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Jane Dee Hull
Secretary of State

CHAPTER 217

HOUSE BILL 2176

AN ACT

AMENDING SECTIONS 13-3405, 13-3407, 13-3408, 13-3410, 13-3415 AND 13-3419, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 39, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4316; RELATING TO DRUG OFFENSES.

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

Section 1. Section 13-3405, Arizona Revised Statutes, is amended to read:

13-3405. Possession, use, production, sale or transportation of marijuana; classification

A. A person shall not knowingly:

1. Possess or use marijuana.

2. Possess marijuana for sale.

3. Produce marijuana.

4. Transport for sale, import into this state or offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer marijuana.

B. A person who violates:

1. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight ~~at the time of seizure~~ of less than two pounds is guilty of a class 6 felony.

2. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight ~~at the time of seizure~~ of at least two pounds but less than four pounds is guilty of a class 5 felony.

3. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight ~~at the time of seizure~~ of four pounds or more is guilty of a class 4 felony.

4. Subsection A, paragraph 2 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of less than two pounds is guilty of a class 4 felony.

5. Subsection A, paragraph 2 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of at least two pounds but not more than four pounds is guilty of a class 3 felony.

6. Subsection A, paragraph 2 of this section involving an amount of marijuana ~~involving~~ HAVING a weight ~~at the time of seizure~~ of more than four pounds is guilty of a class 2 felony.

7. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of less than two pounds is guilty of a class 5 felony.

8. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of at least two pounds but not more than four pounds is guilty of a class 4 felony.

9. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of four pounds or more is guilty of a class 3 felony.

10. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of less than two pounds is guilty of a class 3 felony.

11. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight ~~at the time of seizure~~ of ~~more than~~ two pounds OR MORE is guilty of a class 2 felony.

C. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial equals or exceeds ~~at the time of seizure~~ the statutory threshold amount, a person who is sentenced pursuant to the provisions of subsection B, paragraph 5, 6, 8, 9 or 11 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

D. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than seven hundred fifty dollars or three times the value as determined by the court of the marijuana involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

E. A person who is convicted of a felony violation of any provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug or narcotic drug except as lawfully administered by a practitioner and as a condition of any probation or release shall be

required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections as appropriate during the duration of the term of probation or before the expiration of the sentence imposed.

F. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial is less ~~at the time of seizure~~ than the statutory threshold amount, a person who is sentenced pursuant to the provisions of subsection B, ~~paragraphs~~ PARAGRAPH 4, 7 or 10 is granted probation by the court shall be ordered by the court that as a condition of probation the person perform not less than two hundred forty hours of community service with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

G. If a person who is sentenced pursuant to the provisions of subsection B, paragraph 1, 2 or 3 of this section is granted probation for a felony violation of this section, the court shall order that as a condition of probation the person perform not less than twenty-four hours of community service with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crimes or any other appropriate agency or organization.

H. If a person is granted probation for a misdemeanor violation of this section, the court shall order as a condition of probation that the person attend eight hours of instruction on the nature and harmful effects of narcotic drugs, marijuana and other dangerous drugs on the human system, and on the laws related to the control of these substances, or perform twenty-four hours of community service.

Sec. 2. Section 13-3407, Arizona Revised Statutes, is amended to read:

13-3407. <u>Possession, use, administration, acquisition, sale, manufacture or transportation of dangerous drugs; classification</u>

A. A person shall not knowingly:

1. Possess or use a dangerous drug.

2. Possess a dangerous drug for sale.

3. Possess equipment ~~and~~ OR chemicals, OR BOTH, for the purpose of manufacturing a dangerous drug.

4. Manufacture a dangerous drug.

5. Administer a dangerous drug to another person.

6. Obtain or procure the administration of a dangerous drug by fraud, deceit, misrepresentation or subterfuge.

7. Transport for sale, import into this state or offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer a dangerous drug.

B. A person who violates:

1. Subsection A, paragraph 1 of this section is guilty of a class 4 felony. ~~, but~~ UNLESS THE DRUG INVOLVED IS LYSERGIC ACID DIETHYLAMIDE, METHAMPHETAMINE OR PHENCYCLIDINE OR THE PERSON WAS PREVIOUSLY CONVICTED OF A FELONY OFFENSE OR A VIOLATION OF THIS SECTION OR SECTION 13-3408, the court on motion of the state, considering the nature and circumstances of the offense, for a person not previously convicted of any felony OFFENSE OR A VIOLATION OF THIS SECTION OR SECTION 13-3408 may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is SUCCESSFULLY terminated. The offense shall be treated as a felony for all purposes until ~~such time as~~ the court enters an order designating the offense a misdemeanor.

2. Subsection A, paragraph 2 of this section is guilty of a class ~~3~~ 2 felony.

3. Subsection A, paragraph 3 of this section is guilty of a class ~~4~~ 3 felony.

4. Subsection A, paragraph 4 of this section is guilty of a class ~~3~~ 2 felony.

5. Subsection A, paragraph 5 of this section is guilty of a class 2 felony.

6. Subsection A, paragraph 6 of this section is guilty of a class 3 felony.

7. Subsection A, paragraph 7 of this section is guilty of a class 2 felony.

C. A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION A, PARAGRAPH 1, 3 OR 6 AND WHO HAS NOT PREVIOUSLY BEEN CONVICTED OF ANY FELONY OR NOT SENTENCED PURSUANT TO SECTION 13-604 OR ANY OTHER LAW MAKING THE CONVICTED PERSON INELIGIBLE FOR PROBATION IS ELIGIBLE FOR PROBATION.

~~C.~~ D. If the aggregate amount of dangerous drugs involved in one offense or all of the offenses that are consolidated for trial equals or exceeds ~~at the time of seizure~~ the statutory threshold amount, a person who is convicted of a violation of subsection A, paragraph 2, 5 or 7 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

~~D.~~ E. A person who is convicted of a violation of subsection A, paragraph 4 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person

has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

~~E.~~ F. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than one thousand dollars or three times the value as determined by the court of the dangerous drugs involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

~~F.~~ G. A person who is convicted of a violation of a provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug, narcotic drug or prescription-only drug except as lawfully administered by a HEALTH CARE practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections, as appropriate, during the duration of the term of probation or before the expiration of the sentence imposed.

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

Sec. 3. Section 13-3408, Arizona Revised Statutes, is amended to read:

13-3408. <u>Possession, use, administration, acquisition, sale, manufacture or transportation of narcotic drugs; classification</u>

A. A person shall not knowingly:

1. Possess or use a narcotic drug.

2. Possess a narcotic drug for sale.

3. Possess equipment ~~and~~ OR chemicals, OR BOTH, for the purpose of manufacturing a narcotic drug.

4. Manufacture a narcotic drug.

5. Administer a narcotic drug to another person.

6. Obtain or procure the administration of a narcotic drug by fraud, deceit, misrepresentation or subterfuge.

7. Transport for sale, import into this state, offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer a narcotic drug.

B. A person who violates:

1. Subsection A, paragraph 1 of this section is guilty of a class 4 felony.

2. Subsection A, paragraph 2 of this section is guilty of a class 2 felony.

3. Subsection A, paragraph 3 of this section is guilty of a class 3 felony.

4. Subsection A, paragraph 4 of this section is guilty of a class 2 felony.

5. Subsection A, paragraph 5 of this section is guilty of a class 2 felony.

6. Subsection A, paragraph 6 of this section is guilty of a class 3 felony.

7. Subsection A, paragraph 7 of this section is guilty of a class 2 felony.

C. A person who is convicted of a violation of subsection A, paragraph 1, 3 or 6 of this section and who has not previously been convicted of any felony or not sentenced pursuant to section 13-604 or any other provision of law making the convicted person ineligible for probation is eligible for probation~~, and if granted probation, the court shall order that as a condition of probation the person perform not less than three hundred sixty hours of community service with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization~~.

D. If the aggregate amount of narcotic drugs involved in one offense or all of the offenses that are consolidated for trial equals or exceeds ~~at the time of seizure~~ the statutory threshold amount, a person who is convicted of a violation of subsection A, paragraph 2, 5 or 7 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

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

F. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than two thousand dollars or three times the value as determined by the court of the narcotic drugs involved in or giving rise to the charge, whichever is greater, and not more than the

maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

G. A person who is convicted of a violation of a provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug, narcotic drug or prescription-only drug except as lawfully administered by a HEALTH CARE practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections, as appropriate, during the duration of the term of probation or before the expiration of the sentence imposed.

H. IF A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS SECTION IS GRANTED PROBATION, THE COURT SHALL ORDER THAT AS A CONDITION OF PROBATION THE PERSON PERFORM NOT LESS THAN THREE HUNDRED SIXTY HOURS OF COMMUNITY SERVICE WITH AN AGENCY OR ORGANIZATION THAT PROVIDES COUNSELING, REHABILITATION OR TREATMENT FOR ALCOHOL OR DRUG ABUSE, AN AGENCY OR ORGANIZATION THAT PROVIDES MEDICAL TREATMENT TO PERSONS WHO ABUSE CONTROLLED SUBSTANCES, AN AGENCY OR ORGANIZATION THAT SERVES PERSONS WHO ARE VICTIMS OF CRIME OR ANY OTHER APPROPRIATE AGENCY OR ORGANIZATION.

Sec. 4. Section 13-3410, Arizona Revised Statutes, is amended to read:

13-3410. Serious drug offender; sentencing; definitions

A. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious drug offense and who committed the offense as part of a pattern of engaging in conduct prohibited by this chapter, which constituted a significant source of ~~his~~ THE PERSON'S income, shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served not less than twenty-five years or the sentence is commuted.

B. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious drug offense and who committed the offense as part of ~~his~~ THE PERSON'S association with and participation in the conduct of an enterprise as defined in section 13-2301, subsection D, paragraph 2, which is engaged in dealing in substances controlled by this chapter, and who organized, managed, directed, supervised or financed the enterprise with the intent to promote or further its criminal objectives shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served not less than twenty-five years or the sentence is commuted.

C. A person commits an offense as part of a pattern of engaging in conduct prohibited by this chapter if the person's conduct involves at least three criminal acts that have the same or similar purposes, results,

participants, victims or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.

D. For the purposes of this section:

1. "Serious drug offense" means any violation of the provisions of section 13-3404.01, section 13-3405, subsection A, paragraphs 2 through 4, section 13-3407, subsection A, paragraphs 2 through 7 or section 13-3408, subsection A, paragraphs 2 through 7 involving an amount of marijuana, dangerous drugs or narcotic drugs having a weight ~~at the time of seizure~~ that equals or exceeds the statutory threshold amount, a felony violation of section 13-3406 or any violation of section 13-3409.

2. "Significant source of income" means a source of income which exceeds twenty-five thousand dollars received during a calendar year without reference to any exceptions, reductions or setoffs.

Sec. 5. Section 13-3415, Arizona Revised Statutes, is amended to read:

13-3415. Possession, manufacture, delivery and advertisement of drug paraphernalia; definitions; violation; classification; civil forfeiture; factors

A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony.

B. It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony.

C. It is unlawful for a person to place in a newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a class 6 felony.

D. All drug paraphernalia is subject to forfeiture ~~as provided in~~ PURSUANT TO chapter 39 of this title. The failure to charge or acquittal of an owner or anyone in control of drug paraphernalia in violation of this chapter does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

E. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any drug.

3. The proximity of the object, in time and space, to a direct violation of this chapter.

4. The proximity of the object to drugs.

5. The existence of any residue of drugs on the object.

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter.

7. Instructions, oral or written, provided with the object concerning its use.

8. Descriptive materials accompanying the object which explain or depict its use.

9. National and local advertising concerning its use.

10. The manner in which the object is displayed for sale.

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.

13. The existence and scope of legitimate uses for the object in the community.

14. Expert testimony concerning its use.

F. In this section, unless the context otherwise requires:

1. "Drug" means any narcotic drug, dangerous drug, marijuana or peyote.

2. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a drug in violation of this chapter. It includes:

(a) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a drug or from which a drug can be derived.

(b) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing drugs.

(c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a drug.

(d) Testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of drugs.

(e) Scales and balances used, intended for use or designed for use in weighing or measuring drugs.

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting drugs.

(g) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding drugs.

(i) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of drugs.

(j) Containers and other objects used, intended for use or designed for use in storing or concealing drugs.

(k) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting drugs into the human body.

(l) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, ~~cocaine~~ A NARCOTIC DRUG, A DANGEROUS DRUG, hashish or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

(vi) Miniature cocaine spoons and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.

(ix) Electric pipes.

(x) Air-driven pipes.

(xi) Chillums.

(xii) Bongs.

(xiii) Ice pipes or chillers.

Sec. 6. Section 13-3419, Arizona Revised Statutes, is amended to read:

13-3419. Multiple drug offenses not committed on the same occasion; sentencing

A. Except for a person convicted of possession offenses pursuant to section 13-3405, subsection A, paragraph 1, section 13-3407, subsection A, paragraph 1 or section 13-3408, subsection A, paragraph 1, a person who is convicted of two or more offenses under this chapter that were not committed on the same occasion but that were consolidated for trial purposes~~,~~ shall be sentenced for the second or subsequent offense pursuant to this section. The person shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted, except that a person sentenced pursuant to paragraph 1 of this subsection shall be eligible for probation. The presumptive term for paragraphs 1 through 4 of this subsection may be aggravated within the range under this section pursuant to section 13-702, subsections B, C and D. The presumptive term for paragraph 1, 2 or 3 of this subsection may be mitigated within the range under this section pursuant to section 13-702, subsections B, C and D. The terms are as follows:

1. For two offenses for which the aggregate amount of drugs involved in one offense or both of the offenses is less ~~at the time of seizure~~ than the statutory threshold amount for the second offense:

Felony	Minimum	Presumptive	Maximum
Class 2	4 years	5 years	10 years
Class 3	2.5 years	3.5 years	7 years
Class 4	1.5 years	2.5 years	3 years
Class 5	.75 years	1.5 years	2 years

2. For three or more offenses for which the aggregate amount of drugs involved in one offense or all of the offenses is less ~~at the time of seizure~~ than the statutory threshold amount for any offense subsequent to the second offense:

Felony	Minimum	Presumptive	Maximum
Class 2	4 years	5 years	10 years
Class 3	2.5 years	3.5 years	7 years
Class 4	1.5 years	2.5 years	3 years
Class 5	.75 years	1.5 years	2 years

3. For two offenses for which the aggregate amount of drugs involved in one offense or all of the offenses equals or exceeds ~~at the time of seizure~~ the statutory threshold amount for the second offense:

Felony	Minimum	Presumptive	Maximum
Class 2	4 years	5 years	10 years
Class 3	2.5 years	3.5 years	7 years
Class 4	1.5 years	2.5 years	3 years
Class 5	9 months	1.5 years	2 years

4. For three or more offenses for which the aggregate amount of drugs involved in one offense or all of the offenses equals or exceeds ~~at the time of seizure~~ the statutory threshold amount for any offense subsequent to the second offense:

Felony	Minimum	Presumptive	Maximum
Class 2	4 years	7 years	12 years
Class 3	2.5 years	5 years	9 years
Class 4	1.5 years	3 years	5 years
Class 5	9 months	2.5 years	4 years

B. For offenders sentenced pursuant to subsection A, paragraphs 1 through 4 of this section the court may increase the maximum sentence otherwise authorized by up to twenty-five per cent.

C. For offenders sentenced pursuant to subsection A, paragraph 1, 2 or 3 of this section the court may decrease the minimum sentence otherwise authorized by up to twenty-five per cent.

D. If the court increases or decreases a sentence pursuant to this section, the court shall state on the record the reasons for the increase or decrease.

E. The court shall inform all of the parties before the sentencing occurs of its intent to increase or decrease a sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Sec. 7. Title 13, chapter 39, Arizona Revised Statutes, is amended by adding section 13-4316, to read:

13-4316. Award of seized and forfeited property; limitations

A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, TWENTY-FIVE PER CENT OF ANY MONIES OBTAINED AS A RESULT OF A SEIZURE AND FORFEITURE OF PROPERTY OR MONEY PURSUANT TO SECTION 13-3413 RELATING TO A VIOLATION OF SECTION 13-3407, SUBSECTION A, PARAGRAPH 2, 4 OR 7 OR SECTION 13-3408, SUBSECTION A, PARAGRAPH 2, 4 OR 7 SHALL BE AWARDED TO THE PERSON OR PERSONS WHO ARE THE SOLE SOURCE OF INFORMATION OBTAINED BY A LAW ENFORCEMENT AGENCY WHICH DIRECTLY LED TO THE SEIZURE AND FORFEITURE OF THE PROPERTY OR MONEY.

B. IF MORE THAN ONE PERSON IS ELIGIBLE FOR AN AWARD PURSUANT TO THIS SECTION, THE AWARD SHALL BE DIVIDED EQUALLY AMONG ALL OF THE ELIGIBLE PERSONS. NO MORE THAN TWENTY-FIVE PER CENT OF THE MONIES OBTAINED PURSUANT TO SECTION 13-3413 SHALL BE AWARDED.

C. A PERSON ASSOCIATED WITH THE COMMISSION OF THE OFFENSE, WHETHER CHARGED OR NOT, IS NOT ELIGIBLE FOR PARTICIPATION IN AN AWARD UNDER THIS

1 SECTION. A LAW ENFORCEMENT OFFICER IS NOT ELIGIBLE FOR AN AWARD UNDER THIS
2 SECTION.
3 D. THE NAME OF ANY PERSON WHO RECEIVES AN AWARD PURSUANT TO SUBSECTION
4 A OF THIS SECTION IS CONFIDENTIAL.
5 E. NOTHING IN THIS SECTION PRECLUDES A CRIMINAL PROSECUTION ARISING
6 FROM THE FACTS WHICH LED TO THE ISSUANCE OF AN AWARD UNDER THIS SECTION.
7 D. THE ATTORNEY GENERAL AND COUNTY ATTORNEY SHALL ESTABLISH PROCEDURES
8 FOR IMPLEMENTING THE PROVISIONS OF THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 19, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 1996.