



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

AMENDED
FACT SHEET FOR H.B. 2802

fentanyl sales; manufacture; sentencing; testing

Purpose

Establishes specific sentencing ranges for persons convicted of possession of a narcotic drug for sale, the possession of equipment or chemicals for the purpose of manufacturing a narcotic drug, manufacture of a narcotic drug or the transportation for sale of a narcotic drug if the offense involves a single unit dose that contains two or more milligrams of fentanyl.

Background

A person is guilty of a class 2 felony if they knowingly possess a narcotic drug for sale, knowingly manufacture a narcotic drug, or knowingly transport a narcotic drug for sale. A person is guilty of a class 3 felony if they knowingly possess equipment or chemicals, or both, for the purpose of manufacturing a narcotic drug. A class 2 felony for a non-dangerous offense carries a minimum sentence of 4 years, presumptive sentence of 5 years and a maximum sentence of 10 years. A class 2 felony for a non-dangerous, repetitive offense carries a minimum sentence of 6 years, presumptive sentence of 9.25 years and a maximum sentence of 18.5 years (A.R.S. §§ [13-702](#); [13-703](#) and [13-3408](#)).

The Joint Legislative Budget Committee estimates that H.B. 2802 would increase costs for the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) by extending the time individuals convicted of crimes serve in state prison, thereby increasing the total prison population. In the short term, ADCRR would have additional marginal costs, such as food and laundry, of \$2.3 million beginning in FY 2026 and increasing to \$6.9 million in FY 2033 and every year thereafter. Additionally, ADCRR estimates that when fully phased-in in FY 2033, the bill would increase the ADCRR population by a total of 3,200 inmates, which may require additional staffing. The Arizona Administrative Office of the Courts believes the bill would likely create more trials and increase court costs and potentially require additional prosecutors and judges but did not estimate a specific impact ([JLBC fiscal note](#)).

Provisions

1. Establishes a specific sentencing range for a person convicted of a first offense for the possession of a narcotic drug for sale, the possession of equipment or chemicals for the purpose of manufacturing a narcotic drug, manufacture of a narcotic drug or the transportation for sale of a narcotic drug if the offense involves a single unit dose that contains two or more milligrams of fentanyl as follows:
 - a) minimum, five calendar years;
 - b) presumptive, 10 calendar years; and
 - c) maximum, 15 calendar years.

2. Establishes a specific sentencing range for a person convicted of a repetitive offense for the possession of a narcotic drug for sale, the possession of equipment or chemicals for the purpose of manufacturing a narcotic drug, manufacture of a narcotic drug or the transportation for sale of a narcotic drug if the offense involves a single unit dose that contains two or more milligrams of fentanyl as follows:
 - a) minimum, 10 calendar years;
 - b) presumptive, 15 calendar years; and
 - c) maximum, 20 calendar years.
3. Specifies that a person is not eligible for suspension of sentence, probation, pardon or release from confinement if the person is convicted of the possession of a narcotic drug for sale, the possession of equipment or chemicals for the purpose of manufacturing a narcotic drug, manufacture of a narcotic drug or the transportation for sale of a narcotic drug and the drug involved is a single unit dose that contains two or more milligrams of fentanyl.
4. Exempts a person who is convicted of transportation of fentanyl for sale from increased sentencing ranges if the violation involved the transfer or offer to transfer a single unit dose of fentanyl.
5. Requires a law enforcement agency that confiscates fentanyl during an investigation of a narcotics offense violation involving fentanyl as prescribed to submit a sample of the fentanyl to an accredited crime laboratory for testing to determine the appropriate criminal violation.
6. Makes technical and conforming changes
7. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

1. Specifies that a single unit dose of fentanyl must contain two or more milligrams of fentanyl in order for a person to be subject to increased sentencing if convicted of possession of fentanyl for sale, fentanyl manufacture, possession of fentanyl manufacturing equipment or transportation of fentanyl for sale.
2. Exempts a person convicted of transportation of fentanyl for sale from increased sentencing if the violation involved the transfer or offer to transfer a single unit dose of fentanyl.

House Action

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3rd Read 3/1/23 31-28-1

Senate Action

JUD 3/23/23 DP 4-3-0

Prepared by Senate Research

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ZD/KS/sr