

COMMITTEE ON JUDICIARY AND ELECTIONS
SENATE AMENDMENTS TO S.B. 1725
(Reference to printed bill)

Amendment instruction key:
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.
[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.
<<Green carets>> indicate a section added to the bill.
<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Section 1. Section 12-991, Arizona Revised Statutes, is amended
3 to read:

4 12-991. Nuisance; applicability; residential property used
5 for crime; action to abate and prevent; notice;
6 definitions

7 A. Residential property that is regularly used in the commission of
8 a crime is a nuisance, and the criminal activity causing the nuisance
9 shall be enjoined, abated and prevented.

10 B. If there is reason to believe that a nuisance as described in
11 subsection A of this section exists, the attorney general, the county
12 attorney, the city attorney, an association of homeowners or property
13 owners established by a recorded contract or other declaration, including
14 a condominium association as defined in section 33-1202 and a planned
15 community association as defined in section 33-1802, or a resident of a
16 county or city who is affected by the nuisance may bring an action in
17 superior court against the owner, the owner's managing agent or any other
18 party responsible for the property to abate and prevent the criminal
19 activity.

20 C. The court shall not assess a civil penalty against any person
21 unless that person knew or had reason to know of the criminal activity.

22 D. An injunction that is ordered pursuant to this article shall be
23 necessary to protect the health and safety of the public or prevent
24 further criminal activity.

25 E. An order shall not affect the owner's interest in the property
26 unless all of the following apply:

27 1. The owner is a defendant in the action.

28 2. The owner knew of the criminal activity.

1 ~~You may contact (local agency) in order to obtain~~
2 ~~information on how to abate the nuisance.~~
3 ~~j. For the purposes of this article:~~
4 ~~1. "CRIME" INCLUDES THE CREATION OF EXCESSIVE MARIJUANA SMOKE AND~~
5 ~~ODOR.~~
6 ~~1. 2. "Owner" means a person or persons or a legal entity listed~~
7 ~~as the current title holder as recorded in the official records of the~~
8 ~~county recorder in the county in which the title is recorded.~~
9 ~~2. 3. "Owner's managing agent" means a person, corporation,~~
10 ~~partnership or limited liability company that is authorized by the owner~~
11 ~~to operate and manage the property.>>~~
12 <<Section 1. Section 13-2901, Arizona Revised Statutes, is amended
13 to read:
14 13-2901. Definitions
15 In this chapter, unless the context otherwise requires:
16 1. ["EXCESSIVE MARIJUANA SMOKE OR ODOR" MEANS MARIJUANA SMOKE OR
17 ODOR THAT IS CAPABLE OF BEING DETECTED BY A PERSON ON THE PRIVATE PROPERTY
18 OF ANOTHER PERSON.
19 2.] "Marijuana"[:
20 (a)] Means all parts of any plant of the genus cannabis[~~;~~] from
21 which the resin has not been extracted, whether growing or not, and the
22 seeds of such [A] plant. [Marijuana]
23 [(b)] Does not include the mature stalks of such [A] plant[~~;~~] or
24 the sterilized seed of such [A] plant [~~which~~] [THAT] is incapable of
25 germination.
26 ~~[2.] [3.] "Public" means affecting or likely to affect a~~
27 ~~substantial group of persons.>>~~
28 Sec. 2. Section 13-2908, Arizona Revised Statutes, is amended to
29 read:
30 13-2908. Criminal nuisance; presumption; classification
31 A. A person commits criminal nuisance:
32 1. If, by conduct either unlawful in itself or unreasonable under
33 the circumstances, ~~such~~ THE person recklessly creates or maintains a
34 condition ~~which~~ THAT endangers the safety or health of others.
35 2. By knowingly conducting or maintaining any premises, place or
36 resort where persons gather for purposes of engaging in unlawful conduct.
37 B. IT IS PRESUMED THAT A PERSON WHO CREATES EXCESSIVE MARIJUANA
38 SMOKE [AND] [OR] ODOR CAUSES A CONDITION THAT ENDANGERS THE SAFETY OR
39 HEALTH OF OTHERS.
40 ~~B.~~ C. Criminal nuisance is a class 3 misdemeanor.
41 Sec. 3. Section 13-2917, Arizona Revised Statutes, is amended to
42 read:
43 13-2917. Public nuisance; abatement; presumption;
44 classification
45 A. It is a public nuisance, and is no less a nuisance because the
46 extent of the annoyance or damage inflicted is unequal, for anything:

1 1. To be injurious to health, indecent, offensive to the senses or
2 an obstruction to the free use of property that interferes with the
3 comfortable enjoyment of life or property by an entire community or
4 neighborhood or by a considerable number of persons.

5 2. To unlawfully obstruct the free passage or use, in the customary
6 manner, of any navigable lake, river, bay, stream, canal or basin, or any
7 public park, square, street or highway.

8 B. It is a public nuisance for any person to sell, offer to sell,
9 transfer, trade or disseminate any **OBSCENE** item ~~which is obscene~~ as
10 defined in section 13-3501, within two thousand feet, measured in a
11 straight line, of the nearest boundary line of any of the following:

12 1. Any building used as a private or public elementary or high
13 school.

14 2. Any public park.

15 3. Any residence district as defined in section 28-101.

16 C. The county attorney, the attorney general or the city attorney
17 may bring an action in superior court to abate, enjoin and prevent the
18 activity described in subsections A and B of this section.

19 D. **IT IS PRESUMED THAT THE CREATION OF EXCESSIVE MARIJUANA SMOKE**
20 **[AND] [OR] ODOR IS INJURIOUS TO HEALTH, INDECENT, OFFENSIVE TO THE SENSES**
21 **AND AN OBSTRUCTION TO THE FREE USE OF PROPERTY THAT INTERFERES WITH THE**
22 **COMFORTABLE ENJOYMENT OF LIFE OR PROPERTY AND IS A PUBLIC NUISANCE.**

23 ~~D.~~ E. Any person who knowingly maintains or commits a public
24 nuisance or who knowingly fails or refuses to perform any legal duty
25 relating to the removal of a public nuisance is guilty of a class 2
26 misdemeanor.

27 Enroll and engross to conform

28 Amend title to conform

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