

**AMERICAN SAMOA**  
**AM. SAMOA CODE ANN.**

**Title 46. Criminal Justice**

**Chapter 42. Weapons**

**46.4201. Definitions. ...**

(b) "Deface" means to alter or destroy the manufacturer's or importer's serial number or any 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.

(f) "Gas gun" means any gas ejective device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects mace or other repellant or temporary incapacitating substance.

(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 any barrel length of less than 16" for a rifle and 18" for a shotgun, or an overall rifle and shotgun length of less than 26".

(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 shot-gun shell to fire a number of shots or single projectile through a smoothbore barrel by a single function of the trigger.

**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;

(3) a gas 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 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 be made readily 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.

**46.4203. Unlawful use of weapons.**

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

(1) carries concealed on or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use;

(5) possesses or discharges a firearm or projectile weapon while intoxicated;

**(b) Exemptions.**

(1) Paragraphs (a)(1), (3), (4), (6), (7) and (8) do not apply to or affect any of the following:

(A) peace officers, or any person summoned by these officers to assist in making arrests or preserving the peace while actually engaged in assisting the officer;

(B) wardens, superintendents and keepers of prisons, jails and other institutions for the detention of persons accused or convicted of crime;

(C) members of the armed forces while performing their official duty.

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

(d) Unlawful use of weapons is a class D felony unless committed under paragraph (a)(5), (6), (7), or (8), then it is a class B misdemeanor.

**46.4204. Defacing firearm.**

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

(b) Defacing firearm is a class A misdemeanor.

**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.

**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 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.

**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 adjudged mentally incompetent.

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

**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.

**46.4221. License - Required when.**

(a) It is unlawful of 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 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 this 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).

**46.4222. License - Required for import.**

(a) It is unlawful of 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 has been approved by the Attorney General.

(c) Unless otherwise authorized, only those shotguns and rifles referred to in section 46.221(c) ASCA may be imported with licenses.

(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.

**46.4223. License - Required for the 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 46.221(c) and ammunition therefor.

**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.

**46.4225. License - Possession required when carrying arms.** Every person to whom a license to possess arms is issued, shall when carrying such arms or any part thereof, have with him the license to possess such arms, and shall produce the same for inspection upon demand of any officer or official of the government.

**46.4226. License - Revocation.** Any license issued under authority of this title may be altered or revoked by the Governor or his designated representative at any time for good cause.

**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 1<sup>st</sup> and the 10<sup>th</sup> 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.

**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 letter 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 plainly visible and distinctive serial number stamped on it. Such arms when duly marked shall be redelivered to the licensee, together with 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.

**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.

**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 if 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 performance of 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.

**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.

[Current through 2009]