

REFERENCE TITLE: marijuana; drug paraphernalia violation; classification

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

## **SB 1372**

Introduced by  
Senators Navarrete: Alston, Bradley, Contreras, Dalessandro, Gonzales,  
Mendez, Rios, Steele; Representative Andrade

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; AMENDING SECTION 13-3415, ARIZONA REVISED STATUTES; 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; definition

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 FIVE GRAMS OR LESS, OR  
16 IF THE MARIJUANA IS CONCENTRATED CANNABIS, ONE-EIGHTH OF ONE OUNCE OR  
17 LESS, IS GUILTY OF A PETTY OFFENSE.

18 ~~1.~~ 2. Subsection A, paragraph 1 of this section involving an  
19 amount of marijuana not possessed for sale having a weight of MORE THAN  
20 FIVE GRAMS BUT less than two pounds is guilty of a class ~~6~~ felony 1  
21 MISDEMEANOR.

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

25 3. Subsection A, paragraph 1 of this section involving an amount of  
26 marijuana not possessed for sale having a weight of ~~four~~ TWO pounds or  
27 more is guilty of a class ~~4~~ 6 felony.

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

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

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

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

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

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

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

4           11. Subsection A, paragraph 4 of this section involving an amount of  
5 marijuana having a weight of two pounds or more is guilty of a class 2  
6 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, 8, 9 or 11 of this section is not eligible  
11 for suspension of sentence, probation, pardon or release from confinement  
12 on any basis until the person has served the sentence imposed by the  
13 court, the person is eligible for release pursuant to section 41-1604.07  
14 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, 7 or 10 and who is granted probation by the  
36 court shall be ordered by the court that as a condition of probation the  
37 person perform not less than two hundred forty hours of community  
38 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.

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

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

16 I. FOR THE PURPOSES OF THIS SECTION, "CONCENTRATED CANNABIS" MEANS  
17 THE EXTRACTED OR SEPARATED RESIN, WHETHER CRUDE OR PURIFIED, CONTAINING  
18 TETRAHYDROCANNABINOL OR CANNABIDIOL FROM MARIJUANA.

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

21 13-3405. Possession, use, production, sale or transportation  
22 of marijuana; classification; exceptions;  
23 definition

24 A. A person shall not knowingly:

- 25 1. Possess or use marijuana.
- 26 2. Possess marijuana for sale.
- 27 3. Produce marijuana.

28 4. Transport for sale, import into this state or offer to transport  
29 for sale or import into this state, sell, transfer or offer to sell or  
30 transfer marijuana.

31 B. A person who violates:

32 1. SUBSECTION A, PARAGRAPH 1 OF THIS SECTION INVOLVING AN AMOUNT OF  
33 MARIJUANA NOT POSSESSED FOR SALE HAVING A WEIGHT OF FIVE GRAMS OR LESS, OR  
34 IF THE MARIJUANA IS CONCENTRATED CANNABIS, ONE-EIGHTH OF ONE OUNCE OR  
35 LESS, IS GUILTY OF A PETTY OFFENSE.

36 ~~1.~~ 2. Subsection A, paragraph 1 of this section involving an  
37 amount of marijuana not possessed for sale having a weight of MORE THAN  
38 FIVE GRAMS BUT less than two pounds is guilty of a class ~~6~~ **felony 1**  
39 MISDEMEANOR.

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

43 3. Subsection A, paragraph 1 of this section involving an amount of  
44 marijuana not possessed for sale having a weight of ~~four~~ **TWO** pounds or  
45 more is guilty of a class ~~4~~ **6** felony.

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

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

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

10          7. Subsection A, paragraph 3 of this section involving an amount of  
11 marijuana having a weight of less than two pounds is guilty of a class 5  
12 felony.

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

16          9. Subsection A, paragraph 3 of this section involving an amount of  
17 marijuana having a weight of more than four pounds is guilty of a class 3  
18 felony.

19          10. Subsection A, paragraph 4 of this section involving an amount  
20 of marijuana having a weight of less than two pounds is guilty of a class  
21 3 felony.

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

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

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

41          E. A person who is convicted of a felony violation of any provision  
42 of this section for which probation or release before the expiration of  
43 the sentence imposed by the court is authorized is prohibited from using  
44 any marijuana, dangerous drug or narcotic drug except as lawfully  
45 administered by a practitioner and as a condition of any probation or

1 release shall be required to submit to drug testing administered under the  
2 supervision of the probation department of the county or the state  
3 department of corrections as appropriate during the duration of the term  
4 of probation or before the expiration of the sentence imposed.

5 F. If the aggregate amount of marijuana involved in one offense or  
6 all of the offenses that are consolidated for trial is less than the  
7 statutory threshold amount, a person who is sentenced pursuant to  
8 subsection B, paragraph 4, 7 or 10 and who is granted probation by the  
9 court shall be ordered by the court that as a condition of probation the  
10 person perform not less than two hundred forty hours of community  
11 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 G. If a person who is sentenced pursuant to subsection B, paragraph  
17 1, 2 or 3 of this section is granted probation for a felony violation of  
18 this section, the court shall order that as a condition of probation the  
19 person perform not less than twenty-four hours of community restitution  
20 with an agency or organization providing counseling, rehabilitation or  
21 treatment for alcohol or drug abuse, an agency or organization that  
22 provides medical treatment to persons who abuse controlled substances, an  
23 agency or organization that serves persons who are victims of crime or any  
24 other appropriate agency or organization.

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

31 I. This section does not apply to either:

32 1. A person who is licensed pursuant to title 3, chapter 2, article  
33 4.1 and who possesses, uses, sells, produces, manufactures or transports  
34 industrial hemp as defined in section 3-311.

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

40 J. FOR THE PURPOSES OF THIS SECTION, "CONCENTRATED CANNABIS" MEANS  
41 THE EXTRACTED OR SEPARATED RESIN, WHETHER CRUDE OR PURIFIED, CONTAINING  
42 TETRAHYDROCANNABINOL OR CANNABIDIOL FROM MARIJUANA.

1           Sec. 3. Section 13-3415, Arizona Revised Statutes, is amended to  
2 read:

3           13-3415. Possession, manufacture, delivery and advertisement  
4                   of drug paraphernalia: classification: civil  
5                   forfeiture: factors: definitions

6           A. It is unlawful for any person to use, or to possess with intent  
7 to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest,  
8 manufacture, compound, convert, produce, process, prepare, test, analyze,  
9 pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise  
10 introduce into the human body a drug in violation of this chapter. Any  
11 person who violates this subsection is guilty of a ~~class 6 felony~~ **PETTY**  
12 **OFFENSE. THIS SUBSECTION DOES NOT APPLY TO THE USE OR POSSESSION WITH THE**  
13 **INTENT TO USE DRUG PARAPHERNALIA TO VIOLATE SECTION 13-3405, SUBSECTION A,**  
14 **PARAGRAPH 1 IF THE VIOLATION INVOLVES FIVE GRAMS OR LESS OF MARIJUANA.**

15           B. It is unlawful for any person to deliver, possess with intent to  
16 deliver or manufacture with intent to deliver drug paraphernalia knowing,  
17 or under circumstances where one reasonably should know, that it will be  
18 used to plant, propagate, cultivate, grow, harvest, manufacture, compound,  
19 convert, produce, process, prepare, test, analyze, pack, repack, store,  
20 contain, conceal, inject, ingest, inhale or otherwise introduce into the  
21 human body a drug in violation of this chapter. Any person who violates  
22 this subsection is guilty of a class 6 felony.

23           C. It is unlawful for a person to place in a newspaper, magazine,  
24 handbill or other publication any advertisement knowing, or under  
25 circumstances where one reasonably should know, that the purpose of the  
26 advertisement, in whole or in part, is to promote the sale of objects  
27 designed or intended for use as drug paraphernalia. Any person who  
28 violates this subsection is guilty of a class 6 felony.

29           D. All drug paraphernalia is subject to forfeiture pursuant to  
30 chapter 39 of this title. The failure to charge or acquittal of an owner  
31 or anyone in control of drug paraphernalia in violation of this chapter  
32 does not prevent a finding that the object is intended for use or designed  
33 for use as drug paraphernalia.

34           E. In determining whether an object is drug paraphernalia, a court  
35 or other authority shall consider, in addition to all other logically  
36 relevant factors, the following:

- 37           1. Statements by an owner or by anyone in control of the object  
38 concerning its use.
- 39           2. Prior convictions, if any, of an owner, or of anyone in control  
40 of the object, under any state or federal law relating to any drug.
- 41           3. The proximity of the object, in time and space, to a direct  
42 violation of this chapter.
- 43           4. The proximity of the object to drugs.
- 44           5. The existence of any residue of drugs on the object.

1           6. Direct or circumstantial evidence of the intent of an owner, or  
2 of anyone in control of the object, to deliver it to persons whom he  
3 knows, or should reasonably know, intend to use the object to facilitate a  
4 violation of this chapter.

5           7. Instructions, oral or written, provided with the object  
6 concerning its use.

7           8. Descriptive materials accompanying the object ~~which~~ THAT explain  
8 or depict its use.

9           9. National and local advertising concerning its use.

10          10. The manner in which the object is displayed for sale.

11          11. Whether the owner, or anyone in control of the object, is a  
12 legitimate supplier of like or related items to the community, such as a  
13 licensed distributor or dealer of tobacco products.

14          12. Direct or circumstantial evidence of the ratio of sales of the  
15 object to the total sales of the business enterprise.

16          13. The existence and scope of legitimate uses for the object in  
17 the community.

18          14. Expert testimony concerning its use.

19          F. ~~it~~ FOR THE PURPOSES OF this section, ~~unless the context~~  
20 ~~otherwise requires:~~

21           1. "Drug" means any narcotic drug, dangerous drug, marijuana or  
22 peyote.

23           2. "Drug paraphernalia" means all equipment, products and materials  
24 of any kind ~~which~~ THAT are used, intended for use or designed for use in  
25 planting, propagating, cultivating, growing, harvesting, manufacturing,  
26 compounding, converting, producing, processing, preparing, testing,  
27 analyzing, packaging, repackaging, storing, containing, concealing,  
28 injecting, ingesting, inhaling or otherwise introducing into the human  
29 body a drug in violation of this chapter. ~~it~~ DRUG PARAPHERNALIA includes:

30           (a) Kits used, intended for use or designed for use in planting,  
31 propagating, cultivating, growing or harvesting any species of plant ~~which~~  
32 THAT is a drug or from which a drug can be derived.

33           (b) Kits used, intended for use or designed for use in  
34 manufacturing, compounding, converting, producing, processing or preparing  
35 drugs.

36           (c) Isomerization devices used, intended for use or designed for  
37 use in increasing the potency of any species of plant ~~which~~ THAT is a  
38 drug.

39           (d) Testing equipment used, intended for use or designed for use in  
40 identifying or analyzing the strength, effectiveness or purity of drugs.

41           (e) Scales and balances used, intended for use or designed for use  
42 in weighing or measuring drugs.

43           (f) Diluents and adulterants, such as quinine hydrochloride,  
44 mannitol, mannite, dextrose and lactose, used, intended for use or  
45 designed for use in cutting drugs.



1 (g) Separation gins and sifters used, intended for use or designed  
2 for use in removing twigs and seeds from, or in otherwise cleaning or  
3 refining, marijuana.

4 (h) Blenders, bowls, containers, spoons and mixing devices used,  
5 intended for use or designed for use in compounding drugs.

6 (i) Capsules, balloons, envelopes and other containers used,  
7 intended for use or designed for use in packaging small quantities of  
8 drugs.

9 (j) Containers and other objects used, intended for use or designed  
10 for use in storing or concealing drugs.

11 (k) Hypodermic syringes, needles and other objects used, intended  
12 for use or designed for use in parenterally injecting drugs into the human  
13 body.

14 (l) Objects used, intended for use or designed for use in  
15 ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a  
16 dangerous drug, hashish or hashish oil into the human body, such as:

17 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes  
18 with or without screens, permanent screens, hashish heads or punctured  
19 metal bowls.

20 (ii) Water pipes.

21 (iii) Carburetion tubes and devices.

22 (iv) Smoking and carburetion masks.

23 (v) Roach clips, meaning objects used to hold burning material,  
24 such as a marijuana cigarette, that has become too small or too short to  
25 be held in the hand.

26 (vi) Miniature cocaine spoons and cocaine vials.

27 (vii) Chamber pipes.

28 (viii) Carburetor pipes.

29 (ix) Electric pipes.

30 (x) Air-driven pipes.

31 (xi) Chillums.

32 (xii) Bongs.

33 (xiii) Ice pipes or chillers.

34 Sec. 4. Effective date

35 Section 13-3405, Arizona Revised Statutes, as amended by Laws 2018,  
36 chapter 287, section 2 and this act, is effective from and after August 3,  
37 2019.