

REFERENCE TITLE: **civil penalty; marijuana**

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

## **HB 2555**

Introduced by  
Representatives Powers Hannley: Andrade, Blanc, Bolding, Cano, Chávez,  
Espinoza, Fernandez, Jermaine, Longdon, Peten, Salman, Sierra, Teller,  
Terán, Senators Mendez, Steele

**AN ACT**

**AMENDING SECTION 13-3405, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 194, SECTION 6; AMENDING SECTION 13-3405, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 287, SECTION 2; RELATING TO DRUG OFFENSES.**

(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, as amended by  
3 Laws 2010, chapter 194, section 6, is amended to read:

4 13-3405. Possession, use, production, sale or transportation  
5 of marijuana; 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 \$100.

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.

1           ~~10.~~ 11. Subsection A, paragraph 4 of this section involving an  
 2 amount of marijuana having a weight of less than two pounds is guilty of a  
 3 class 3 felony.

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

7           C. If the aggregate amount of marijuana involved in one offense or  
 8 all of the offenses that are consolidated for trial equals or exceeds the  
 9 statutory threshold amount, a person who is sentenced pursuant to  
 10 subsection B, paragraph ~~5,~~ 6, 7, ~~8,~~ 9, 10 or ~~11~~ 12 of this section is not  
 11 eligible for suspension of sentence, probation, pardon or release from  
 12 confinement on any basis until the person has served the sentence imposed  
 13 by the court, the person is eligible for release pursuant to section  
 14 41-1604.07 or the sentence is commuted.

15           D. In addition to any other penalty prescribed by this title, the  
 16 court shall order a person who is convicted of a violation of any  
 17 provision of this section to pay a fine of not less than ~~seven hundred~~  
 18 ~~fifty dollars~~ \$750 or three times the value as determined by the court of  
 19 the marijuana involved in or giving rise to the charge, whichever is  
 20 greater, and not more than the maximum authorized by chapter 8 of this  
 21 title. A judge shall not suspend any part or all of the imposition of any  
 22 fine required by this subsection.

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

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

43           G. If a person who is sentenced pursuant to subsection B, paragraph  
 44 ~~1,~~ 2, ~~or~~ 3 OR 4 of this section is granted probation for a felony  
 45 violation of this section, the court shall order ~~that~~ as a condition of

1 probation THAT the person perform not less than twenty-four hours of  
2 community 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.

13 Sec. 2. Section 13-3405, Arizona Revised Statutes, as amended by  
14 Laws 2018, chapter 287, section 2, is amended to read:

15 13-3405. Possession, use, production, sale or transportation  
16 of marijuana; classification; exceptions

17 A. A person shall not knowingly:

- 18 1. Possess or use marijuana.  
19 2. Possess marijuana for sale.  
20 3. Produce marijuana.  
21 4. Transport for sale, import into this state or offer to transport  
22 for sale or import into this state, sell, transfer or offer to sell or  
23 transfer marijuana.

24 B. A person who violates:

25 1. SUBSECTION A, PARAGRAPH 1 OF THIS SECTION INVOLVING AN AMOUNT OF  
26 MARIJUANA NOT POSSESSED FOR SALE HAVING A WEIGHT OF LESS THAN ONE OUNCE IS  
27 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$100.

28 ~~1.~~ 2. Subsection A, paragraph 1 of this section involving an  
29 amount of marijuana not possessed for sale having a weight of AT LEAST ONE  
30 OUNCE BUT less than two pounds is guilty of a class 6 felony.

31 ~~2.~~ 3. Subsection A, paragraph 1 of this section involving an  
32 amount of marijuana not possessed for sale having a weight of at least two  
33 pounds but less than four pounds is guilty of a class 5 felony.

34 ~~3.~~ 4. Subsection A, paragraph 1 of this section involving an  
35 amount of marijuana not possessed for sale having a weight of four pounds  
36 or more is guilty of a class 4 felony.

37 ~~4.~~ 5. Subsection A, paragraph 2 of this section involving an  
38 amount of marijuana having a weight of less than two pounds is guilty of a  
39 class 4 felony.

40 ~~5.~~ 6. Subsection A, paragraph 2 of this section involving an  
41 amount of marijuana having a weight of at least two pounds but not more  
42 than four pounds is guilty of a class 3 felony.

43 ~~6.~~ 7. Subsection A, paragraph 2 of this section involving an  
44 amount of marijuana having a weight of more than four pounds is guilty of  
45 a class 2 felony.

1           ~~7.~~ 8. Subsection A, paragraph 3 of this section involving an  
2 amount of marijuana having a weight of less than two pounds is guilty of a  
3 class 5 felony.

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

7           ~~9.~~ 10. Subsection A, paragraph 3 of this section involving an  
8 amount of marijuana having a weight of more than four pounds is guilty of  
9 a class 3 felony.

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

13           ~~11.~~ 12. Subsection A, paragraph 4 of this section involving an  
14 amount of marijuana having a weight of two pounds or more is guilty of a  
15 class 2 felony.

16           C. If the aggregate amount of marijuana involved in one offense or  
17 all of the offenses that are consolidated for trial equals or exceeds the  
18 statutory threshold amount, a person who is sentenced pursuant to  
19 subsection B, paragraph ~~5,~~ 6, 7, ~~8,~~ 9, 10 or ~~11~~ 12 of this section is not  
20 eligible for suspension of sentence, probation, pardon or release from  
21 confinement on any basis until the person has served the sentence imposed  
22 by the court, the person is eligible for release pursuant to section  
23 41-1604.07 or the sentence is commuted.

24           D. In addition to any other penalty prescribed by this title, the  
25 court shall order a person who is convicted of a violation of any  
26 provision of this section to pay a fine of not less than ~~seven hundred~~  
27 ~~fifty dollars~~ \$750 or three times the value as determined by the court of  
28 the marijuana involved in or giving rise to the charge, whichever is  
29 greater, and not more than the maximum authorized by chapter 8 of this  
30 title. A judge shall not suspend any part or all of the imposition of any  
31 fine required by this subsection.

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

41           F. If the aggregate amount of marijuana involved in one offense or  
42 all of the offenses that are consolidated for trial is less than the  
43 statutory threshold amount, a person who is sentenced pursuant to  
44 subsection B, paragraph ~~4,~~ 5, ~~7-8~~ or ~~10~~ 11 and who is granted probation  
45 by the court shall be ordered by the court ~~that~~ as a condition of

1 probation ~~the person~~ TO perform not less than two hundred forty hours of  
2 community 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 G. If a person who is sentenced pursuant to subsection B, paragraph  
8 ~~1, 2, or 3~~ OR 4 of this section is granted probation for a felony  
9 violation of this section, the court shall order ~~that~~ as a condition of  
10 probation THAT the person perform not less than twenty-four hours of  
11 community restitution with an agency or organization providing counseling,  
12 rehabilitation or treatment for alcohol or drug abuse, an agency or  
13 organization that provides medical treatment to persons who abuse  
14 controlled substances, an agency or organization that serves persons who  
15 are victims of crime or any other appropriate agency or organization.

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

22 I. This section does not apply to either:

23 1. A person who is licensed pursuant to title 3, chapter 2, article  
24 4.1 and who possesses, uses, sells, produces, manufactures or transports  
25 industrial hemp as defined in section 3-311.

26 2. A person who engages in the commercial production, processing,  
27 manufacturing, distribution or commerce of industrial hemp as defined in  
28 section 3-311 in this state outside of the agricultural pilot program  
29 established pursuant to title 3, chapter 2, article 4.1 if the person's  
30 actions are authorized under federal law.

31 Sec. 3. Effective date

32 Section 13-3405, Arizona Revised Statutes, as amended by Laws 2018,  
33 chapter 287, section 2 and this act, is effective from and after August 3,  
34 2019.