

REFERENCE TITLE: marijuana; civil penalty

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HB 2014

Introduced by
Representative Cardenas

AN ACT

AMENDING SECTION 13-3405, ARIZONA REVISED STATUTES; RELATING TO MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3405, Arizona Revised Statutes, is amended to
3 read:

4 13-3405. Possession, use, production, sale or transportation
5 of marijuana; civil penalty; classification

6 A. A person shall not knowingly:

- 7 1. Possess or use marijuana.
- 8 2. Possess marijuana for sale.
- 9 3. Produce marijuana.

10 4. Transport for sale, import into this state or offer to transport
11 for sale or import into this state, sell, transfer or offer to sell or
12 transfer marijuana.

13 B. A person who violates:

14 1. SUBSECTION A, PARAGRAPH 1 OF THIS SECTION INVOLVING AN AMOUNT OF
15 MARIJUANA NOT POSSESSED FOR SALE HAVING A WEIGHT OF LESS THAN ONE OUNCE IS
16 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS.

17 ~~1.~~ 2. Subsection A, paragraph 1 of this section involving an
18 amount of marijuana not possessed for sale having a weight of AT LEAST ONE
19 OUNCE BUT less than two pounds is guilty of a class 6 felony.

20 ~~2.~~ 3. Subsection A, paragraph 1 of this section involving an
21 amount of marijuana not possessed for sale having a weight of at least two
22 pounds but less than four pounds is guilty of a class 5 felony.

23 ~~3.~~ 4. Subsection A, paragraph 1 of this section involving an
24 amount of marijuana not possessed for sale having a weight of four pounds
25 or more is guilty of a class 4 felony.

26 ~~4.~~ 5. Subsection A, paragraph 2 of this section involving an
27 amount of marijuana having a weight of less than two pounds is guilty of a
28 class 4 felony.

29 ~~5.~~ 6. Subsection A, paragraph 2 of this section involving an
30 amount of marijuana having a weight of at least two pounds but not more
31 than four pounds is guilty of a class 3 felony.

32 ~~6.~~ 7. Subsection A, paragraph 2 of this section involving an
33 amount of marijuana having a weight of more than four pounds is guilty of
34 a class 2 felony.

35 ~~7.~~ 8. Subsection A, paragraph 3 of this section involving an
36 amount of marijuana having a weight of less than two pounds is guilty of a
37 class 5 felony.

38 ~~8.~~ 9. Subsection A, paragraph 3 of this section involving an
39 amount of marijuana having a weight of at least two pounds but not more
40 than four pounds is guilty of a class 4 felony.

41 ~~9.~~ 10. Subsection A, paragraph 3 of this section involving an
42 amount of marijuana having a weight of more than four pounds is guilty of
43 a class 3 felony.

~~10.~~ 11. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight of less than two pounds is guilty of a class 3 felony.

~~11.~~ 12. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight of two pounds or more is guilty of a class 2 felony.

C. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial equals or exceeds the statutory threshold amount, a person who is sentenced pursuant to subsection B, paragraph ~~5~~, 6, 7, ~~8~~, 9, 10 or ~~11~~ 12 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

D. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than seven hundred fifty dollars or three times the value as determined by the court of the marijuana involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

E. A person who is convicted of a felony violation of any provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug or narcotic drug except as lawfully administered by a practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections as appropriate during the duration of the term of probation or before the expiration of the sentence imposed.

F. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial is less than the statutory threshold amount, a person who is sentenced pursuant to subsection B, paragraph ~~4, 7 or 10~~ 5, 8 OR 11 and who is granted probation by the court shall be ordered by the court that as a condition of probation the person perform not less than two hundred forty hours of community restitution with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

G. If a person who is sentenced pursuant to subsection B, paragraph ~~1~~, 2, ~~or~~ 3 OR 4 of this section is granted probation for a felony violation of this section, the court shall order that as a condition of

1 probation the person perform not less than twenty-four hours of community
2 restitution with an agency or organization providing counseling,
3 rehabilitation or treatment for alcohol or drug abuse, an agency or
4 organization that provides medical treatment to persons who abuse
5 controlled substances, an agency or organization that serves persons who
6 are victims of crime or any other appropriate agency or organization.

7 H. If a person is granted probation for a misdemeanor violation of
8 this section, the court shall order as a condition of probation that the
9 person attend eight hours of instruction on the nature and harmful effects
10 of narcotic drugs, marijuana and other dangerous drugs on the human
11 system, and on the laws related to the control of these substances, or
12 perform twenty-four hours of community restitution.