Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 166

HOUSE BILL 2713

AN ACT

AMENDING SECTIONS 13-702, 13-703 AND 13-1204, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3117; RELATING TO STUN GUNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-702, Arizona Revised Statutes, is amended to read:

13-702. Sentencing

A. Sentences provided in section 13-701 for a first conviction of a felony, except those felonies involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another or if a specific sentence is otherwise provided, may be increased or reduced by the court within the ranges set by this subsection. Any reduction or increase shall be based on the aggravating and mitigating circumstances contained in subsections C and D of this section and shall be within the following ranges:

	Minimum	Maximum
1. For a class 2 felony	4 years	10 years
2. For a class 3 felony	2.5 years	7 years
3. For a class 4 felony	1.5 years	3 years
4. For a class 5 felony	9 months	2 years
5. For a class 6 felony	6 months	1.5 years

B. The upper or lower term imposed pursuant to section 13-604, 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may be imposed only if the circumstances alleged to be in aggravation or mitigation of the crime are found to be true by the trial judge on any evidence or information introduced or submitted to the court before sentencing or any evidence previously heard by the judge at the trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following aggravating circumstances:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.

2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.

3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.

4. Presence of an accomplice.

5. Especially heinous, cruel or depraved manner in which the offense was committed.

6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.

9. The physical, emotional and financial harm caused to the victim or, if the victim has died as a result of the conduct of the defendant, the emotional and financial harm caused to the victim's immediate family.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. The victim of the offense is AT LEAST sixty-five ~~or more~~ years of age or is a disabled person as defined by section 38-492.

14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.

15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

17. Lying in wait for the victim or ambushing the victim during the commission of any felony.

18. The offense was committed in the presence of a child and any of the circumstances exist that are set forth in section 13-3601, subsection A.

19. The offense was committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

20. The defendant was impersonating a peace officer as defined in section 1-215.

21. THE DEFENDANT USED A REMOTE STUN GUN OR AN AUTHORIZED REMOTE STUN GUN IN THE COMMISSION OF THE OFFENSE. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AUTHORIZED REMOTE STUN GUN" MEANS A REMOTE STUN GUN THAT HAS ALL OF THE FOLLOWING:

(i) AN ELECTRICAL DISCHARGE THAT IS LESS THAN ONE HUNDRED THOUSAND VOLTS AND LESS THAN NINE JOULES OF ENERGY PER PULSE.

(ii) A SERIAL OR IDENTIFICATION NUMBER ON ALL PROJECTILES THAT ARE DISCHARGED FROM THE REMOTE STUN GUN.

(iii) AN IDENTIFICATION AND TRACKING SYSTEM THAT, ON DEPLOYMENT OF REMOTE ELECTRODES, DISPERSES CODED MATERIAL THAT IS TRACEABLE TO THE PURCHASER THROUGH RECORDS THAT ARE KEPT BY THE MANUFACTURER ON ALL REMOTE STUN GUNS AND ALL INDIVIDUAL CARTRIDGES SOLD.

(iv) A TRAINING PROGRAM THAT IS OFFERED BY THE MANUFACTURER.

(b) "REMOTE STUN GUN" MEANS AN ELECTRONIC DEVICE THAT EMITS AN ELECTRICAL CHARGE AND THAT IS DESIGNED AND PRIMARILY EMPLOYED TO INCAPACITATE A PERSON OR ANIMAL EITHER THROUGH CONTACT WITH ELECTRODES ON THE DEVICE ITSELF OR REMOTELY THROUGH WIRED PROBES THAT ARE ATTACHED TO THE DEVICE OR THROUGH A SPARK, PLASMA, IONIZATION OR OTHER CONDUCTIVE MEANS EMITTING FROM THE DEVICE.

~~21.~~ 22. Any other factor that the court deems appropriate to the ends of justice.

D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. Any other factor that the court deems appropriate to the ends of justice.

In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the court finds aggravating circumstances and does not find any mitigating circumstances, the court shall impose an aggravated sentence.

E. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

F. Nothing in this section affects any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

G. Notwithstanding any other provision of this title, if a person is convicted of any class 6 felony not involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court 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 terminated. The offense shall be treated as a felony for all purposes until such time as the court may actually enter an order designating the offense a misdemeanor. This subsection does not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. If a crime or public offense is punishable in the discretion of the court by a sentence as a class 6 felony or a class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney:

1. Files an information in superior court designating the offense as a misdemeanor.

2. Files a complaint in justice court or municipal court designating the offense as a misdemeanor within the jurisdiction of the respective court.

3. Files a complaint, with the consent of the defendant, before or during the preliminary hearing amending the complaint to charge a misdemeanor.

Sec. 2. Section 13-703, Arizona Revised Statutes, is amended to read:

13-703. <u>Sentence of death or life imprisonment; aggravating and mitigating circumstances; definition</u>

A. If the state has filed a notice of intent to seek the death penalty and the defendant is convicted of first degree murder as defined in section 13-1105, the defendant shall be sentenced to death or imprisonment in the custody of the state department of corrections for life or natural life as determined and in accordance with the procedures provided in section 13-703.01. A defendant who is sentenced to natural life is not eligible for commutation, parole, work furlough, work release or release from confinement on any basis. If the defendant is sentenced to life, the defendant shall not be released on any basis until the completion of the service of twenty-five calendar years if the murdered person was fifteen or more years of age and thirty-five years if the murdered person was under fifteen years of age.

B. At the aggravation phase of the sentencing proceeding that is held pursuant to section 13-703.01, the admissibility of information relevant to any of the aggravating circumstances set forth in subsection F of this section shall be governed by the rules of evidence applicable to criminal trials. The burden of establishing the existence of any of the aggravating circumstances set forth in subsection F of this section is on the

1 prosecution. The prosecution must prove the existence of the aggravating
2 circumstances beyond a reasonable doubt.
3 C. At the penalty phase of the sentencing proceeding that is held
4 pursuant to section 13-703.01, the prosecution or the defendant may present
5 any information that is relevant to any of the mitigating circumstances
6 included in subsection G of this section, regardless of its admissibility
7 under the rules governing admission of evidence at criminal trials. The
8 burden of establishing the existence of the mitigating circumstances included
9 in subsection G of this section is on the defendant. The defendant must
10 prove the existence of the mitigating circumstances by a preponderance of the
11 evidence. If the trier of fact is a jury, the jurors do not have to agree
12 unanimously that a mitigating circumstance has been proven to exist. Each
13 juror may consider any mitigating circumstance found by that juror in
14 determining the appropriate penalty.
15 D. Evidence that is admitted at the trial and that relates to any
16 aggravating or mitigating circumstances shall be deemed admitted as evidence
17 at a sentencing proceeding if the trier of fact considering that evidence is
18 the same trier of fact that determined the defendant's guilt. The
19 prosecution and the defendant shall be permitted to rebut any information
20 received at the aggravation or penalty phase of the sentencing proceeding and
21 shall be given fair opportunity to present argument as to whether the
22 information is sufficient to establish the existence of any of the
23 circumstances included in subsections F and G of this section.
24 E. In determining whether to impose a sentence of death or life
25 imprisonment, the trier of fact shall take into account the aggravating and
26 mitigating circumstances that have been proven. The trier of fact shall
27 impose a sentence of death if the trier of fact finds one or more of the
28 aggravating circumstances enumerated in subsection F of this section and then
29 determines that there are no mitigating circumstances sufficiently
30 substantial to call for leniency.
31 F. The trier of fact shall consider the following aggravating
32 circumstances in determining whether to impose a sentence of death:
33 1. The defendant has been convicted of another offense in the United
34 States for which under Arizona law a sentence of life imprisonment or death
35 was imposable.
36 2. The defendant has been or was previously convicted of a serious
37 offense, whether preparatory or completed. Convictions for serious offenses
38 committed on the same occasion as the homicide, or not committed on the same
39 occasion but consolidated for trial with the homicide, shall be treated as a
40 serious offense under this paragraph.
41 3. In the commission of the offense the defendant knowingly created a
42 grave risk of death to another person or persons in addition to the person
43 murdered during the commission of the offense.
44 4. The defendant procured the commission of the offense by payment, or
45 promise of payment, of anything of pecuniary value.

5. The defendant committed the offense as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value.

6. The defendant committed the offense in an especially heinous, cruel or depraved manner.

7. The defendant committed the offense while:

(a) In the custody of or on authorized or unauthorized release from the state department of corrections, a law enforcement agency or a county or city jail.

(b) On probation for a felony offense.

8. The defendant has been convicted of one or more other homicides, as defined in section 13-1101, that were committed during the commission of the offense.

9. The defendant was an adult at the time the offense was committed or was tried as an adult and the murdered person was under fifteen years of age or was seventy years of age or older.

10. The murdered person was an on duty peace officer who was killed in the course of performing the officer's official duties and the defendant knew, or should have known, that the murdered person was a peace officer.

11. THE DEFENDANT USED A REMOTE STUN GUN OR AN AUTHORIZED REMOTE STUN GUN IN THE COMMISSION OF THE OFFENSE. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AUTHORIZED REMOTE STUN GUN" MEANS A REMOTE STUN GUN THAT HAS ALL OF THE FOLLOWING:

(i) AN ELECTRICAL DISCHARGE THAT IS LESS THAN ONE HUNDRED THOUSAND VOLTS AND LESS THAN NINE JOULES OF ENERGY PER PULSE.

(ii) A SERIAL OR IDENTIFICATION NUMBER ON ALL PROJECTILES THAT ARE DISCHARGED FROM THE REMOTE STUN GUN.

(iii) AN IDENTIFICATION AND TRACKING SYSTEM THAT, ON DEPLOYMENT OF REMOTE ELECTRODES, DISPERSES CODED MATERIAL THAT IS TRACEABLE TO THE PURCHASER THROUGH RECORDS THAT ARE KEPT BY THE MANUFACTURER ON ALL REMOTE STUN GUNS AND ALL INDIVIDUAL CARTRIDGES SOLD.

(iv) A TRAINING PROGRAM THAT IS OFFERED BY THE MANUFACTURER.

(b) "REMOTE STUN GUN" MEANS AN ELECTRONIC DEVICE THAT EMITS AN ELECTRICAL CHARGE AND THAT IS DESIGNED AND PRIMARILY EMPLOYED TO INCAPACITATE A PERSON OR ANIMAL EITHER THROUGH CONTACT WITH ELECTRODES ON THE DEVICE ITSELF OR REMOTELY THROUGH WIRED PROBES THAT ARE ATTACHED TO THE DEVICE OR THROUGH A SPARK, PLASMA, IONIZATION OR OTHER CONDUCTIVE MEANS EMITTING FROM THE DEVICE.

G. The trier of fact shall consider as mitigating circumstances any factors proffered by the defendant or the state that are relevant in determining whether to impose a sentence less than death, including any aspect of the defendant's character, propensities or record and any of the circumstances of the offense, including but not limited to the following:

1. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

2. The defendant was under unusual and substantial duress, although not such as to constitute a defense to prosecution.

3. The defendant was legally accountable for the conduct of another under the provisions of section 13-303, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution.

4. The defendant could not reasonably have foreseen that his conduct in the course of the commission of the offense for which the defendant was convicted would cause, or would create a grave risk of causing, death to another person.

5. The defendant's age.

H. For the purposes of this section, "serious offense" means any of the following offenses if committed in this state or any offense committed outside this state that if committed in this state would constitute one of the following offenses:

1. First degree murder.
2. Second degree murder.
3. Manslaughter.
4. Aggravated assault resulting in serious physical injury or committed by the use, threatened use or exhibition of a deadly weapon or dangerous instrument.
5. Sexual assault.
6. Any dangerous crime against children.
7. Arson of an occupied structure.
8. Robbery.
9. Burglary in the first degree.
10. Kidnapping.
11. Sexual conduct with a minor under fifteen years of age.

Sec. 3. Section 13-1204, Arizona Revised Statutes, is amended to read:

13-1204. <u>Aggravated assault; classification; definition</u>

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault after entering the private home of another with the intent to commit the assault.
4. If the person is eighteen years of age or older and commits the assault upon a child the age of fifteen years or under.
5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.

6. IF THE PERSON KNOWINGLY TAKES OR ATTEMPTS TO EXERCISE CONTROL OVER A PEACE OFFICER'S OR OTHER OFFICER'S FIREARM AND THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE VICTIM IS A PEACE OFFICER OR OTHER OFFICER EMPLOYED BY ONE OF THE AGENCIES LISTED IN PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii), (iii), (iv) OR (v) OF THIS SUBSECTION AND IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL DUTIES.

7. IF THE PERSON KNOWINGLY TAKES OR ATTEMPTS TO EXERCISE CONTROL OVER ANY WEAPON OTHER THAN A FIREARM THAT IS BEING USED BY A PEACE OFFICER OR OTHER OFFICER OR THAT THE OFFICER IS ATTEMPTING TO USE, AND THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE VICTIM IS A PEACE OFFICER OR OTHER OFFICER EMPLOYED BY ONE OF THE AGENCIES LISTED IN PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii), (iii), (iv) OR (v) OF THIS SUBSECTION AND IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL DUTIES.

8. IF THE PERSON KNOWINGLY TAKES OR ATTEMPTS TO EXERCISE CONTROL OVER ANY IMPLEMENT THAT IS BEING USED BY A PEACE OFFICER OR OTHER OFFICER OR THAT THE OFFICER IS ATTEMPTING TO USE, AND THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE VICTIM IS A PEACE OFFICER OR OTHER OFFICER EMPLOYED BY ONE OF THE AGENCIES LISTED IN PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii), (iii), (iv) OR (v) OF THIS SUBSECTION AND IS ENGAGED IN THE EXECUTION OF ANY OFFICIAL DUTIES. FOR THE PURPOSES OF THIS PARAGRAPH, "IMPLEMENT" MEANS AN OBJECT THAT IS DESIGNED FOR OR THAT IS CAPABLE OF RESTRAINING OR INJURING AN INDIVIDUAL. IMPLEMENT DOES NOT INCLUDE HANDCUFFS.

~~6.~~ 9. If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, ~~or~~ any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties~~,~~ or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.

~~7.~~ 10. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.

(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.

~~8.~~ 11. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.

~~9.~~ 12. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

~~10.~~ 13. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with Alzheimer's disease or related dementia.

~~11.~~ 14. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part~~,~~ or a fracture of any body part.

~~12.~~ 15. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

~~13.~~ 16. If the person commits the assault knowing or having reason to know that the victim is a prosecutor.

B. Except pursuant to subsections C and D of this section, aggravated assault pursuant to subsection A, paragraph 1, ~~or~~ 2 OR 6 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph ~~11~~ 14 of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 7 OR 10 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, ~~6, 8, 9, 10, 12 or 13~~ 8, 9, 11, 12, 13, 15 OR 16 of this section is a class 6 felony.

C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph ~~11~~ 14 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace

officer while the officer is engaged in the execution of any official duties is a class 5 felony.

D. Aggravated assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.

2. Subsection A, paragraph ~~11~~ 14 of this section is a class 3 felony if committed on a prosecutor.

3. Subsection A, paragraph ~~13~~ 16 of this section is a class 5 felony if the assault results in a physical injury to a prosecutor.

E. For the purposes of this section, "prosecutor" means A county attorney, A municipal prosecutor or THE attorney general and INCLUDES an assistant or deputy county attorney, municipal prosecutor or attorney general.

Sec. 4. Title 13, chapter 31, Arizona Revised Statutes, is amended by adding section 13-3117, to read:

13-3117. Remote stun guns; sales records; use; violation; classification; definitions

A. IT IS UNLAWFUL FOR A PERSON OR ENTITY TO DO ANY OF THE FOLLOWING:

1. SELL AN AUTHORIZED REMOTE STUN GUN WITHOUT KEEPING AN ACCURATE SALES RECORD AS TO THE IDENTITY OF THE PURCHASER WITH THE MANUFACTURER OF THE AUTHORIZED REMOTE STUN GUN. THE IDENTIFICATION THAT IS REQUIRED BY THIS PARAGRAPH SHALL BE VERIFIED WITH A GOVERNMENT ISSUED IDENTIFICATION. THIS REQUIREMENT DOES NOT APPLY TO SECONDARY SALES.

2. KNOWINGLY USE OR THREATEN TO USE A REMOTE STUN GUN OR AN AUTHORIZED REMOTE STUN GUN AGAINST A LAW ENFORCEMENT OFFICER WHO IS ENGAGED IN THE PERFORMANCE OF THE OFFICER'S OFFICIAL DUTIES.

B. THIS SECTION DOES NOT:

1. PRECLUDE THE PROSECUTION OF ANY PERSON FOR THE USE OF A REMOTE STUN GUN OR AN AUTHORIZED REMOTE STUN GUN DURING THE COMMISSION OF ANY CRIMINAL OFFENSE.

2. PRECLUDE ANY JUSTIFICATION DEFENSE UNDER CHAPTER 4 OF THIS TITLE.

C. THE REGULATION OF REMOTE STUN GUNS AND AUTHORIZED REMOTE STUN GUNS IS A MATTER OF STATEWIDE CONCERN.

D. A VIOLATION OF:

1. SUBSECTION A, PARAGRAPH 1 IS A PETTY OFFENSE.

2. SUBSECTION A, PARAGRAPH 2 IS A CLASS 4 FELONY.

E. FOR THE PURPOSES OF THIS SECTION:

1. "AUTHORIZED REMOTE STUN GUN" MEANS A REMOTE STUN GUN THAT HAS ALL OF THE FOLLOWING:

(a) AN ELECTRICAL DISCHARGE THAT IS LESS THAN ONE HUNDRED THOUSAND VOLTS AND LESS THAN NINE JOULES OF ENERGY PER PULSE.

(b) A SERIAL OR IDENTIFICATION NUMBER ON ALL PROJECTILES THAT ARE DISCHARGED FROM THE REMOTE STUN GUN.

(c) AN IDENTIFICATION AND TRACKING SYSTEM THAT, ON DEPLOYMENT OF REMOTE ELECTRODES, DISPERSES CODED MATERIAL THAT IS TRACEABLE TO THE PURCHASER THROUGH RECORDS THAT ARE KEPT BY THE MANUFACTURER ON ALL REMOTE STUN GUNS AND ALL INDIVIDUAL CARTRIDGES SOLD.

(d) A TRAINING PROGRAM THAT IS OFFERED BY THE MANUFACTURER.

2. "REMOTE STUN GUN" MEANS AN ELECTRONIC DEVICE THAT EMITS AN ELECTRICAL CHARGE AND THAT IS DESIGNED AND PRIMARILY EMPLOYED TO INCAPACITATE A PERSON OR ANIMAL EITHER THROUGH CONTACT WITH ELECTRODES ON THE DEVICE ITSELF OR REMOTELY THROUGH WIRED PROBES THAT ARE ATTACHED TO THE DEVICE OR THROUGH A SPARK, PLASMA, IONIZATION OR OTHER CONDUCTIVE MEANS EMITTING FROM THE DEVICE.

APPROVED BY THE GOVERNOR APRIL 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2005.

Passed the House March 8, 2005,

by the following vote: 48 Ayes,

11 Nays, 1 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate April 12, 2005,

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Charmain Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2713

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 14, 2005,

by the following vote: 52 Ayes,

4 Nays, 4 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15th day of April, 2005

at 9:00 o'clock a. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 20 day of

April, 2005,

at 2:00 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of April, 2005,

at 4:10 o'clock P. M.

Janice K. Brewer

Secretary of State

H.B. 2713