



# Arizona Citizens Defense League

## Protecting Your Freedom

Volume 2009, Issue 4

AzCDL's Newsletter

October 2009

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[info@AzCDL.org](mailto:info@AzCDL.org)



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## New Laws Effective September 30th



With the focus almost entirely on the budget this session, very little time was spent on other legislation, and there was a mad rush to end the session and filter out as many non-budget bills as possible. Grassroots pressure via emails, letters and phone calls kept pro-rights bills moving. Eventually a number of pro-rights bills were sent to, and signed by, the Governor. The following laws became effective on September 30, 2009.

### Restaurant Carry

A limited Restaurant Carry bill was passed, laden with amendments that reduced opposition to the legislation. Not all the changes were beneficial to law-abiding gun owners. In the final version:

- Only individuals with CCW permits may carry a firearm where alcohol is served.
- Only concealed firearms are allowed in places serving alcohol.
- The individual legally carrying the firearm may not consume alcohol.
- Establishments may prohibit firearms by posting a sign in a specified location.
- The penalty for violating the law is a class 3 misdemeanor.
- It is an "affirmative defense" (in court, after being arrested) if the person violating the law "was not informed of the notice," the sign had "fallen down," the person is not a resident of Arizona, or the posted sign has not been up for 30 days.
- Lack of knowledge that firearms are prohibited in establishments serving alcohol is no longer a valid defense.

Just because you don't see a "No Firearms" sign near the front door of an establishment that serves alcohol doesn't mean you are welcome. The law requires that the sign is posted near the liquor license, not as you enter the business. And, under the new law, lack of knowledge that you are breaking the law, is not a valid defense. On the other hand, the required concealed handgun is by definition, not noticeable either. Makes a lot of sense, doesn't it? Specifics of the new Restaurant Carry law can be found in ARS 4-229.

### Defensive Display

This is the AzCDL-requested legislation that clarifies when the defensive display of a firearm is justified. Defensive display of a firearm includes the following:

- Verbally informing another person that the person possesses a firearm or has one available.
- Exposing or displaying a firearm in a manner that a reasonable person would understand was meant to protect the person against another's use or attempted use of unlawful physical force or deadly physical force.
- Placing the person's hand on a firearm that is contained in a pocket, purse or other means of containment or transport.

The new law (ARS 13-421) also establishes that there is no requirement for the defensive display of a firearm before the use of physical force, or the threat of physical force, by a person who is otherwise justified in the use or threatened use of physical force.

(Continued on page 2)



## New Laws Effective September 30, 2009



(Continued from page 1)

### Parking Lot Exemption

This new law (ARS 12-781) prevents any private or public employer, property owner, etc., from banning any person from keeping a firearm in a locked vehicle in a parking area on the property, with specific limited exceptions.

### School Marksmanship Program

Persons certified by a "national association of firearms owners" (e.g., NRA) have been added to the list of persons qualified to be an Arizona Gun Safety Program Course instructor. Currently, instructors may only be certified by the Arizona Game and Fish Department.

### Retroactive Self-Defense Clarification

The restoration of the "innocent until proven guilty" language, that passed out of the Legislature via SB 1145 in 2006, is retroactively applied to cases pending at the time of SB 1145's passage. The most egregious of these was the trial of Harold Fish, who was hiking in Coconino County when a man with a violent history and his two dogs attacked him. Mr. Fish was forced to fire at his attacker, killing him. What Mr. Fish did not know, and could not know, was the violent history of his attacker. A history, among many other facts of the case, that the judge and prosecutor would not allow in court for the jury to consider. Before Mr. Fish's trial, the Arizona Legislature returned the law from "guilty until proven innocent", back to "innocent until proven guilty" in self defense cases. Unfortunately, the trial was conducted under the old law and Mr. Fish was convicted.

You can read more about this case at: <http://www.haroldfishdefense.org/>.



### CCW without a Permit? Almost!

Attempts were made this year to either make the CCW permit optional (ala Alaska) or reduce the penalty for law-abiding citizens (only!) carrying concealed without a permit. Both bills survived and thrived during most of the legislative session but got trampled in the stampede at the end.

It started with SB 1270, the AzCDL-requested Constitutional Carry bill that removed the penalty for the lawful carrying of a concealed weapon without a permit. SB 1270 passed out of the Senate Judiciary Committee, but stalled in the Senate Rules Committee because of an amendment, added in the Senate Judiciary Committee, dealing with smuggling firearms across the border.

As an alternative, AzCDL was able to get another bill, HB 2439, amended to include the "Petty Offense" language that passed the Legislature in the last two sessions, by wide margins, but was vetoed by former Governor Janet Napolitano. The Petty Offense language, less controversial than Constitutional Carry, reduced the penalty for carrying concealed without a permit from a misdemeanor to a petty offense for those not committing serious or violent crimes.

HB 2439 started out as an AzCDL-requested CCW training reform bill. It was amended to include Petty Offense and Defensive Display language and sailed through the Senate by a vote of 18-5 around 2 AM on the last day of the Legislative session (July 1st).

Since it had already been through the House, all it needed was concurrence and House Final Read votes and it would be sent to the Governor.

AzCDL's representatives worked at the Capitol, conferring with legislators all night long, and we were confident we had the votes needed for HB 2439 to pass.

Unfortunately, around 5 AM, when HB 2439 was voted on in the House Final Read, it failed by one vote (the vote was 30-10, it needed 31 votes) because

20 (Yes, twenty!) members had left before the final batch of bills, including HB 2439, was voted on. Five of those who were not present for the vote were Republicans who had indicated to us that they would vote for HB 2439. If they had been present and voted, HB 2439 would have easily passed.

The Republicans missing during the final vote were Nancy Barto (R-7), Rich Crandall (R-19), Adam Driggs (R-11), Bill Konopnicki (R-5), Lucy Mason (R-1), and Doug Quellan (R-10).

You can see how individual Legislators voted on these bills on pages 3 & 4 of this newsletter.

### Campus Carry An early casualty

The AzCDL-requested bill that would remove the authority of governing boards to create policy prohibiting possession of concealed weapons by CCW permit holders on the property of an educational institution (i.e., College or University) was knocked out early in the session.

Legislation was drafted but the bill was not filed by the Senate deadline. To keep the bill alive, Dave Kopp and John Wentling, AzCDL's president and vice-president, successfully lobbied for Campus Carry to be filed in the House at the last minute. Unfortunately HB 2607 did not get a committee hearing in time to move to the House floor for debate and vote.



## 2009 Legislative Session—How They Voted

### Bill Number

| Name                    | Party | Dist. | SB1113 | SB1168/<br>HB 2474 | SB1243 | SB1437 | SB1449 | HB2439 |
|-------------------------|-------|-------|--------|--------------------|--------|--------|--------|--------|
| <b>House</b>            |       |       |        |                    |        |        |        |        |
| Edward Ableser          | D     | 17    | N      | NV                 | Y      | NV     | Y      | NV     |
| Kirk Adams              | R     | 19    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Frank Antenori          | R     | 30    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Cecil P. Ash            | R     | 18    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Ray Barnes              | R     | 7     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Nancy K. Barto          | R     | 7     | Y      | Y                  | Y      | Y      | Y      | NV     |
| Andy Biggs              | R     | 22    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Tom Boone               | R     | 4     | Y      | Y                  | Y      | Y      | Y      | Y      |
| David Bradley           | D     | 28    | N      | N                  | N      | Y      | Y      | N      |
| Jack A. Brown           | D     | 5     | Y      | N                  | Y      | Y      | NV     | NV     |
| Judy M. Burges          | R     | 4     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Olivia Cajero Bedford   | D     | 27    | NV     | NV                 | N      | NV     | NV     | NV     |
| Chad Campbell           | D     | 14    | N      | N                  | Y      | Y      | Y      | N      |
| Cloves C. Campbell, Jr. | D     | 16    | Y      | NV                 | Y      | NV     | Y      | NV     |
| Tom Chabin              | D     | 2     | N      | N                  | N      | Y      | N      | N      |
| Steve Court             | R     | 18    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Rich Crandall           | R     | 19    | Y      | NV                 | Y      | NV     | NV     | NV     |
| Sam Crump               | R     | 6     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Christopher Deschene    | D     | 2     | N      | NV                 | N      | NV     | Y      | NV     |
| Adam Driggs             | R     | 11    | Y      | Y                  | Y      | Y      | Y      | NV     |
| Steve Farley            | D     | 28    | N      | NV                 | NV     | NV     | N      | N      |
| Patricia V. Fleming     | D     | 25    | N      | N                  | N      | Y      | Y      | N      |
| Martha Garcia           | D     | 13    | N      | N                  | N      | Y      | NV     | NV     |
| Doris Goodale           | R     | 3     | Y      | Y                  | Y      | Y      | Y      | Y      |
| David Gowan             | R     | 30    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Matt Heinz              | D     | 29    | N      | NV                 | NV     | NV     | Y      | N      |
| Laurin Hendrix          | R     | 22    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Russell L. Jones        | R     | 24    | Y      | Y                  | Y      | N      | Y      | Y      |
| John Kavanagh           | R     | 8     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Bill Konopnicki         | R     | 5     | Y      | Y                  | Y      | Y      | Y      | NV     |
| Debbie Lesko            | R     | 9     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Phil Lopes              | D     | 27    | N      | N                  | N      | Y      | Y      | NV     |
| David Lujan             | D     | 15    | N      | N                  | N      | Y      | Y      | N      |
| Lucy Mason              | R     | 1     | Y      | NV                 | NV     | NV     | Y      | NV     |
| John McComish           | R     | 20    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Barbara McGuire         | D     | 23    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Nancy McLain            | R     | 3     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Eric Meyer              | D     | 11    | N      | N                  | N      | Y      | Y      | NV     |
| Robert Meza             | D     | 14    | N      | N                  | NV     | Y      | Y      | NV     |
| Ben R. Miranda          | D     | 16    | Y      | Y                  | Y      | Y      | Y      | NV     |
| Steve B. Montenegro     | R     | 12    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Rick Murphy             | R     | 9     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Warde V. Nichols        | R     | 21    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Lynne Pancrazi          | D     | 24    | Y      | Y                  | Y      | Y      | Y      | NV     |
| Daniel Patterson        | D     | 29    | N      | Y                  | Y      | Y      | Y      | NV     |

### Description of Bills

#### SB 1113

Restaurant Carry for  
CCW permit holders

#### SB 1168 & HB 2474

Prevents banning firearms in a  
locked vehicle in a parking area

#### SB 1243

Justification of defensive display

#### SB 1449

"Innocent until proven guilty" law is  
retroactive to cases pending

#### HB 2439

Concealed carry without CCW  
permit by law-abiding citizens  
reduced to Petty Offense

#### AzCDL PAC

Support pro-rights candidates  
via AzCDL's Political Action  
Committee (PAC)!

<http://www.AzCDLpac.com>

You can also make donations to  
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|---------------------------|-------|-------|--------|--------------------|--------|--------|--------|--------|
| <b>House (continued)</b>  |       |       |        |                    |        |        |        |        |
| Frank Pratt               | R     | 23    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Doug Quelland             | R     | 10    | Y      | Y                  | NV     | Y      | Y      | NV     |
| Michele Reagan            | R     | 8     | Y      | Y                  | Y      | Y      | Y      | Y      |
| David Schapira            | D     | 17    | N      | N                  | N      | Y      | Y      | N      |
| Carl Seel                 | R     | 6     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Kyrsten Sinema            | D     | 15    | N      | N                  | NV     | NV     | Y      | N      |
| David Stevens             | R     | 25    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Andrew M. Tobin           | R     | 1     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Anna Tovar                | D     | 13    | N      | NV                 | N      | NV     | Y      | N      |
| Rae Waters                | D     | 20    | N      | N                  | Y      | Y      | Y      | NV     |
| Jim Weiers                | R     | 10    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Jerry Weiers              | R     | 12    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Vic Williams              | R     | 26    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Steven B. Yarbrough       | R     | 21    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Nancy Young Wright        | D     | 26    | N      | N                  | N      | Y      | N      | NV     |
| <b>Senate</b>             |       |       |        |                    |        |        |        |        |
| Paula Aboud               | D     | 28    | N      | N                  | NV     | Y      | N      | N      |
| Amanda Aguirre            | D     | 24    | Y      | Y                  | Y      | Y      | N      | NV     |
| Carolyn S. Allen          | R     | 8     | N      | N                  | N      | Y      | Y      | Y      |
| Sylvia Allen              | R     | 5     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Manuel V. "Manny" Alvarez | D     | 25    | Y      | N                  | Y      | Y      | N      | NV     |
| Robert "Bob" Burns        | R     | 9     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Meg Burton Cahill         | D     | 17    | N      | N                  | N      | Y      | N      | N      |
| Ken Chevront              | D     | 15    | NV     | NV                 | Y      | Y      | N      | NV     |
| Jorge Luis Garcia         | D     | 27    | N      | NV                 | N      | Y      | N      | N      |
| Pamela Gorman             | R     | 6     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Ron Gould                 | R     | 3     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Chuck Gray                | R     | 19    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Linda Gray                | R     | 10    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Albert Hale               | D     | 2     | N      | N                  | N      | Y      | N      | N      |
| Jack W. Harper            | R     | 4     | Y      | Y                  | Y      | Y      | Y      | Y      |
| John Huppenthal           | R     | 20    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Leah Landrum Taylor       | D     | 16    | N      | N                  | Y      | Y      | N      | NV     |
| Barbara Leff              | R     | 11    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Linda Lopez               | D     | 29    | N      | N                  | N      | Y      | N      | N      |
| Debbie McCune Davis       | D     | 14    | N      | N                  | N      | NV     | NV     | NV     |
| Al Melvin                 | R     | 26    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Richard Miranda           | D     | 13    | NV     | N                  | N      | Y      | N      | NV     |
| John Nelson               | R     | 12    | Y      | NV                 | NV     | Y      | Y      | Y      |
| Jonathan Paton            | R     | 30    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Russell Pearce            | R     | 18    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Steve Pierce              | R     | 1     | Y      | Y                  | Y      | Y      | Y      | Y      |
| Rebecca Rios              | D     | 23    | Y      | Y                  | Y      | Y      | Y      | NV     |
| Jay Tibshraeny            | R     | 21    | NV     | Y                  | Y      | Y      | Y      | Y      |
| Thayer Verschoor          | R     | 22    | Y      | Y                  | Y      | Y      | Y      | Y      |
| Jim Waring                | R     | 7     | Y      | Y                  | Y      | Y      | Y      | Y      |

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**SB 1113**

Restaurant Carry for  
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