

REFERENCE TITLE: **sentencing enhancements; drug-free zones**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1064

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTION 13-3411, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 34, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3424; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3411, Arizona Revised Statutes, is amended to
3 read:

4 13-3411. Possession, use, sale or transfer of marijuana,
5 peyote, prescription drugs, dangerous drugs or
6 narcotic drugs or manufacture of dangerous drugs
7 in a drug-free school zone; classification;
8 definitions

9 A. It is unlawful for a person to do any of the following:

10 1. ~~intentionally~~ KNOWINGLY be present in a ~~drug-free~~ DRUG-FREE
11 school zone to sell or transfer marijuana, peyote, prescription-only
12 drugs, dangerous drugs or narcotic drugs.

13 2. Possess or use marijuana, peyote, dangerous drugs or narcotic
14 drugs in a ~~drug-free~~ DRUG-FREE school zone.

15 3. Manufacture dangerous drugs in a ~~drug-free~~ DRUG-FREE school
16 zone.

17 B. A person who violates subsection A of this section is guilty of
18 the same class of felony that the person would otherwise be guilty of had
19 the violation not occurred within a ~~drug-free~~ DRUG-FREE school zone,
20 except that the presumptive, minimum and maximum sentence shall be
21 increased by one year. The additional sentence imposed under this
22 subsection is in addition to any enhanced punishment that may be
23 applicable under section 13-703, section 13-704, section 13-708,
24 subsection D or any provision in this chapter. A person is not eligible
25 for suspension of sentence, probation, pardon or release from confinement
26 on any basis except pursuant to section 31-233, subsection A or B until
27 the sentence imposed by the court has been served or commuted.

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

35 D. Each school district's governing board or its designee, or the
36 chief administrative officer in the case of a nonpublic school, shall
37 place and maintain permanently affixed signs located in a visible manner
38 at the main entrance of each school that identifies the school and its
39 accompanying grounds as a ~~drug-free~~ DRUG-FREE school zone.

40 E. The ~~drug-free~~ DRUG-FREE school zone map prepared pursuant to
41 title 15 shall constitute an official record as to the location and
42 boundaries of each ~~drug-free~~ DRUG-FREE school zone. The school district's
43 governing board or its designee, or the chief administrative officer in
44 the case of any nonpublic school, shall promptly notify the county
45 attorney of any changes in the location and boundaries of any school

1 property and shall file with the county recorder the original map prepared
2 pursuant to title 15.

3 F. All school personnel who observe a violation of this section
4 shall immediately report the violation to a school administrator. The
5 administrator shall immediately report the violation to a peace officer.
6 It is unlawful for any school personnel or school administrator to fail to
7 report a violation as prescribed in this section.

8 G. School personnel having custody or control of school records of
9 a student involved in an alleged violation of this section shall make the
10 records available to a peace officer ~~upon~~ ON written request signed by a
11 magistrate. Records disclosed pursuant to this subsection are
12 confidential and may be used only in a judicial or administrative
13 proceeding. A person furnishing records required under this subsection or
14 a person participating in a judicial or administrative proceeding or
15 investigation resulting from the furnishing of records required under this
16 subsection is immune from civil or criminal liability by reason of such
17 action unless the person acted with malice.

18 H. A person who violates subsection F of this section is guilty of
19 a class 3 misdemeanor.

20 I. For the purposes of this section:

21 1. "~~Drug-free~~ DRUG-FREE school zone" means the area within three
22 hundred feet of a school or its accompanying grounds, any public property
23 within one thousand feet of a school or its accompanying grounds, a school
24 bus stop or on any school bus or bus contracted to transport pupils to any
25 school.

26 2. "School" means any public or nonpublic kindergarten program,
27 common school or high school.

28 Sec. 2. Title 13, chapter 34, Arizona Revised Statutes, is amended
29 by adding section 13-3424, to read:

30 13-3424. Sale or transfer of marijuana, peyote, prescription
31 drugs, dangerous drugs or narcotic drugs in
32 drug-free neighborhood zone; drug-free
33 neighborhood zone map; classification; definitions

34 A. IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY BE PRESENT IN A
35 DRUG-FREE NEIGHBORHOOD ZONE TO SELL OR TRANSFER MARIJUANA, PEYOTE,
36 PRESCRIPTION-ONLY DRUGS, DANGEROUS DRUGS OR NARCOTIC DRUGS.

37 B. A PERSON WHO VIOLATES SUBSECTION A OF THIS SECTION IS GUILTY OF
38 THE SAME CLASS OF FELONY THAT THE PERSON WOULD OTHERWISE BE GUILTY OF HAD
39 THE VIOLATION NOT OCCURRED WITHIN A DRUG-FREE NEIGHBORHOOD ZONE, EXCEPT
40 THAT THE PRESUMPTIVE, MINIMUM AND MAXIMUM SENTENCE SHALL BE INCREASED BY
41 ONE YEAR. THE ADDITIONAL SENTENCE IMPOSED UNDER THIS SUBSECTION IS IN
42 ADDITION TO ANY ENHANCED PUNISHMENT THAT MAY BE APPLICABLE UNDER SECTION
43 13-703, SECTION 13-704, SECTION 13-708, SUBSECTION D OR ANY PROVISION IN
44 THIS CHAPTER. A PERSON IS NOT ELIGIBLE FOR SUSPENSION OF SENTENCE,
45 PROBATION, PARDON OR RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT PURSUANT

1 TO SECTION 31-233, SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE
2 COURT HAS BEEN SERVED OR COMMUTED.

3 C. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY THIS TITLE, THE
4 COURT SHALL ORDER A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION
5 TO PAY A FINE OF NOT LESS THAN \$2,000 OR THREE TIMES THE VALUE AS
6 DETERMINED BY THE COURT OF THE DRUGS INVOLVED IN OR GIVING RISE TO THE
7 CHARGE, WHICHEVER IS GREATER, AND NOT MORE THAN THE MAXIMUM AUTHORIZED BY
8 CHAPTER 8 OF THIS TITLE. A JUDGE SHALL NOT SUSPEND ANY PART OR ALL OF THE
9 IMPOSITION OF ANY FINE REQUIRED BY THIS SUBSECTION.

10 D. EACH DRUG-FREE NEIGHBORHOOD ZONE MUST HAVE A PERMANENTLY AFFIXED
11 SIGN THAT IS LOCATED IN A VISIBLE MANNER AT THE MAIN ENTRANCE OF EACH
12 DRUG-FREE NEIGHBORHOOD ZONE AND THAT IDENTIFIES THE DRUG-FREE NEIGHBORHOOD
13 ZONE AND ITS ACCOMPANYING GROUNDS AS A DRUG-FREE NEIGHBORHOOD ZONE. A
14 DRUG-FREE NEIGHBORHOOD ZONE MAY INCLUDE INFORMATION REGARDING THE
15 DRUG-FREE NEIGHBORHOOD ZONE BOUNDARIES ON A SIGN THAT IDENTIFIES THE AREA
16 AS A DRUG-FREE NEIGHBORHOOD ZONE IN LIEU OF POSTING SEPARATE DRUG-FREE
17 NEIGHBORHOOD ZONE SIGNS. THE FOLLOWING ENTITIES MAY PLACE AND MAINTAIN
18 THE DRUG-FREE NEIGHBORHOOD ZONE SIGNS:

19 1. IF THE DRUG-FREE NEIGHBORHOOD ZONE IS LOCATED IN A CITY OR TOWN,
20 THE CITY OR TOWN COUNCIL.

21 2. IF THE DRUG-FREE NEIGHBORHOOD ZONE IS NOT LOCATED IN A CITY OR
22 TOWN, THE COUNTY BOARD OF SUPERVISORS.

23 3. IN THE CASE OF A NONPUBLIC DRUG-FREE NEIGHBORHOOD ZONE, THE
24 CHIEF ADMINISTRATIVE OFFICER.

25 E. THE ENTITY THAT PLACES AND MAINTAINS THE SIGN REQUIRED BY
26 SUBSECTION D OF THIS SECTION SHALL PREPARE A MAP OF THE DRUG-FREE
27 NEIGHBORHOOD ZONE'S LOCATION AND BOUNDARIES. THE ENTITY SHALL FILE THE
28 ORIGINAL MAP WITH THE COUNTY RECORDER AND PROVIDE A COPY TO THE COUNTY
29 ATTORNEY. THE DRUG-FREE NEIGHBORHOOD ZONE MAP IS THE OFFICIAL RECORD AS
30 TO THE LOCATION AND BOUNDARIES OF EACH DRUG-FREE NEIGHBORHOOD ZONE. THE
31 ENTITY SHALL PROMPTLY NOTIFY THE COUNTY RECORDER AND COUNTY ATTORNEY OF
32 ANY CHANGES IN THE LOCATION AND BOUNDARIES OF ANY DRUG-FREE NEIGHBORHOOD
33 ZONE.

34 F. FOR THE PURPOSES OF THIS SECTION:

35 1. "AUTOMATED TELLER MACHINE" HAS THE SAME MEANING PRESCRIBED IN
36 SECTION 6-101.

37 2. "BANK" MEANS A BANK, CREDIT UNION OR OTHER SIMILAR FINANCIAL
38 INSTITUTION.

39 3. "DRUG-FREE NEIGHBORHOOD ZONE" MEANS THE AREA WITHIN THREE
40 HUNDRED FEET OF A HOSPITAL, A NURSING HOME, A DRUG TREATMENT CENTER, A
41 MENTAL AND BEHAVIORAL HEALTH FACILITY, A PUBLIC PARK OR THE ENTRANCE OR
42 EXIT TO A BANK OR AN AUTOMATED TELLER MACHINE AND ANY OF THE ACCOMPANYING
43 GROUNDS OF A LOCATION LISTED IN THIS PARAGRAPH.

1 4. "DRUG TREATMENT CENTER" MEANS A SOBER LIVING HOME, A RESIDENTIAL
2 TREATMENT CENTER FOR SUBSTANCE USE DISORDER, A BEHAVIORAL HEALTH INPATIENT
3 FACILITY, A BEHAVIORAL HEALTH RESIDENTIAL FACILITY, A SUBSTANCE ABUSE
4 TREATMENT FACILITY AND A HOSPITAL OR HEALTH CARE FACILITY THAT PROVIDES
5 SUBSTANCE ABUSE TREATMENT.