

REFERENCE TITLE: marijuana smoke; public; private nuisance

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1725

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 12-991, 13-2908 AND 13-2917, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC AND PRIVATE NUISANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-991, Arizona Revised Statutes, is amended to
3 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.
- 29 3. The owner failed to take reasonable, legally available actions
30 to abate the nuisance.

31 F. If the owner, the owner's managing agent or the party
32 responsible for the property knows or has reason to know of the criminal
33 activity and fails to take reasonable, legally available actions to abate
34 the nuisance, a governmental authority may abate the nuisance. The court
35 may assess the owner for the cost of abating the nuisance. On recording
36 with the county recorder in the county in which the property is located,
37 the assessment is prior to all other liens, obligations or encumbrances
38 except for prior recorded mortgages, restitution liens, child support
39 liens and general tax liens. A city, town or county may bring an action
40 to enforce the assessment in the superior court in the county in which the
41 property is located.

42 G. For purposes of this section, an owner, the owner's managing
43 agent or the party responsible for the property is deemed to know or have
44 reason to know of the nuisance if the owner, the owner's managing agent or
45 the party responsible for the property has received notice from a

1 governmental authority of documented reports of criminal offenses
2 occurring on the residential property.

3 H. A law enforcement agency, a city attorney, a county attorney,
4 the attorney general or any other person who is at least twenty-one years
5 of age may serve the notice provided for in subsection G of this section,
6 either personally or by certified mail. If personal service or service by
7 certified mail cannot be completed or the address of the person to be
8 notified is unknown, notice may be served by publishing the notice three
9 times within ten consecutive days in a newspaper of general circulation in
10 the county in which the property is located. In all cases a copy of the
11 notice shall be posted on the premises where the nuisance exists.

12 I. The notice shall be printed in at least twelve-point type in
13 substantially the following form:

14 Notice

15 This is formal notice that the property at (insert
16 address and unit number if applicable) has had (insert number
17 of) arrests or (insert number of) documented reports of
18 alleged criminal activity and is considered a nuisance under
19 section 12-991, Arizona Revised Statutes. A copy of the
20 police report numbers is attached. Police reports are
21 available at (insert applicable police agency).

22 Within five business days you must begin to take action
23 that is legally available to you to abate the nuisance from
24 the property. If you fail to do so, a restraining order to
25 abate and prevent continuing or recurring criminal activity
26 will be pursued.

27 If you fail to cooperate to abate the nuisance, the
28 appropriate authorities will abate the nuisance and their
29 costs will be a lien on the property.

30 You may contact (local agency) in order to obtain
31 information on how to abate the nuisance.

32 J. For the purposes of this article:

33 1. "CRIME" INCLUDES THE CREATION OF EXCESSIVE MARIJUANA SMOKE AND
34 ODOR.

35 ~~1.~~ 2. "Owner" means a person or persons or a legal entity listed
36 as the current title holder as recorded in the official records of the
37 county recorder in the county in which the title is recorded.

38 ~~2.~~ 3. "Owner's managing agent" means a person, corporation,
39 partnership or limited liability company that is authorized by the owner
40 to operate and manage the property.

1 Sec. 2. Section 13-2908, Arizona Revised Statutes, is amended to
2 read:

3 13-2908. Criminal nuisance; presumption; classification

4 A. A person commits criminal nuisance:

5 1. If, by conduct either unlawful in itself or unreasonable under
6 the circumstances, ~~such~~ THE person recklessly creates or maintains a
7 condition ~~which~~ THAT endangers the safety or health of others.

8 2. By knowingly conducting or maintaining any premises, place or
9 resort where persons gather for purposes of engaging in unlawful conduct.

10 B. IT IS PRESUMED THAT A PERSON WHO CREATES EXCESSIVE MARIJUANA
11 SMOKE AND ODOR CAUSES A CONDITION THAT ENDANGERS THE SAFETY OR HEALTH OF
12 OTHERS.

13 ~~B.~~ C. Criminal nuisance is a class 3 misdemeanor.

14 Sec. 3. Section 13-2917, Arizona Revised Statutes, is amended to
15 read:

16 13-2917. Public nuisance; abatement; presumption;
17 classification

18 A. It is a public nuisance, and is no less a nuisance because the
19 extent of the annoyance or damage inflicted is unequal, for anything:

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

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

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

31 1. Any building used as a private or public elementary or high
32 school.

33 2. Any public park.

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

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

38 D. IT IS PRESUMED THAT THE CREATION OF EXCESSIVE MARIJUANA SMOKE
39 AND ODOR IS INJURIOUS TO HEALTH, INDECENT, OFFENSIVE TO THE SENSES AND AN
40 OBSTRUCTION TO THE FREE USE OF PROPERTY THAT INTERFERES WITH THE
41 COMFORTABLE ENJOYMENT OF LIFE OR PROPERTY AND IS A PUBLIC NUISANCE.

42 ~~D.~~ E. Any person who knowingly maintains or commits a public
43 nuisance or who knowingly fails or refuses to perform any legal duty
44 relating to the removal of a public nuisance is guilty of a class 2
45 misdemeanor.