

WYANDOTTE NATION
TITLE 18
FIREARMS CODE
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**WYANDOTTE NATION
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INTRODUCTION

Section 1. Citation.

This Title may be cited as the “Firearms Code.”

Section 2. Application.

(a) This Title shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Wyandotte Nation. The provisions of this Title shall apply to all citizens of the Nation and all Indians within the jurisdiction of the Nation wherever such violation may occur, if such violation has any actual or intended effect upon the political integrity or political or economic security of the Nation.

(b) The Wyandotte Nation will have full jurisdiction and authority to enforce this Title for all Indian and non-Indian persons to the extent not inconsistent with Federal law. Regardless of its inclusion in this Title, to the extent any Wyandotte Nation law is civil in nature, such law shall apply to any person who is not subject to the Nation’s criminal jurisdiction. The Wyandotte Nation will have the authority to enforce civil fines for any person who violates this Title in the amount enumerated for activity for which criminal punishment is provided. The Nation’s Court is authorized to issue civil court orders or contempt of court orders against any person who fails to comply with Wyandotte law or an order of the Court. Civil contempt orders may include incarceration and fines. Violations of any civil or criminal provision of this Title will be determined by the Court to be an unlawful public nuisance, which may be enjoined by the Court.

(c) This Title shall apply to non-Indians to the extent not inconsistent with Federal law and to the extent that any person found to have violated any provisions of this Title may be banished or excluded from the jurisdiction of the Nation for a period not exceeding five (5) years, or for such longer term as may be imposed by the Section violated, in a civil proceeding brought by the Nation. The non-Indian in such cases shall have all the procedural rights of a criminal defendant, and such cases shall be tried by the Rules of Criminal Procedure.

Section 3. Applicability of the Laws of the State of Oklahoma.

To the extent not inconsistent with the laws of the Wyandotte Nation, and to the extent not prohibited by Federal law, whoever within the jurisdiction of the Nation is guilty of any act or omission which, although not made punishable by any enactment of the Nation, would be punishable if committed or omitted within the jurisdiction of the State of Oklahoma, by the laws thereto in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment, provided however, the maximum punishment shall not exceed Fifteen Thousand Dollars (\$15,000) in fines or more than three (3) years incarceration.

CHAPTER ONE CARRYING OF WEAPONS WHERE PROHIBITED

Section 101. Carrying a Weapon Where Prohibited.

It shall be unlawful for a person to carry a concealed or unconcealed firearm into any public place designated as a prohibited place by the Board of Directors of the Wyandotte Nation. Any person convicted of carrying a weapon where prohibited shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or incarceration not to exceed six (6) months, or both a fine and incarceration.

102. Unlawful Carry.

(a) Notwithstanding any other provision of law, it shall be unlawful for any person to carry upon or about his or her person, or in a purse or other container belonging to the person, any pistol, revolver, shotgun or rifle whether loaded or unloaded or any other offensive weapon, whether such weapon be concealed or unconcealed, except this Section shall not prohibit:

1. The proper use of guns and knives for self-defense, hunting, fishing, educational or recreational purposes;

2. The carrying or use of weapons in a manner otherwise permitted by the laws of the Wyandotte Nation or the State;

3. The carrying, possession and use of any weapon by a peace officer or other person authorized by law to carry a weapon in the performance of official duties and in compliance with the rules of the employing agency.

(b) Individuals shall be prohibited from carrying a firearm if they have been convicted of one of the following offenses within the Wyandotte Nation, the State of Oklahoma, or any other Federal, Tribal or State jurisdiction:

1. Assault and battery which caused serious physical injury to the victim;

2. Aggravated assault and battery;

3. Assault and battery that qualifies as domestic abuse as defined by the convicting jurisdiction;

4. Stalking;

5. A violation of an order of protection from domestic abuse issued by the Wyandotte Nation or any other jurisdiction; or

6. A violation relating to illegal drug use or possession under the provisions of the Oklahoma Uniform Controlled and Dangerous Substance Act.

(c) Any person convicted of violating the foregoing provisions shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by a sentence of incarceration not to exceed three (3) months, or both a fine and incarceration.

Section 103. Confiscation and Forfeiture of Weapons Possessed by Persons Under 18.

(a) Whenever a person under eighteen (18) years of age is detained or arrested by a law enforcement officer and is carrying any weapon or firearm prohibited by Section 102 of this Title, each such prohibited weapon and firearm may be confiscated and forfeited by the law enforcement authority. Such confiscation and forfeiture shall not require that criminal charges be filed against the minor.

(b) However, when a weapon or firearm confiscated pursuant to the provisions of this Section has been taken by a minor without permission of the owner, the weapon or firearm shall be returned to the owner, provided the possession of such weapon or firearm by the owner is not otherwise prohibited by law.

(c) Any weapon or firearm confiscated and forfeited by any law enforcement officer may be sold at public auction when it is no longer needed as evidence in a criminal proceeding.

(d) For purposes of this Section, the term “confiscate” shall not be construed to prohibit any parent, guardian or other adult person from removing or otherwise seizing from any minor any weapon or firearm in the minor’s possession. Provided however, no school authority shall return any weapon or firearm removed or otherwise seized from any minor to any person, and shall immediately deliver such weapon or firearm to a law enforcement authority for prosecution and forfeiture.

Section 104. Allowing Minors to Possess Firearms.

(a) It shall be unlawful for any person to sell or give to any child any weapons or firearms, provided that the provisions of this Section shall not prohibit a parent of a child or legal guardian of a child, or a person acting with the permission of the parent or legal guardian of the child, from giving the child a firearm for participation in hunting animals or fowl, hunter safety classes, education and training the safe use and handling of firearms, target shooting, skeet, trap or other sporting events or competitions, except as provided in Subsection (b) of this Section.

(b) It shall be unlawful for any parent or guardian to intentionally, knowingly, or recklessly permit his or her child to possess any weapon or firearm, if such parent is aware of a substantial risk that the child will use the weapon to commit a criminal offense or if the child has either been adjudicated a delinquent or has been convicted as an adult for any criminal offense that contains as an element the threat or use of physical force against the person of another.

(c) It shall be unlawful for any child to possess any weapon or firearm, except firearms used for participation in hunting animals or fowl, hunter safety classes, education and training in the safe use and handling of firearms, target shooting, skeet, trap or other sporting events or competitions.

(d) Any person violating the provisions of this Section shall, upon a first conviction, be guilty of a misdemeanor and punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00), or by incarceration not to exceed thirty (30) days or both a fine and incarceration. On the second and every subsequent conviction, the party shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by incarceration for a period of not less than thirty (30) days nor more than three (3) months, or by both such fine and incarceration. In addition, any person violating the provisions of this Section, shall be liable for civil damages for any injury or death to any person and for any damage to property resulting from the discharge of a firearm by the child or use of any other weapon that the person had given to the child or permitted the child to possess.

(e) Any minor child violating the provisions of this Section, shall be subject to adjudication as a delinquent.

Section 105. Firearms Prohibited Where Liquor is Consumed.

(a) It shall be unlawful for a person to carry or possess any weapon or firearm in any establishment where the sale of alcoholic beverages constitutes the primary purpose of the business. This provision shall not apply to:

1. A peace officer, private investigator or armed security with a firearms authorization when acting in the scope and course of employment;

2. An owner or proprietor of the establishment; or

3. An employee of the establishment who has permission from the owner or proprietor of the establishment to carry or possess a weapon while in the scope and course of employment.

(b) It shall be unlawful for a person to carry or possess any weapon or firearm into any restaurant or other establishment licensed to dispense alcoholic beverages where the sale of alcoholic beverages does not constitute the primary purpose of the business.

(c) Any person convicted of violating the foregoing provisions shall be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00).

Section 106. Possession of Firearm on School Property Prohibited.

(a) It shall be unlawful for any person to have in his or her possession on any public or private school property or while in any school bus or vehicle used by any school for transportation of students or teachers any firearm or weapon, except as provided in Subsection (b) or as otherwise authorized by law.

(b) Firearms and weapons are allowed on school property and deemed not in violation of Subsection (a) of this Section as follows:

1. A gun or knife designed for hunting or fishing purposes kept in a privately owned vehicle and properly displayed or stored as required by law, and provided such vehicle does not remain unattended on school property for any length of time;

2. A gun or knife used for the purpose of participating in a certified hunter training education course or any other hunting, fishing, safety or firearms training courses, or a recognized firearms sports event, team shooting program or competition, provided the event is authorized by the appropriate school official and provided the weapon or firearm is properly displayed or stored as required by law;

3. Weapons in the possession of any peace officer, school resource officer or other person authorized by law to possess a weapon in the performance of his or her duties and responsibilities;

4. A gun, knife, bayonet or other weapon in the possession of a member of a veterans group, the national guard, active military, the Reserve Officers' Training Corps (ROTC) or Junior ROTC, in order to participate in a ceremony, assembly or educational program approved by the appropriate school official; provided, however, the gun or other weapon that uses projectiles is not loaded and is inoperable at all times while on school property; and

5. A handgun carried in a motor vehicle onto property set aside by a public or private elementary or secondary school for the use or parking of any vehicle; provided, however, said handgun shall be stored and hidden from view in a locked motor vehicle when the motor vehicle is left unattended on school property.

(c) Any person violating the provisions of this Section shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00).

CHAPTER TWO UNLAWFUL USE AND POSSESSION OF WEAPONS

Section 201. Unlawful Intent to Carry.

Any person who carries or wears any deadly weapons or dangerous instrument whatsoever with the intent or for the avowed purpose of unlawfully injuring another person shall, upon conviction, be guilty of a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by incarceration for a period not exceeding two (2) years, or by both such fine and incarceration. The mere possession of such a weapon or dangerous instrument, without more, however, shall not be sufficient to establish intent as required by this Section.

Section 202. Pointing Weapons at Others Prohibited Except in Self-Defense.

Except for an act of self-defense, it shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person. Any person violating the provisions of this Section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) and may be incarcerated for a period of not more than one (1) year.

Section 203. Use of Firearm During Act of Felony.

(a) Any person who, while committing or attempting to commit a felony, possesses a pistol, shotgun or rifle or any other offensive weapon in such commission or attempt, whether the pistol, shotgun or rifle is loaded or not, or who possesses a blank or imitation pistol, altered air or toy pistol, shotgun or rifle capable of raising in the mind of one threatened with such device a fear that it is a real pistol, shotgun or rifle, in addition to the penalty provided by statute for the felony committed or attempted shall, upon conviction, be guilty of a felony for possessing such weapon or device, which shall be a separate offense from the felony committed or attempted and shall be punishable by a fine not to exceed Fifteen Thousand Dollars (\$15,000.00) or by a term of incarceration not to exceed three (3) years, or both a fine and incarceration.

(b) As used in this Section, a weapon shall include: pistol, shotgun, rifle, altered air or toy pistol, air gun or carbon dioxide or other gas-filled weapon, electronic dart gun, conductive energy weapon, knife, dagger, dirk, switchblade knife, blackjack, ax, loaded cane, billy, hand chain, metal knuckles, or any other device used as a weapon and capable of raising fear of imminent harm or death in the mind of the person threatened.

Section 204. Convicted Felons and Delinquents.

(a) Except as provided in Subsection (b) of this Section, it shall be unlawful for any person convicted of any felony in the Wyandotte Nation Court or any other jurisdiction of the United States to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, or at the residence where the convicted person resides, any pistol, imitation or homemade pistol, altered air or toy pistol, machine gun, sawed-off shotgun or sawed-off rifle, or any other firearm.

(b) Any person who has previously been convicted of a nonviolent felony in the Wyandotte Nation Court or any other jurisdiction of the United States, and who has received a full and complete pardon from the proper authority and has not been convicted of any other felony offense which has not been pardoned, shall have restored the right to possess any firearm or other weapon prohibited by Subsection (a) of this Section.

(c) It shall be unlawful for any person serving a term of probation for any felony in the Wyandotte Nation Court or any other jurisdiction of the United States or under the jurisdiction of any alternative court program to have in his or her possession or under his or her immediate control, or at his or her residence, or in any passenger vehicle which the person is operating, any pistol, shotgun or rifle including any imitation or homemade pistol, altered air or toy pistol, toy shotgun or toy rifle, while such person is subject to supervision, probation, parole or inmate status.

(d) It shall be unlawful for any person previously adjudicated as a delinquent child or a youthful offender for the commission of an offense, which would have constituted a felony offense if committed by an adult, to have in the possession of the person or under the immediate control of the person, or have in any vehicle which he or she is driving, or at the residence of the person, any pistol, imitation or homemade pistol, altered air or toy pistol, machine gun, sawed-off shotgun or sawed-off rifle, or any other dangerous or deadly firearm within ten (10) years after such adjudication.

(e) Any convicted or adjudicated person violating the provisions of this Section shall, upon conviction, be guilty of a felony punishable by a fine not to exceed Fifteen Thousand Dollars (\$15,000.00) or by a term of incarceration not to exceed three (3) years, or both a fine and incarceration.