



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

HB 2059: riot; unlawful assembly; classification; liability

Sponsor: Representative Diaz, LD 19

Committee on Judiciary

Overview

Establishes *aggravated riot* and *mob intimidation* as new criminal offenses and changes various existing criminal liability and sentencing provisions relating to *riot*, *unlawful assembly* and other offenses against public order. Imposes a civil duty on cities and towns to allow city or town law enforcement agencies to respond appropriately during a riot or unlawful assembly.

History

Crimes Against Public Order

Title 13, Chapter 29 recognizes various criminal offenses against public order, such as *riot*, *unlawful assembly* and *obstructing a highway or other public thoroughfare*.

Riot is a class 5 felony offense where a person, acting with two or more other people, disturbs the public peace by recklessly: 1) using force or violence; or 2) threatening the use of force or violence if the threat is accompanied by immediate power of execution ([A.R.S. § 13-2903](#)).

Unlawful assembly is a class 1 misdemeanor which involves either: 1) assembling with two or more people with the intent to engage in conduct constituting riot; or 2) being present at an assembly of two or more other people who are engaged in or who have the apparent intent to engage in conduct constituting a riot and knowingly remaining there and refusing to obey an official order to disperse ([A.R.S. § 13-2902](#)).

Obstructing a highway or public thoroughfare involves a person who, either alone or with others, does any of the following:

- 1) Recklessly interferes with the passage of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard without any legal privilege, which is a class 2 misdemeanor or, if a second or subsequent violation within a two-year period, a class 1 misdemeanor;
- 2) Intentionally activates a pedestrian signal on a highway or public thoroughfare if the person's reason for activating the signal is not to cross the highway or public thoroughfare but to instead both stop the passage of traffic and solicit a driver for a donation or business, which is a class 3 misdemeanor; or
- 3) Intentionally interferes with passage on a highway or other public thoroughfare or entrance into a public forum that results in preventing other person from gaining access to a governmental meeting, a governmental hearing or a political campaign event, which is a class 1 misdemeanor. For purposes of this offense, *public forum* is defined in A.R.S. § 15-1861 (A.R.S. § 13-2906).

The term *public* is defined in [A.R.S. § 13-2901](#).

Aggravated Assault

A person commits *assault* by:

- 1) Intentionally, knowingly or recklessly causing physical injury to another person, which is a class 1 misdemeanor if committed intentionally or knowingly and a class 2 misdemeanor if committed recklessly;
- 2) Intentionally placing another person in reasonable apprehension of imminent physical injury, which is a class 2 misdemeanor; or
- 3) Knowingly touching another person with the intent to injure, insult or provoke the person, which is a class 3 misdemeanor ([A.R.S. § 13-1203](#)).

A person commits *aggravated assault* by committing assault under one of many distinguishing circumstances. For example, a person commits aggravated assault by committing assault using a deadly weapon, or while the victim is bound or physically restrained. An assault can also become aggravated assault if perpetrated against a certain type of professional, such as a peace officer, firefighter or health care worker. Aggravated assault can range from a class 2 felony to a class 6 felony depending on the circumstances ([A.R.S. § 13-1204](#)).

First Degree Burglary

A person commits *burglary in the first degree* if the defendant or an accomplice enters or remains unlawfully in or on a residential or nonresidential structure; fenced commercial yard; or fenced residential yard with the intent to commit any theft or felony therein, and in the course of committing any theft or felony, knowingly possesses explosively, a deadly weapon or a dangerous instrument ([A.R.S. §§ 13-1506, 13-1507, 13-1508](#)). First degree burglary is generally a class 3 felony unless it is committed in a residential structure, in which case it is a class 2 felony ([A.R.S. § 13-1508](#)).

Enter or remain unlawfully, entry, fenced commercial yard, fenced residential yard, fenced yard, in the course of committing, nonresidential structure, residential structure, and structure are defined in [A.R.S. § 13-1501](#). *Accomplice* is defined in [A.R.S. § 13-301](#).

Abuse of Venerated Objects

Abuse of venerated objects, a class 2 misdemeanor, involves a person who intentionally either:

- 1) Desecrates any public monument, memorial or property of a public park; or
- 2) In any manner likely to provoke immediate physical retaliations:
 - a) Exhibits or displays, places or causes to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon a flag or exposing or causing to be exposed to public view a flag upon which there is printed, painted or otherwise produced or to which there is attached, appended or annexed any word, figure, mark, picture, design, drawing or advertisement;
 - b) Exposes to public view, manufactures, sells, offers to sell, gives or possesses for any purpose any article of merchandise or receptacle for holding or carrying merchandise upon or to which there is printed, painted, placed or attached any flag in order to advertise, call attention to, decorate, mark or distinguish the article or substance; or
 - c) Casts contempt upon, mutilates, defaces, defiles, urns, tramples or otherwise dishonors or causes to bring dishonor upon a flag.

The statute criminalizing abuse of venerated objects does not apply to:

- 1) Any act permitted by federal statute or military regulation;
- 2) Any act where the federal government has granted permission for the use of such a flag; or
- 3) A newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, commission of appointment to office, ornament, picture, badge or stationery on which shall

be printed, painted or placed such flag and which is disconnected from any advertisement for the purpose of sale, barter or trade ([A.R.S. § 13-3703](#)).

Desecrate and *flag* are defined in [A.R.S. § 13-3703](#).

General Definitions

[A.R.S. § 13-105](#) defines many terms applicable to the above offenses and throughout Title 13, including *dangerous instrument*, *deadly weapon*, *physical injury* and *possess*, and also defines the *culpable mental states*, which include *intentionally*, *knowingly* and *recklessly*.

Provisions

1. Increases the criminal sentencing classification for a person who is convicted of any offense committed in furtherance of a riot or unlawful assembly to the next higher sentencing classification. (Sec. 1)
2. Adds a new form of aggravated assault where a person commits assault on a peace officer in furtherance of a riot or unlawful assembly; classifies this offense as a class 6 felony; and requires that a person convicted of this offense serve no less than the minimum sentence with no eligibility for probation or suspension of execution of sentence until the entire sentence is served. (Sec. 2)
3. Imposes criminal liability for first degree burglary where a person commits burglary during a riot and the burglary is facilitated by conditions arising from the riot. (Sec. 3)
4. Defines *conditions arising from the riot*. (Sec. 3)
5. Establishes *aggravated riot* as a class 3 felony offense where, in the course of committing a riot, a person does any of the following:
 - a) Participates with 25 or more other people;
 - b) Causes serious physical injury to a nonparticipant in the riot;
 - c) Causes property damage in excess of \$5,000;
 - d) Displays, uses, threatens to use or attempts to use a deadly weapon; or
 - e) Endangers the safe movement of a motor vehicle on a public street by force or threat of force. (Sec. 4)
6. Clarifies existing form of obstructing a highway or other public thoroughfare as involving recklessly impeding, hindering, stifling, retarding, restraining or interfering with the free, convenient and normal use of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard without a legal privilege. (Sec. 5)
7. Creates a new form of obstructing a highway or other public thoroughfare which involves a person who, while engaging in unlawful assembly, riot or aggravated riot, recklessly interferes with the passage of any highway or public thoroughfare by creating an unreasonable inconvenience or hazard and classifies the offense as a class 6 felony. (Sec. 5)
8. Establishes *mob intimidation* as a class 1 misdemeanor where a person, assembled with two or more other persons and acting with a common intent, uses force or threatens to use imminent force to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon or maintain a particular viewpoint against the person's will. (Sec. 6)
9. Increases the sentencing classification for abuse of venerated objects in the form of desecrating any public monument, memorial or property of a public park from a class 2 misdemeanor to a class 6 felony. (Sec. 7)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

10. Imposes a duty on a cities and towns to allow city or town law enforcement agencies to respond appropriately to protect persons and property during a riot or unlawful assembly, depending on available resource and applicable state and federal laws, and subjects cities and towns to civil liability for damages arising from breach of this duty. (Sec. 8)
11. Makes technical and conforming changes. (Sec. 2, 3, 5, 6, 7)