

Packing Heat In Arizona

You had better know the law before pulling a concealed weapon

A new law that takes effect this summer that will allow U.S. citizens age 21 and older, who are not otherwise prohibited from possessing guns, to carry a concealed weapon without a permit in Arizona.

Although Arizona law will soon be very friendly to those who carry concealed guns, it remains very unfriendly to those who handle guns unlawfully or carry prohibited weapons. Carrying a gun without knowing when it can be lawfully used still carries significant risks.

Pulling or pointing a gun with the intention of placing another in reasonable apprehension of imminent physical injury is one way of committing the crime of aggravated assault, a class 3 dangerous felony, for which prison is mandatory. Even if no one is threatened or shot, recklessly handling, displaying or discharging a gun with the intent or knowledge that it will disturb the peace or quiet of a neighborhood, family or person is disorderly conduct, a Class 6 dangerous felony that carries a mandatory prison sentence.

Arizona law allows the use or threatened use of deadly physical force in a verity of situations, including the defense of a premises, the defense of a third person, prevention of a crime or for self defense. These are legal justifications for using a gun. They are called justification defenses. Each justification defense is created by statute, and each has its own specific requirements.

Self-Defense is the best known of the justification defenses. The statutory requirement for lawfully using a weapon in self-defense can be found in ARS 13-404, 405 and 13-421. A person may lawfully pull from the holster and threaten or even shoot to kill when, and to the extent, a reasonable person would believe that deadly force is immediately necessary to protect oneself against another's use or attempted use of unlawful deadly physical force. The threat or use of a gun against another is not justified in response to verbal provocation alone, nor is it justified to resist an arrest by a police officer.

The legal risk a gun owner faces when using a weapon "in self-defense" is that his understanding of self-defense might be inconsistent with Arizona law. Even if a person honestly believes that the weapon was pulled for self-defense, if the prosecutor proves that any of the many requirements of the self-defense statute is missing, the person will go to prison.

At sentencing, the lack of a prior record, many years of singing in the church choir or children relying on his financial support will not keep an offender out of prison. The Judge is

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required to sentence a person convicted of aggravated assault with a gun to prison for 5 to 15 years, even if the gun was not loaded. The judge has no choice. Of course, if the use of a gun results in a death, the stakes might be much higher.

The concealed weapons law will soon change, but the consequences for gun miss use are still very severe. Without luck, an unqualified person who uses a gun for personal protection can land in legal hot water. Before strapping on a weapon, anyone untrained in the law should ask himself or herself one question:

Do I feel lucky?

Written by Maricopa County Superior Court Judge Douglas Rayes (criminal presiding judge).

Published in the Arizona Republic on May 31st, 2010.