



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: JUD DP 5-3-1-0-0-0

HB 2245: narcotic drugs; fentanyl; sentencing

Sponsor: Representative Nguyen, LD 1

House Engrossed

Overview

Entitled the *Ashely Dunn Act*, imposes enhanced sentencing ranges for certain existing narcotic drug offenses involving the sale of fentanyl to another person in an amount of at least 200 grams.

History

The criminal code defines a *narcotic drug* to encompass a detailed list of materials, compounds, mixtures or preparations containing various substances or derivatives. Examples of narcotic drugs include cocaine, fentanyl and heroin, among many others ([A.R.S. § 13-3401](#)).

Statute outlines several criminal offenses relating to narcotic drugs in [A.R.S. § 13-3408](#). Specifically, subsection A, paragraph 2 of that statute makes it unlawful for a person to knowingly possess a narcotic drug for sale (a class 2 felony). Moreover, subsection A, paragraph 7 makes it unlawful for a person to knowingly transport for sale, import into Arizona, offer to transport for sale or import into Arizona, sell, transfer or offer to sell or transfer a narcotic drug (also class 2 felony).

For a first-time offense, and in the absence of any mitigating or aggravating circumstances, a class 2 felony is punishable by either a term of imprisonment in the following ranges or up to 7 years of probation for eligible offenses:

- 1) 4 years (minimum);
- 2) 5 years (presumptive); or
- 3) 10 years (maximum) (A.R.S. §§ [13-702](#), [13-902](#)).

However, [A.R.S. § 13-701](#) outlines a process for a court or a trier of fact to find that an offense involved certain enumerated mitigating circumstances (subsection E) or aggravating circumstances (subsection D), which may operate to reduce the minimum prison sentence above to 3 years or to enhance the maximum prison sentence to 12.5 years. Additionally, more specific sentencing requirements may apply in certain circumstances, including discrete sentencing ranges or probation eligibility provisions that may apply for repeat offenses or for offenses involving specific drugs or amounts of drugs (A.R.S. §§ [13-3408](#), [13-3419](#), [13-3420](#)).

For purposes of drug offenses under the criminal code, *sale* (or *sell*) is defined as an exchange for anything of value or advantage, present or prospective. Further, *transfer* means to furnish, deliver or give away ([A.R.S. § 13-3401](#)). For purposes of the criminal code, *possess* means to knowingly have physical possession or otherwise to exercise dominion or control over property ([A.R.S. § 13-105](#)).

Provisions

1. Mandates the following enhanced prison terms for a person who is convicted of a violation of [A.R.S. § 13-3408](#), subsection A, paragraph 2 or 7, if the violation involves the sale to another person of fentanyl in an amount of at least 200 grams:
 - a) 5 years (minimum);
 - b) 10 years (presumptive); or
 - c) 15 years (maximum). (Sec. 1)
2. Increases each of these terms by 5 years for a person who has previously been convicted of a violation of [A.R.S. § 13-3408](#), subsection A, paragraph 2 or 7 involving the sale to another person of fentanyl in an amount of at least 200 grams. (Sec. 1)
3. Provides that these presumptive prison terms may be mitigated or aggravated pursuant to [A.R.S. § 13-701](#), subsections D and E. (Sec. 1)
4. Entitles the bill as the *Ashley Dunn Act*. (Sec. 2)
5. Makes conforming changes. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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