

§ 18-12-108.5. Possession of handguns by juveniles - prohibited - exceptions - penalty

(1)

(a) Except as provided in this section, it is unlawful for any person who has not attained the age of eighteen years knowingly to have any handgun in such person's possession.

(b) Any person possessing any handgun in violation of paragraph (a) of this subsection (1) commits the offense of illegal possession of a handgun by a juvenile.

(c)

(I) Illegal possession of a handgun by a juvenile is a class 2 **misdemeanor**.

(II) For any second or subsequent offense, illegal possession of a handgun by a juvenile is a class 5 **felony**.

(d) A person under the age of eighteen years who is taken into custody by a law enforcement officer for an offense pursuant to this section must be taken into temporary custody in the manner described in section 19-2.5-305.

(2) This section shall not apply to:

(a) Any person under the age of eighteen years who is:

(I) In attendance at a hunter's safety course or a firearms safety course; or

(II) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited; or

(III) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group under 501 (c)(3) as determined by the federal internal revenue service which uses firearms as a part of such performance; or

(IV) Hunting or trapping pursuant to a valid license issued to such person pursuant to article 4 of title 33, C.R.S.; or

(V) Traveling with any handgun in such person's possession being unloaded to or from any activity described in subparagraph (I), (II), (III), or (IV) of this paragraph (a);

(b) Any person under the age of eighteen years who is on real property under the control of such person's parent, legal guardian, or grandparent and who has the permission of such person's parent or legal guardian to possess a handgun;

(c) Any person under the age of eighteen years who is at such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun for the purpose of exercising the rights contained in **section 18-1-704 or section 18-1-704.5**.

(3) For the purposes of subsection (2) of this section, a handgun is "loaded" if:

(a) There is a cartridge in the chamber of the handgun; or

(b) There is a cartridge in the cylinder of the handgun, if the handgun is a revolver; or

(c) The handgun, and the ammunition for such handgun, is carried on the person of a person under the age of eighteen years or is in such close proximity to such person that such person could readily gain access to the handgun and the ammunition and load the handgun.

(4) Repealed.

History:

Amended by 2021 Ch. 136, §56, eff. 10/1/2021. L. 93, 1st Ex. Sess.: Entire section added, p. 2, § 2, effective September 13. L. 96: (1)(d) amended, p. 1693, § 28, effective January 1, 1997. L. 98: (4) repealed, p. 729, § 15, effective May 18. L. 2021: (1)(d) amended, (SB 21-059), ch. 725, p. 725, § 56, effective October 1.

Case Note:

ANNOTATION

Possession of a handgun by a juvenile is a "status" offense, an offense consisting of conduct that would not constitute an offense if engaged in by an adult. *People v. Juvenile Court*, 893 P.2d 81 (Colo. 1995).

This section and the presumption statute (§19-2-204) were adopted to secure the safety of juveniles and the communities in which they reside. The Children's Code has consistently evidenced a legislative intent to accomplish both such purposes. *People v. Juvenile Court*, 893 P.2d 81 (Colo. 1995).

The parental permission language in subsection (2)(b) is an affirmative defense to the offense of unlawful possession of a handgun by a juvenile. *People ex rel. L.M.*, 17 P.3d 829 (Colo. App. 2000).