

REFERENCE TITLE: narcotic drugs; fentanyl; sentencing

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2245

Introduced by
Representatives Nguyen: Biasiucci, Bliss, Diaz, Gillette, Livingston,
Willoughby, Wilmeth

AN ACT

AMENDING SECTION 13-3408, 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 13-3408, Arizona Revised Statutes, is amended to
3 read:
4 13-3408. Possession, use, administration, acquisition, sale,
5 manufacture or transportation of narcotic drugs;
6 classification
7 A. Except as provided in section 36-2850, paragraph ~~16~~ 19,
8 subdivision (b), section 36-2852 and section 36-2853, subsection C, a
9 person shall not knowingly:
10 1. Possess or use a narcotic drug.
11 2. Possess a narcotic drug for sale.
12 3. Possess equipment or chemicals, or both, for the purpose of
13 manufacturing a narcotic drug.
14 4. Manufacture a narcotic drug.
15 5. Administer a narcotic drug to another person.
16 6. Obtain or procure the administration of a narcotic drug by
17 fraud, deceit, misrepresentation or subterfuge.
18 7. Transport for sale, import into this state, offer to transport
19 for sale or import into this state, sell, transfer or offer to sell or
20 transfer a narcotic drug.
21 B. A person who violates:
22 1. Subsection A, paragraph 1 of this section is guilty of a class 4
23 felony.
24 2. Subsection A, paragraph 2 of this section is guilty of a class 2
25 felony.
26 3. Subsection A, paragraph 3 of this section is guilty of a class 3
27 felony.
28 4. Subsection A, paragraph 4 of this section is guilty of a class 2
29 felony.
30 5. Subsection A, paragraph 5 of this section is guilty of a class 2
31 felony.
32 6. Subsection A, paragraph 6 of this section is guilty of a class 3
33 felony.
34 7. Subsection A, paragraph 7 of this section is guilty of a class 2
35 felony.
36 C. A person who is convicted of a violation of subsection A,
37 paragraph 1, 3 or 6 of this section and who has not previously been
38 convicted of any felony or who has not been sentenced pursuant to section
39 13-703, section 13-704, subsection A, B, C, D or E, section 13-706,
40 subsection A, section 13-708, subsection D or any other provision of law
41 making the convicted person ineligible for probation is eligible for
42 probation.
43 D. If the aggregate amount of narcotic drugs involved in one
44 offense or all of the offenses that are consolidated for trial equals or
45 exceeds the statutory threshold amount, a person who is convicted of a

1 violation of subsection A, paragraph 2, 5 or 7 of this section is not
2 eligible for suspension of sentence, probation, pardon or release from
3 confinement on any basis until the person has served the sentence imposed
4 by the court, the person is eligible for release pursuant to section
5 41-1604.07 or the sentence is commuted.

6 E. A person who is convicted of a violation of subsection A,
7 paragraph 4 of this section is not eligible for suspension of sentence,
8 probation, pardon or release from confinement on any basis until the
9 person has served the sentence imposed by the court, the person is
10 eligible for release pursuant to section 41-1604.07 or the sentence is
11 commuted.

12 F. IF THE PERSON IS CONVICTED OF A VIOLATION OF SUBSECTION A,
13 PARAGRAPH 2 OR 7 OF THIS SECTION AND THE VIOLATION INVOLVES THE SALE TO
14 ANOTHER PERSON OF FENTANYL IN AN AMOUNT OF AT LEAST \$1,000, THE PERSON
15 SHALL BE SENTENCED AS FOLLOWS:

16	<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
17	5 CALENDAR YEARS	10 CALENDAR YEARS	15 CALENDAR YEARS

18 A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF
19 SUBSECTION A, PARAGRAPH 2 OR 7 OF THIS SECTION INVOLVING THE SALE TO
20 ANOTHER PERSON OF FENTANYL IN AN AMOUNT OF AT LEAST \$1,000 SHALL BE
21 SENTENCED AS FOLLOWS:

22	<u>MINIMUM</u>	<u>PRESUMPTIVE</u>	<u>MAXIMUM</u>
23	10 CALENDAR YEARS	15 CALENDAR YEARS	20 CALENDAR YEARS

24 G. THE PRESUMPTIVE TERM IMPOSED PURSUANT TO SUBSECTION F OF THIS
25 SECTION MAY BE MITIGATED OR AGGRAVATED PURSUANT TO SECTION 13-701,
26 SUBSECTIONS D AND E.

27 ~~F.~~ H. In addition to any other penalty prescribed by this title,
28 the court shall order a person who is convicted of a violation of this
29 section to pay a fine of not less than \$2,000 or three times the value as
30 determined by the court of the narcotic drugs involved in or giving rise
31 to the charge, whichever is greater, and not more than the maximum
32 authorized by chapter 8 of this title. A judge shall not suspend any part
33 or all of the imposition of any fine required by this subsection.

34 ~~G.~~ I. A person who is convicted of a violation of this section for
35 which probation or release before the expiration of the sentence imposed
36 by the court is authorized is prohibited from using any marijuana,
37 dangerous drug, narcotic drug or prescription-only drug except as lawfully
38 administered by a health care practitioner and as a condition of any
39 probation or release shall be required to submit to drug testing
40 administered under the supervision of the probation department of the
41 county or the state department of corrections, as appropriate, during the
42 duration of the term of probation or before the expiration of the sentence
43 imposed.

1 ~~H.~~ J. If a person who is convicted of a violation of this section
2 is granted probation, the court shall order that as a condition of
3 probation the person perform not less than three hundred sixty hours of
4 community restitution with an agency or organization that provides
5 counseling, rehabilitation or treatment for alcohol or drug abuse, an
6 agency or organization that provides medical treatment to persons who
7 abuse controlled substances, an agency or organization that serves persons
8 who are victims of crime or any other appropriate agency or organization.