





Colorado Revised Statutes

-  **Colorado Revised Statutes**
-  **TITLE 18 CRIMINAL CODE**
-  **ARTICLE 12 Offenses Relating to Firearms and Weapons**
-  **PART 1 FIREARMS AND WEAPONS – GENERAL**

18-12-108. Possession of weapons by previous offenders.

(1) A person commits the crime of possession of a weapon by a previous offender if the person knowingly possesses, uses, or carries upon his or her person a firearm as described in section [18-1-901](#)(3)(h) or any other weapon that is subject to the provisions of this article subsequent to the person's conviction for a felony, or subsequent to the person's conviction for attempt or conspiracy to commit a felony, under Colorado or any other state's law or under federal law.

(2)(a) Except as otherwise provided by paragraphs (b) and (c) of this subsection (2), a person commits a class 6 felony if the person violates subsection (1) of this section.

(b) A person commits a class 5 felony, as provided by section [18-12-102](#), if the person violates subsection (1) of this section and the weapon is a dangerous weapon, as defined in section [18-12-102](#)(1).

(c) A person commits a class 5 felony if the person violates subsection (1) of this section and the person's previous conviction was for burglary, arson, or any felony involving the use of force or the use of a deadly weapon and the violation of subsection (1) of this section occurs as follows:

(I) From the date of conviction to ten years after the date of conviction, if the person was not incarcerated; or

(II) From the date of conviction to ten years after the date of release from confinement, if such person was incarcerated or, if subject to supervision imposed as a result of conviction, ten years after the date of release from supervision.

(d) Any sentence imposed pursuant to this subsection (2) shall run consecutively with any prior sentences being served by the offender.

(3) A person commits the crime of possession of a weapon by a previous offender if the person knowingly possesses, uses, or carries upon his or her person a firearm as described in section [18-1-901](#)(3)(h) or any other weapon that is subject to the provisions of this article subsequent to the person's adjudication for an act which, if committed by an adult, would constitute a felony, or subsequent to the person's adjudication for attempt or conspiracy to commit a felony, under Colorado or any other state's law or under federal law.

(4)(a) Except as otherwise provided by paragraphs (b) and (c) of this subsection (4), a person commits a class 6 felony if the person violates subsection (3) of this section.

(b) A person commits a class 5 felony, as provided by section [18-12-102](#), if the person violates subsection (3) of this section and the weapon is a dangerous weapon, as defined in section [18-12-102](#)(1).

(c) A person commits a class 5 felony if the person commits the conduct described in subsection (3) of this section and the person's previous adjudication was based on an act that, if committed by an adult, would constitute burglary, arson, or any felony involving the use of force or the use of a deadly weapon and the violation of subsection (3) of this section occurs as follows:

(I) From the date of adjudication to ten years after the date of adjudication, if the person was not committed to the department of institutions, or on or after July 1, 1994, to the department of human services; or

(II) From the date of adjudication to ten years after the date of release from commitment, if such person was committed to the department of institutions, or on or after July 1, 1994, to the department of human services or, if subject to supervision imposed as a result of an adjudication, ten years after the date of release from supervision.

(d) Any sentence imposed pursuant to this subsection (4) shall run consecutively with any prior sentences being served by the offender.

(5) A second or subsequent offense under paragraphs (b) and (c) of subsection (2) and paragraphs (b) and (c) of subsection (4) of this section is a class 4 felony.

(6) (a) Upon the discharge of any inmate from the custody of the department of corrections, the department shall provide a written advisement to such inmate of the prohibited acts and penalties specified in this section. The written advisement, at a minimum, shall include the written statement specified in paragraph (c) of this subsection (6).

(b) Any written stipulation for deferred judgment and sentence entered into by a defendant pursuant to section [18-1.3-102](#) shall contain a written advisement of the prohibited acts and penalties specified in this section. The written advisement, at a minimum, shall include the written statement specified in paragraph (c) of this subsection (6).

(c) The written statement shall provide that:

(I) (A) A person commits the crime of possession of a weapon by a previous offender in violation of this section if the person knowingly possesses, uses, or carries upon his or her person a firearm as described in section [18-1-901](#)(3)(h), or any other weapon that is subject to the provisions of this title subsequent to the person's conviction for a felony, or subsequent to the person's conviction for attempt or conspiracy to commit a felony, or subsequent to the person's conviction for a misdemeanor crime of domestic violence as defined in [18 U.S.C. sec. 921](#)(a)(33)(A), or subsequent to the person's conviction for attempt or conspiracy to commit such misdemeanor crime of domestic violence; and

(B) For the purposes of this paragraph (c), "felony" means any felony

under Colorado law, federal law, or the laws of any other state; and

(II) A violation of this section may result in a sentence of imprisonment or fine, or both.

(d) The act of providing the written advisement described in this subsection (6) or the failure to provide such advisement may not be used as a defense to any crime charged and may not provide any basis for collateral attack on, or for appellate relief concerning, any conviction.

Source: L. 71: R&RE, p. 483, § 1. C.R.S. 1963: § 40-12-108. L. 73: p. 542, § 1. L. 75: Entire section amended, p. 621, § 17, effective July 21. L. 93, 1st Ex. Sess.: Entire section added, p. 4, § 3, effective September 13. L. 94: Entire section R&RE, p. 1464, § 6, effective July 1. L. 2000: (2) (a) and (4) (a) amended and (2) (d), (4) (d), and (6) added, pp. 632, 633, §§ 1, 2, 3, effective July 1. L. 2002: (6) (b) amended, p. 1517, § 208, effective October 1. L. 2003: (4) (b) amended, p. 1432, § 19, effective April 29.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (6) (b), see section 1 of chapter [318](#), Session Laws of Colorado 2002.
