - (ii) Been adjudicated delinquent for any offense that would be a felony if committed by an adult; or
      - (iii) Pleaded guilty or nolo contendere to or been found guilty of a felony in circuit court while under eighteen (18) years of age.
  
- (b) (1) No person in this state shall possess a firearm:
  - (A) Upon the developed property of a public or private school, kindergarten through grade twelve (K-12);
  - (B) In or upon any school bus; or
  - (C) At a designated bus stop as identified on the route list published by a school district each year.
    - (2)
      - (A) A violation of subdivision (b)(1) of this section is a Class D felony.
      - (B) No sentence imposed for a violation of subdivision (b)(1) of this section shall be suspended or probated or treated as a first offense under § 16-93-301 et seq.
  
- (c)
  - (1) Except as provided in § 5-73-322, a person in this state shall not possess a handgun upon the property of any private institution of higher education or a publicly supported institution of higher education in this state on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to employ the handgun as a weapon against a person.
  - (2) A violation of subdivision (c)(1) of this section is a Class D felony.
  
- (d) "Handgun" means a firearm capable of firing rimfire ammunition or centerfire ammunition and designed or constructed to be fired with one (1) hand.
  
- (e) It is permissible to carry a handgun under this section if at the time of the act of possessing a handgun or firearm:

- (1) The person is in his or her own dwelling or place of business or on property in which he or she has a possessory or proprietary interest, except upon the property of a public or private institution of higher learning;
- (2) The person is a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties;
- (3) The person is assisting a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties pursuant to the direction or request of the law enforcement officer, correctional officer, or member of the armed forces;
- (4) The person is a registered commissioned security guard acting in the course and scope of his or her duties;
- (5) The person is hunting game with a handgun or firearm that 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;
- (6) The person is a certified law enforcement officer;
- (7) The person is on a journey beyond the county in which the person lives, unless the person is eighteen (18) years of age or less;
- (8) The person is participating in a certified hunting safety course sponsored by the commission or a firearm safety course recognized and approved by the commission or by a state or national nonprofit organization qualified and experienced in firearm safety;
- (9) The person is participating in a school-approved educational course or sporting activity involving the use of firearms;
- (10) The person is a minor engaged in lawful marksmanship competition or practice or other lawful recreational shooting under the supervision of his or her parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis or is traveling to or from a lawful marksmanship competition or practice or other lawful recreational shooting with an unloaded handgun or firearm accompanied by his or her parent, legal guardian, or other person twenty-one (21) years of age or older standing in loco parentis;
- (11) The person has a license to carry a concealed handgun under § 5-73-301 et seq. and is carrying a concealed handgun on the developed property of:
  - (A) A kindergarten through grade twelve (K-12) private school operated by a church or other place of worship that:
    - (i) Is located on the developed property of the kindergarten through grade twelve (K-12) private school;
    - (ii) Allows the person to carry a concealed handgun into the church or other place of worship under § 5-73-306; and
    - (iii) Allows the person to possess a concealed handgun on the developed property of the kindergarten through grade twelve (K-12) private school; or
  - (B) A kindergarten through grade twelve (K-12) private school or a prekindergarten private school that through its governing board or director has set forth the rules and circumstances under which the licensee may carry a concealed handgun into a building or event of the kindergarten

- through grade twelve (K-12) private school or the prekindergarten private school; or
- (12)
    - (A) The person has a license to carry a concealed handgun under § 5-73-301 et seq. and is carrying a concealed handgun in his or her motor vehicle or has left the concealed handgun in his or her locked and unattended motor vehicle in a publicly owned and maintained parking lot.
    - (B)
      - (i) As used in this subdivision (e)(12), "parking lot" means a designated area or structure or part of a structure intended for the parking of motor vehicles or a designated drop-off zone for children at a school.
      - (ii) "Parking lot" does not include a parking lot owned, maintained, or otherwise controlled by the Department of Correction or Department of Community Correction.

## **5-73-120. Carrying a weapon.**

- (a) A person commits the offense of carrying a weapon if he or she possesses a handgun, knife, or club on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to attempt to unlawfully employ the handgun, knife, or club as a weapon against a person.
- (b) As used in this section:
  - (1) "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;
  - (2) "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;
  - (3) "Journey" means travel beyond the county in which a person lives; and
  - (4) "Knife" means any bladed hand instrument three inches (3") or longer that is capable of inflicting serious physical injury or death by cutting or stabbing, including a dirk, a sword or spear in a cane, a razor, an ice pick, a throwing star, a switchblade, and a butterfly knife.
- (c) It is permissible to carry a weapon under this section if at the time of the act of carrying the weapon:
  - (1) The person is in his or her own dwelling or place of business or on property in which he or she has a possessory or proprietary interest;
  - (2) The person is a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties;
  - (3) The person is assisting a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official

- duties pursuant to the direction or request of the law enforcement officer, correctional officer, or member of the armed forces;
  - (4) The person is carrying a weapon when upon a journey, unless the journey is through a commercial airport when presenting at the security checkpoint in the airport or is in the person's checked baggage and is not a lawfully declared weapon;
  - (5) The person is a registered commissioned security guard acting in the course and scope of his or her duties;
  - (6) The person is hunting game with a handgun that 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;
  - (7) The person is a certified law enforcement officer;
  - (8) The person is in possession of a concealed handgun and has a valid license to carry a concealed handgun under § 5-73-301 et seq., or recognized under § 5-73-321 and is not in a prohibited place as defined by § 5-73-306;
  - (9) The person is a prosecuting attorney or deputy prosecuting attorney carrying a firearm under § 16-21-147; or
  - (10) The person is in possession of a handgun and is a retired law enforcement officer with a valid concealed carry authorization issued under federal or state law.
- (d) Carrying a weapon is a Class A misdemeanor.

## **5-73-122. Carrying a firearm in publicly owned buildings or facilities.**

- (a)
  - (1) Except as provided in § 5-73-322, § 5-73-306(5), § 16-21-147, and this section, it is unlawful for any person other than a law enforcement officer or a security guard in the employ of the state or an agency of the state, or any city or county, or any state or federal military personnel, to knowingly carry or possess a loaded firearm or other deadly weapon in any publicly owned building or facility or on the State Capitol grounds.
  - (2) It is unlawful for any person other than a law enforcement officer or a security guard in the employ of the state or an agency of the state, or any city or county, or any state or federal military personnel, to knowingly carry or possess a firearm, whether loaded or unloaded, in the State Capitol Building or the Arkansas Justice Building in Little Rock.
  - (3) However, this subsection does not apply to a person carrying or possessing a firearm or other deadly weapon in a publicly owned building or facility or on the State Capitol grounds:

- (A) For the purpose of participating in a shooting match or target practice under the auspices of the agency responsible for the publicly owned building or facility or State Capitol grounds;
  - (B) If necessary to participate in a trade show, exhibit, or educational course conducted in the publicly owned building or facility or on the State Capitol grounds;
  - (C)
    - (i) If the person has a license to carry a concealed handgun under § 5-73-301 et seq. and is carrying a concealed handgun in his or her motor vehicle or has left the concealed handgun in his or her locked and unattended motor vehicle in a publicly owned and maintained parking lot.
    - (ii)
- (a) As used in this subdivision (a)(3)(C), "parking lot" means a designated area or structure or part of a structure intended for the parking of motor vehicles or a designated drop-off zone for children at school.
- (b) "Parking lot" does not include a parking lot owned, maintained, or otherwise controlled by the Department of Correction or the Department of Community Correction;
  - (D) If the person has completed the required training and received a concealed carry endorsement under § 5-73-322(g) and the place is not:
    - (i) A courtroom or the location of an administrative hearing conducted by a state agency, except as permitted by § 5-73-306(5) or § 5-73-306(6);
    - (ii) A public school kindergarten through grade twelve (K-12), a public prekindergarten, or a public daycare facility, except as permitted under subdivision (a)(3)(C) of this section;
    - (iii) A facility operated by the Department of Correction or the Department of Community Correction; or
    - (iv) A posted firearm-sensitive area, as approved by the Department of Arkansas State Police under § 5-73-325, located at:
      - (a) The Arkansas State Hospital;
      - (b) The University of Arkansas for Medical Sciences; or
      - (c) A collegiate athletic event; or
  - (E) If the person has a license to carry a concealed handgun under § 5-73-301 et seq., is a justice of the Supreme Court or a judge on the Court of Appeals, and is carrying a concealed handgun in the Arkansas Justice Building.
    - (4) As used in this section, "facility" means a municipally owned or maintained park, football field, baseball field, soccer field, or another similar municipally owned or maintained recreational structure or property.
- (b) However, a law enforcement officer, officer of the court, bailiff, or any other person authorized by the court is permitted to possess a handgun in the courtroom of any court or a courthouse of this state.

- (c) A person violating this section upon conviction is guilty of a Class C misdemeanor.

### **5-73-124. Tear gas -- Pepper spray.**

- (a)
  - (1) Except as otherwise provided in this section, any person who knowingly carries or has in his or her possession any tear gas or pepper spray in any form, or any person who knowingly carries or has in his or her possession any gun, bomb, grenade, cartridge, or other weapon designed for the discharge of tear gas or pepper spray, upon conviction is guilty of a Class A misdemeanor.
  - (2)
    - (A) It is lawful for a person to possess or carry, and use, a container of tear gas or pepper spray to be used for self-defense purposes only.
    - (B) However, the capacity of the container shall not exceed one hundred fifty cubic centimeters (150 cc).
- (b) The provisions of this section do not apply to any:
  - (1) Law enforcement officer while engaged in the discharge of his or her official duties; or
  - (2) Banking institution desiring to have possession of tear gas or pepper spray in any form for the purpose of securing funds in its custody from theft or robbery.

### **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 other states is authorized under regulations issued by the United States Attorney General under the Gun Control Act of 1968, 18 U.S.C. § 921 et seq., as in effect on January 1, 2009.
- (b) A resident of this state may purchase a rifle, shotgun, or ammunition in another state as expressly authorized under the regulations issued under the Gun Control Act of 1968, 18 U.S.C. § 921 et seq., as in effect on January 1, 2009.

### **5-73-126. Booby traps.**

- (a) It is unlawful for any person to install or maintain a booby trap upon his or her own property or any other person's property.
- (b) As used in this section, "booby trap" means a device designed to cause death or serious physical injury to a person.
- (c) Any person who pleads guilty or nolo contendere or who is found guilty of violating this section is guilty of a Class D felony.

### **5-73-127. Possession of loaded center-fire weapons in certain areas.**

- (a) It is unlawful to possess a loaded center-fire weapon, other than a shotgun and other than in a residence or business of the owner, in the following areas:
  - (1) Baxter County:
    - (A) That part bounded on the south by Highway 178, on the west and north by Bull Shoals Lake, and on the east by the Central Electric Power Corporation transmission line from Howard Creek to Highway 178;
    - (B) That part of Bidwell Point lying south of the east-west road which crosses Highway 101 at the Presbyterian Church;
    - (C) That part of Bidwell Point lying west of Bennett's Bayou and north of the east-west road which crosses Highway 101 at the Presbyterian Church;
    - (D) That part of Baxter County between:
      - (i) County Road 139 and Lake Norfolk to the north and west;
      - (ii) County Road 151 and Lake Norfolk to the north, west, and south in the Diamond Bay area;
      - (iii) The Bluff Road and Lake Norfolk to the west;
      - (iv) John Lewis Road (Timber Lake Manor) and Lake Norfolk to the west and south;
      - (v) The south end of County Road 91 south of its intersection with John Lewis Road and Lake Norfolk to the south and east; and
      - (vi) County Road 150 from its intersection with County Road 93 south and Lake Norfolk to the south and east but not east of County Road 93;
  - (2) Benton County:
    - (A) That part of the Hobbs Estate north of State Highway 12, west of Rambo Road, and south and east of Van Hollow Creek and the Van Hollow Creek arm of Beaver Lake;
    - (B) All of Bella Vista Village; and
    - (C) That part bounded on the north by Beaver Lake, on the east by Beaver Lake, on the south by the Hobbs State Management Area boundary from the intersection of State Highway 12 eastward along the boundary to its intersection with the Van Hollow Creek arm of Beaver Lake;

- (3) Benton and Carroll Counties: That part bounded on the north by Highway 62, on the east by Highway 187 and Henry Hollow Creek, and the south and west by Beaver Lake and the road from Beaver Dam north to Highway 62;
  - (4) Conway County: That part lying above the rimrock of Petit Jean Mountain;
  - (5) Garland County: All of Hot Springs Village and Diamondhead;
  - (6) Marion County:
    - (A) That part known as Bull Shoals Peninsula, bounded on the east and north by White River and Lake Bull Shoals, on the west by the Jimmie Creek arm of Lake Bull Shoals, and on the south by the municipal boundaries of the City of Bull Shoals;
    - (B) That part of Marion County bounded on the north, west, and south by Bull Shoals Lake and on the east by County Roads 355 and 322 from their intersections with State Highway 202 to the points where they respectively dead-end at arms of Bull Shoals Lake;
    - (C) The Yocum Bend Peninsula of Bull Shoals Lake bounded on the north and east by Bull Shoals Lake, on the west by Pine Mountain and Bull Shoals Lake, and on the south by County Road 30; and
    - (D) Those lands situated in Marion County known as the Frost Point Peninsula, not inundated by the waters of Bull Shoals Lake, being more particularly described as follows:
      - (i) Section Six, Township Twenty North, Range Fifteen West, (Sec. 6 -- T.20 N. -- R.15 W.), lying south of the White River channel;
      - (ii) Section One, Township Twenty North, Range Sixteen West, (Sec. 1 -- T.20 N. -- R.16 W.); and
      - (iii) East Half of Section Two, Township Twenty North, Range Sixteen West, (E 1/2 Sec. 2 -- T.20 N. -- R.16 W.); North Half of the Northeast Quarter of Section Eleven, Township Twenty North, Range Sixteen West (N 1/2 -- NE 1/4 Sec. 11 -- T.20 N. -- R.16 W.); and
  - (7) A platted subdivision located in an unincorporated area.
- (b) Nothing contained in this section shall be construed to limit or restrict or to make unlawful the discharge of a firearm in defense of a person or property within the areas described in this section.
  - (c) A person who is found guilty or who pleads guilty or nolo contendere to violating this section is guilty of a violation and shall be fined no less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500).
  - (d) This section does not apply to a:
    - (1) Law enforcement officer in the performance of his or her duties;
    - (2) Discharge of a center-fire weapon at a firing range maintained for the discharging of a center-fire weapon; or
    - (3) Person possessing a valid concealed handgun license under § 5-73-301 et seq.

## **5-73-128. Offenses upon property of public schools.**

- (a) (1) The court shall prepare and transmit to the Department of Finance and Administration an order of denial of driving privileges for a person within twenty-four (24) hours after the plea or finding, if a person who is less than nineteen (19) years of age at the time of the commission of the offense:
  - (A) Pleads guilty or nolo contendere to any criminal offense under § 5-73-101 et seq. or the Uniform Machine Gun Act, § 5-73-201 et seq., and the plea is accepted by the court, or is found guilty of any criminal offense under § 5-73-101 et seq. or the Uniform Machine Gun Act, § 5-73-201 et seq., if the state proves that the offense was committed upon the property of a public school or in or upon any school bus; or
  - (B) Is found by a juvenile division of circuit court to have committed an offense described in subdivision (a)(1)(A) of this section.
    - (2) In a case of extreme and unusual hardship, the order may provide for the issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.
- (b) Upon receipt of an order of denial of driving privileges under this section, the department shall suspend the motor vehicle operator's license of the person for not less than twelve (12) months nor more than thirty-six (36) months.
- (c) A penalty prescribed in this section is in addition to any other penalty prescribed by law for an offense covered by this section.

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

### **5-73-130. Seizure and forfeiture of firearm -- Seizure and forfeiture of motor vehicle -- Disposition of property seized.**

- (a) If a person under eighteen (18) years of age is unlawfully in possession of a firearm, the firearm shall be seized and, after an adjudication of delinquency or a conviction, is subject to forfeiture.
- (b) If a felon or a person under eighteen (18) years of age is unlawfully in possession of a firearm in a motor vehicle, the motor vehicle is subject to seizure and, after an adjudication of delinquency or a conviction, subject to forfeiture.
- (c) As used in this section, "unlawfully in possession of a firearm" does not include any act of possession of a firearm that is prohibited only by:
  - (1) Section 5-73-127, unlawful to possess loaded center-fire weapons in certain areas; or
  - (2) A regulation of the Arkansas State Game and Fish Commission.
- (d) The procedures for forfeiture and disposition of the seized property are as follows:
  - (1) The prosecuting attorney of the judicial district within whose jurisdiction the property is seized that is sought to be forfeited shall promptly proceed against the property by filing in the circuit court a petition for an order to show cause why the circuit court should not order forfeiture of the property; and
  - (2) The petition shall be verified and shall set forth:
    - (A) A statement that the action is brought pursuant to this section;
    - (B) The law enforcement agency bringing the action;
    - (C) A description of the property sought to be forfeited;
    - (D) A statement that on or about a date certain there was an adjudication of delinquency or a conviction and a finding that the property seized is subject to forfeiture;
    - (E) A statement detailing the facts in support of subdivision (d)(1) of this section; and
    - (F) A list of all persons known to the law enforcement agency, after diligent search and inquiry, who may claim an ownership interest in the property by title or registration or by virtue of a lien allegedly perfected in the manner prescribed by law.

- (e)
  - (1) Upon receipt of a petition complying with the requirements of subdivision (d)(1) of this section, the circuit court judge having jurisdiction shall issue an order to show cause setting forth a statement that this subchapter is the controlling law.
  - (2) In addition, the order shall set a date at least forty-one (41) days from the date of first publication of the order pursuant to subsection (f) of this section for all persons claiming an interest in the property to file such pleadings as they desire as to why the circuit court should not order the forfeiture of the property for use, sale, or other disposition by the law enforcement agency seeking forfeiture of the property.
  - (3) The circuit court shall further order that any person who does not appear on that date is deemed to have defaulted and waived any claim to the subject property.
- (f) (1) The prosecuting attorney shall give notice of the forfeiture proceedings by:
  - (A) Causing a copy of the order to show cause to be published two (2) times each week for two (2) consecutive weeks in a newspaper having general circulation in the county where the property is located with the last publication being not less than five (5) days before the show cause hearing; and
  - (B) Sending a copy of the petition and order to show cause by certified mail, return receipt requested, to each person having ownership of or a security interest in the property or in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure if:
    - (i) The property is of a type for which title or registration is required by law;
    - (ii) The owner of the property is known in fact to the law enforcement agency at the time of seizure; or
    - (iii) The property is subject to a security interest perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.
      - (2) The law enforcement agency is only obligated to make diligent search and inquiry as to the owner of the property, and if, after diligent search and inquiry, the law enforcement agency is unable to ascertain the owner, the requirement of actual notice by mail with respect to a person having a perfected security interest in the property is not applicable.
- (g) At the hearing on the matter, the petitioner has the burden to establish that the property is subject to forfeiture by a preponderance of the evidence.
- (h) In determining whether or not a motor vehicle should be ordered forfeited, the circuit court may take into consideration the following factors:
  - (1) Any prior criminal conviction or delinquency adjudication of the felon or juvenile;
  - (2) Whether or not the firearm was used in connection with any other criminal act;

- (3) Whether or not the motor vehicle was used in connection with any other criminal act;
  - (4) Whether or not the juvenile or felon was the lawful owner of the motor vehicle in question;
  - (5) If the juvenile or felon is not the lawful owner of the motor vehicle in question, whether or not the lawful owner knew of the unlawful act being committed that gives rise to the forfeiture penalty; and
  - (6) Any other factor the circuit court deems relevant.
- (i) The final order of forfeiture by the circuit court shall perfect in the law enforcement agency right, title, and interest in and to the property and shall relate back to the date of the seizure.
  - (j) Physical seizure of property is not necessary in order to allege in a petition under this section that the property is forfeitable.
  - (k) Upon filing the petition, the prosecuting attorney for the judicial district may also seek such protective orders as are necessary to prevent the transfer, encumbrance, or other disposal of any property named in the petition.
  - (l) The law enforcement agency to which the property is forfeited shall:
    - (1) Destroy any forfeited firearm; and
    - (2) Either:
      - (A) Sell the motor vehicle in accordance with subsection (m) of this section; or
      - (B) If the motor vehicle is not subject to a lien that has been preserved by the circuit court, retain the motor vehicle for official use.
  - (m) (1) If a law enforcement agency desires to sell a forfeited motor vehicle, the law enforcement agency shall first cause notice of the sale to be made by publication at least two (2) times a week for two (2) consecutive weeks in a newspaper having general circulation in the county and by sending a copy of the notice of the sale by certified mail, return receipt requested, to each person having ownership of or a security interest in the property or in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure if:
    - (A) The property is of a type for which title or registration is required by law;
    - (B) The owner of the property is known in fact to the law enforcement agency at the time of seizure; or
    - (C) The property is subject to a security interest perfected in accordance with the Uniform Commercial Code, § 4-1-101 et seq.
      - (2) The notice of the sale shall include the time, place, and conditions of the sale and a description of the property to be sold.
      - (3) The property shall then be disposed of at public auction to the highest bidder for cash without appraisal.
  - (n) The proceeds of any sale and any moneys forfeited shall be applied to the payment of:

- (1) The balance due on any lien preserved by the circuit court in the forfeiture proceedings;
  - (2) The cost incurred by the seizing law enforcement agency in connection with the storage, maintenance, security, and forfeiture of the property;
  - (3) The costs incurred by the prosecuting attorney or attorney for the law enforcement agency, approved by the prosecuting attorney, to which the property is forfeited; and
  - (4) Costs incurred by the circuit court.
- (o) The remaining proceeds or moneys shall be deposited into a special county fund to be titled the "Juvenile Crime Prevention Fund", and the moneys in the fund shall be used solely for making grants to community-based nonprofit organizations that work with juvenile crime prevention and rehabilitation.

### **5-73-131. Possession or use of weapons by incarcerated persons.**

- (a) A person commits the offense of possession or use of weapons by incarcerated persons if, without approval of custodial authority he or she uses, possesses, makes, repairs, sells, or otherwise deals in any weapon, including, but not limited to, any bomb, firearm, knife, or other implement for the infliction of serious physical injury or death and that serves no common lawful purpose, while incarcerated in the Department of Correction, the Department of Community Correction, or a county or municipal jail or detention facility.
- (b) Possession or use of weapons by incarcerated persons is a Class D felony.
- (c) This section is not applicable to possession of a weapon by an incarcerated person before he or she completes the standard booking and search procedures in a jail facility after arrest.

### **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 or she 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;

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

### **5-73-133. Possession of a taser stun gun.**

- (a) As used in this section, "taser stun gun" means any device that:
  - (1) Is powered by an electrical charging unit such as a battery; and
  - (2) Either:
    - (A) Emits an electrical charge in excess of twenty thousand (20,000) volts; or
    - (B) Is otherwise capable of incapacitating a person by an electrical charge.
- (b)
  - (1) No person who is eighteen (18) years of age or under may purchase or possess a taser stun gun.
  - (2) No person shall sell, barter, lease, give, rent, or otherwise furnish a taser stun gun to a person who is eighteen (18) years of age or under.
- (c) Any law enforcement officer using a taser stun gun shall be properly trained in the use of the taser stun gun and informed of any danger or risk of serious harm and injury that may be caused by the use of the taser stun gun on a person.
- (d)
  - (1) A person who violates subdivision (b)(1) of this section is deemed guilty of an unclassified misdemeanor punishable by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).
  - (2) A person who violates subdivision (b)(2) of this section is deemed guilty of a Class B felony.