

State of Arizona  
Senate  
Forty-third Legislature  
Second Regular Session  
1998

## SB 1259

Introduced by  
Senator Kaites

### AN ACT

AMENDING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 79, SECTION 19; REPEALING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 104, SECTION 1; AMENDING SECTION 13-3401, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 209, SECTION 1; REPEALING SECTION 13-3401, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 104, SECTION 3; REPEALING SECTION 13-3422, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 1997, CHAPTER 104, SECTION 5; AMENDING TITLE 13, CHAPTER 34, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-3422; RELATING TO DRUG OFFENSES.

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

2 Section 1. Section 13-901, Arizona Revised Statutes, as amended by  
3 Laws 1997, chapter 79, section 19, is amended to read:

4 13-901. Probation

5 A. If a person who has been convicted of an offense is eligible for  
6 probation, the court may suspend the imposition or execution of sentence and,  
7 if so, shall without delay place such person on intensive probation  
8 supervision pursuant to section 13-913 or supervised or unsupervised  
9 probation upon such terms and conditions as the law requires and the court  
10 deems appropriate, including participation in any programs authorized in  
11 title 12, chapter 2, article 11. If a person is not eligible for probation,  
12 imposition or execution of sentence shall not be suspended or delayed. If  
13 the court imposes probation, it may also impose a fine as authorized by  
14 chapter 8 of this title. If probation is granted the court shall impose a  
15 condition that the person waive extradition for any probation revocation  
16 procedures and it shall order restitution pursuant to section 13-603,  
17 subsection C where there is a victim who has suffered economic loss. When

1 granting probation to an adult the court shall, as a condition of probation,  
2 assess a monthly fee of not less than forty dollars unless, after  
3 determining the inability of the probationer to pay the fee, the court  
4 assesses a lesser fee. In justice and municipal courts the fee shall only  
5 be assessed when the person is placed on supervised probation. For persons  
6 placed on probation in the superior court, the fee shall be paid to the clerk  
7 of the superior court and the clerk of the court shall pay all monies  
8 collected from this fee to the county treasurer for deposit in the adult  
9 probation services fund established by section 12-267. For persons placed  
10 on supervised probation in the justice court, the fee shall be paid to the  
11 justice court and the justice court shall transmit all of the monies to the  
12 county treasurer for deposit in the adult probation services fund established  
13 by section 12-267. For persons placed on supervised probation in the  
14 municipal court, the fee shall be paid to the municipal court. The municipal  
15 court shall transmit all of the monies to the city treasurer who shall  
16 transmit the monies to the county treasurer for deposit in the adult  
17 probation services fund established by section 12-267.

18 B. The period of probation shall be determined according to section  
19 13-902.

20 C. The court may in its discretion issue a warrant for the rearrest  
21 of the defendant and may modify or add to the conditions or, if the defendant  
22 commits an additional offense or violates a condition, may revoke probation  
23 in accordance with the rules of criminal procedure at any time prior to the  
24 expiration or termination of the period of probation. If the court revokes  
25 the defendant's probation and the defendant is serving more than one  
26 probationary term concurrently, the court may sentence the person to terms  
27 of imprisonment to be served consecutively.

28 D. At any time during the probationary term of the person released on  
29 probation, any probation officer may, without warrant or other process, at  
30 any time until the final disposition of the case, rearrest any person and  
31 bring the person before the court.

32 E. The court, on its own initiative or upon application of the  
33 probationer, after notice and an opportunity to be heard for the prosecuting  
34 attorney, and on request, the victim, may terminate the period of probation  
35 or intensive probation and discharge the defendant at a time earlier than  
36 that originally imposed if in the court's opinion the ends of justice will  
37 be served ~~by the early termination and discharge~~ and if the conduct of the  
38 defendant on probation warrants it.

39 F. When granting probation the court may require that the defendant  
40 be imprisoned in the county jail at whatever time or intervals, consecutive  
41 or nonconsecutive, the court shall determine, within the period of probation,  
42 as long as the period actually spent in confinement does not exceed one year  
43 or the maximum period of imprisonment permitted under chapter 7 of this  
44 title, whichever is the shorter.

1 G. If restitution is made a condition of probation, the court shall  
2 fix the amount of restitution and the manner of performance pursuant to the  
3 provisions of chapter 8 of this title.

4 H. When granting probation, the court shall set forth at the time of  
5 sentencing and on the record the factual and legal reasons in support of each  
6 sentence.

7 I. IF THE DEFENDANT MEETS THE CRITERIA SET FORTH IN SECTION 13-901.01  
8 OR 13-3422, THE COURT MAY PLACE THE DEFENDANT ON PROBATION PURSUANT TO EITHER  
9 SECTION. IF A DEFENDANT IS PLACED ON PROBATION PURSUANT TO SECTION 13-901.01  
10 OR 13-3422, THE COURT MAY IMPOSE ANY TERM OF PROBATION AUTHORIZED PURSUANT  
11 TO THIS SECTION.

12 Sec. 2. Repeal

13 Section 13-901, Arizona Revised Statutes, as amended by Laws 1997,  
14 chapter 104, section 1, is repealed.

15 Sec. 3. Section 13-3401, Arizona Revised Statutes, as amended by Laws  
16 1997, chapter 209, section 1, is amended to read:

17 13-3401. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Administer" means to apply, inject or facilitate the inhalation  
20 or ingestion of a substance to the body of a person.

21 2. "Amidone" means any substance identified chemically as  
22 (4-4-diphenyl-6-dimethylamine-heptanone-3), or any salt of such substance,  
23 by whatever trade name designated.

24 3. "Board" means the Arizona state board of pharmacy.

25 4. "Cannabis" means the following substances under whatever names they  
26 may be designated:

27 (a) The resin extracted from any part of a plant of the genus  
28 cannabis, and every compound, manufacture, salt, derivative, mixture or  
29 preparation of such plant, its seeds or its resin. Cannabis does not include  
30 oil or cake made from the seeds of such plant, any fiber, compound,  
31 manufacture, salt, derivative, mixture or preparation of the mature stalks  
32 of such plant except the resin extracted from the stalks or any fiber, oil  
33 or cake or the sterilized seed of such plant which is incapable of  
34 germination.

35 (b) Every compound, manufacture, salt, derivative, mixture or  
36 preparation of such resin or tetrahydrocannabinol.

37 5. "Coca leaves" means cocaine, its optical isomers and any compound,  
38 manufacture, salt, derivative, mixture or preparation of coca leaves, except  
39 derivatives of coca leaves which do not contain cocaine, ecgonine or  
40 substances from which cocaine or ecgonine may be synthesized or made.

41 6. "Dangerous drug" means the following by whatever official, common,  
42 usual, chemical or trade name designated:

1 (a) Any material, compound, mixture or preparation which contains any  
2 quantity of the following hallucinogenic substances and their salts, isomers  
3 and salts of isomers, unless specifically excepted, whenever the existence  
4 of such salts, isomers and salts of isomers is possible within the specific  
5 chemical designation:

- 6 (i) 4-bromo-2, 5-dimethoxyamphetamine.
- 7 (ii) Bufotenine.
- 8 (iii) Diethyltryptamine.
- 9 (iv) 2, 5-dimethoxyamphetamine.
- 10 (v) Dimethyltryptamine.
- 11 (vi) 5-methoxy-3, 4-methylenedioxyamphetamine.
- 12 (vii) 4-methyl-2, 5-dimethoxyamphetamine.
- 13 (viii) Ibogaine.
- 14 (ix) Lysergic acid amide.
- 15 (x) Lysergic acid diethylamide.
- 16 (xi) Mescaline.
- 17 (xii) Methoxymethylenedioxyamphetamine (MMDA).
- 18 (xiii) Methylenedioxyamphetamine (MDA).
- 19 (xiv) 3,4-methylenedioxyamphetamine.
- 20 (xv) 3,4-methylenedioxy-n-ethylamphetamine.
- 21 (xvi) N-ethyl-3-piperidyl benzilate (JB-318).
- 22 (xvii) N-hydroxy-3,4-methylenedioxyamphetamine.
- 23 (xviii) N-methyl-3-piperidyl benzilate (JB-336).
- 24 (xix) N-(1-phenylcyclohexyl) ethylamine (PCE).
- 25 (xx) Nabilone.
- 26 (xxi) 1-(1-phenylcyclohexyl) pyrrolidine (PHP).
- 27 (xxii) 1-(1-(2-thienyl)-cyclohexyl) piperidine (TCP).
- 28 (xxiii) 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine.
- 29 (xxiv) Para-methoxyamphetamine (PMA).
- 30 (xxv) Psilocybin.
- 31 (xxvi) Psilocyn.
- 32 (xxvii) Synhexyl.
- 33 (xxviii) Trimethoxyamphetamine (TMA).

34 (b) Any material, compound, mixture or preparation which contains any  
35 quantity of the following substances and their salts, optical isomers, and  
36 salts of optical isomers having a potential for abuse associated with a  
37 stimulant effect on the central nervous system:

- 38 (i) Amphetamine.
- 39 (ii) Benzphetamine.
- 40 (iii) Cathine (+(4)-norpseudoephedrine).
- 41 (iv) Chlorphentermine.
- 42 (v) Clortermine.
- 43 (vi) Diethylpropion.
- 44 (vii) Fencamfamin.

- 1 (viii) Fenethylamine.
- 2 (ix) Fenproporex.
- 3 (x) Mazindol.
- 4 (xi) Mefenorex.
- 5 (xii) Methamphetamine.
- 6 (xiii) 4-methylaminorex.
- 7 (xiv) Methylphenidate.
- 8 (xv) N-ethylamphetamine.
- 9 (xvi) N,N-dimethylamphetamine.
- 10 (xvii) Pemoline.
- 11 (xviii) Phendimetrazine.
- 12 (xix) Phenmetrazine.
- 13 (xx) Phentermine.
- 14 (xxi) Pipradol.
- 15 (xxii) Propylhexedrine.
- 16 (xxiii) Pyrovalerone.
- 17 (xxiv) Spa ((-)-1-dimethylamino-1,2-diphenylethane).
- 18 (c) Any material, compound, mixture or preparation which contains any
- 19 quantity of the following substances having a potential for abuse associated
- 20 with a depressant effect on the central nervous system:
- 21 (i) Any substance which contains any quantity of a derivative of
- 22 barbituric acid, or any salt of a derivative of barbituric acid, unless
- 23 specifically excepted.
- 24 (ii) Alprazolam.
- 25 (iii) Bromazepam.
- 26 (iv) Camazepam.
- 27 (v) Chloral betaine.
- 28 (vi) Chloral hydrate.
- 29 (vii) Chlordiazepoxide.
- 30 (viii) Chlorhexadol.
- 31 (ix) Clobazam.
- 32 (x) Clonazepam.
- 33 (xi) Clorazepate.
- 34 (xii) Clotiazepam.
- 35 (xiii) Cloxazolam.
- 36 (xiv) Delorazepam.
- 37 (xv) Diazepam.
- 38 (xvi) Estazolam.
- 39 (xvii) Ethchlorvynol.
- 40 (xviii) Ethinamate.
- 41 (xix) Ethyl loflazepate.
- 42 (xx) Fenfluramine.
- 43 (xxi) Fludiazepam.
- 44 (xxii) Flunitrazepam.

- 1 (xxiii) Flurazepam.
- 2 (xxiv) Glutethimide.
- 3 (xxv) Halazepam.
- 4 (xxvi) Haloxazolam.
- 5 (xxvii) Ketamine.
- 6 (xxviii) Ketazolam.
- 7 (xxix) Loprazolam.
- 8 (xxx) Lorazepam.
- 9 (xxxi) Lormetazepam.
- 10 (xxxii) Lysergic acid.
- 11 (xxxiii) Mebutamate.
- 12 (xxxiv) Mecloqualone.
- 13 (xxxv) Medazepam.
- 14 (xxxvi) Meprobamate.
- 15 (xxxvii) Methaqualone.
- 16 (xxxviii) Methyprylon.
- 17 (xxxix) Midazolam.
- 18 (xl) Nimetazepam.
- 19 (xli) Nitrazepam.
- 20 (xlii) Nordiazepam.
- 21 (xliii) Oxazepam.
- 22 (xliv) Oxazolam.
- 23 (xlv) Paraldehyde.
- 24 (xlvi) Petrichloral.
- 25 (xlvii) Phencyclidine.
- 26 (xlviii) Pinazepam.
- 27 (xlix) Prazepam.
- 28 (l) Scopolamine.
- 29 (li) Sulfondiethylmethane.
- 30 (lii) Sulfonethylmethane.
- 31 (liii) Sulfonmethane.
- 32 (liv) Quazepam.
- 33 (lv) Temazepam.
- 34 (lvi) Tetrazepam.
- 35 (lvii) Tiletamine.
- 36 (lviii) Triazolam.
- 37 (lix) Zolazepam.
- 38 (d) Any material, compound, mixture or preparation which contains any
- 39 quantity of the following anabolic ~~steriods~~ STEROIDS and their salts, isomers
- 40 or esters:
- 41 (i) Boldenone.
- 42 (ii) Clostebol (4-Chlorotestosterone).
- 43 (iii) Dehydrochloromethyltestosterone.

- 1 (iv) Drostanolone.
- 2 (v) Ethylestrenol.
- 3 (vi) Fluoxymesterone.
- 4 (vii) Formebolone (Formebolone).
- 5 (viii) Mesterolone.
- 6 (ix) Methandriol.
- 7 (x) Methandrostenolone (Methandienone).
- 8 (xi) Methenolone.
- 9 (xii) Methyltestosterone.
- 10 (xiii) Mibolerone.
- 11 (xiv) Nandrolone.
- 12 (xv) Norethandrolon.
- 13 (xvi) Oxandrolone.
- 14 (xvii) Oxymesterone.
- 15 (xviii) Oxymetholone.
- 16 (xix) Stanolone (4-Dihydrotestosterone).
- 17 (xx) Stanozolol.
- 18 (xxi) Testolactone.
- 19 (xxii) Testosterone.
- 20 (xxiii) Trenbolone.

21 7. "Deliver" means the actual, constructive or attempted exchange from  
22 one person to another, whether or not there is an agency relationship.

23 8. "Director" means the director of the department of health services.

24 9. "Dispense" means distribute, leave with, give away, dispose of or  
25 deliver.

26 10. "DRUG COURT PROGRAM" MEANS A PROGRAM THAT IS ESTABLISHED BY THE  
27 PRESIDING JUDGE OF THE SUPERIOR COURT IN A COUNTY FOR THE PURPOSE OF  
28 PROSECUTING AND TREATING DRUG DEPENDENT PERSONS WHO MEET GUIDELINES THAT ARE  
29 ESTABLISHED BY THE PRESIDING JUDGE AND THE PROSECUTOR.

30 11. "DRUG DEPENDENT PERSON" MEANS A PERSON WHO IS USING A SUBSTANCE  
31 THAT IS LISTED IN PARAGRAPH 6, 18, 19, 20 OR 26 OF THIS SECTION AND WHO IS  
32 IN A STATE OF PSYCHOLOGICAL OR PHYSICAL DEPENDENCE, OR BOTH, ARISING FROM THE  
33 USE OF THAT SUBSTANCE.

34 ~~10-~~ 12. "Isoamidone" means any substance identified chemically as  
35 (4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3), or any salt of such  
36 substance, by whatever trade name designated.

37 ~~11-~~ 13. "Isonipecaïne" means any substance identified chemically as  
38 (1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester), or any salt of  
39 such substance, by whatever trade name designated.

40 ~~12-~~ 14. "Ketobemidone" means any substance identified chemically as  
41 (4-(3-hydroxyphenyl)-1-methyl-4-piperidylethyl ketone hydrochloride), or any  
42 salt of such substance, by whatever trade name designated.

1           ~~13.~~ 15. "Licensed" means authorized by the laws of this state to do  
2 certain things.

3           ~~14.~~ 16. "Manufacture" means produce, prepare, propagate, compound, mix  
4 or process, directly or indirectly, by extraction from substances of natural  
5 origin or independently by means of chemical synthesis, or by a combination  
6 of extraction and chemical synthesis. Manufacture includes any packaging or  
7 repackaging or labeling or relabeling of containers. Manufacture does not  
8 include any producing, preparing, propagating, compounding, mixing,  
9 processing, packaging or labeling done in conformity with applicable state  
10 and local laws and rules by a licensed practitioner incident to and in the  
11 course of his licensed practice.

12           ~~15.~~ 17. "Manufacturer" means a person who manufactures a narcotic or  
13 dangerous drug or other substance controlled by this chapter.

14           ~~16.~~ 18. "Marijuana" means all parts of any plant of the genus  
15 cannabis, from which the resin has not been extracted, whether growing or  
16 not, and the seeds of such plant. Marijuana does not include the mature  
17 stalks of such plant or the sterilized seed of such plant which is incapable  
18 of germination.

19           ~~17.~~ 18. "Narcotic drugs" means the following, whether of natural or  
20 synthetic origin and any substance neither chemically nor physically  
21 distinguishable from them:

- 22           (a) Acetyl-alpha-methylfentanyl.
- 23           (b) Acetylmethadol.
- 24           (c) Alfentanil.
- 25           (d) Allylprodine.
- 26           (e) Alphacetylmethadol.
- 27           (f) Alphameprodine.
- 28           (g) Alphamethadol.
- 29           (h) Alpha-methylfentanyl.
- 30           (i) Alpha-methylthiofentanyl.
- 31           (j) Alphaprodine.
- 32           (k) Amidone (methadone).
- 33           (l) Anileridine.
- 34           (m) Benzethidine.
- 35           (n) Benzylfentanyl.
- 36           (o) Betacetylmethadol.
- 37           (p) Beta-hydroxyfentanyl.
- 38           (q) Beta-hydroxy-3-methylfentanyl.
- 39           (r) Betameprodine.
- 40           (s) Betamethadol.
- 41           (t) Betaprodine.
- 42           (u) Bezitramide.
- 43           (v) Buprenorphine and its salts.

- 1 (w) Cannabis.
- 2 (x) Carfentanil.
- 3 (y) Clonitazene.
- 4 (z) Coca leaves.
- 5 (aa) Dextromoramide.
- 6 (bb) Dextropropoxyphene.
- 7 (cc) Diampromide.
- 8 (dd) Diethylthiambutene.
- 9 (ee) DifenoXin.
- 10 (ff) Dihydrocodeine.
- 11 (gg) Dimenoxadol.
- 12 (hh) DimepHeptanol.
- 13 (ii) Dimethylthiambutene.
- 14 (jj) Dioxaphetyl butyrate.
- 15 (kk) Diphenoxylate.
- 16 (ll) Dipipanone.
- 17 (mm) Ethylmethylthiambutene.
- 18 (nn) Etonitazene.
- 19 (oo) EtoXeridine.
- 20 (pp) Fentanyl.
- 21 (qq) Furethidine.
- 22 (rr) Hydroxypethidine.
- 23 (ss) Isoamidone (isomethadone).
- 24 (tt) Isonipecaine (meperidine).
- 25 (uu) Ketobemidone.
- 26 (vv) Levomethorphan.
- 27 (ww) Levomoramide.
- 28 (xx) Levophenacylmorphane.
- 29 (yy) Levorphanol.
- 30 (zz) Metazocine.
- 31 (aaa) 3-methylfentanyl.
- 32 (bbb) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
- 33 (ccc) 3-Methylthiofentanyl.
- 34 (ddd) Morpheridine.
- 35 (eee) Noracymethadol.
- 36 (fff) Norlevorphanol.
- 37 (ggg) Normethadone.
- 38 (hhh) Norpipanone.
- 39 (iii) Opium.
- 40 (jjj) Para-fluorofentanyl.
- 41 (kkk) Pentazocine.
- 42 (lll) Phenadoxone.
- 43 (mmm) Phenampromide.
- 44 (nnn) Phenazocine.

- 1 (ooo) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
- 2 (ppp) Phenomorphan.
- 3 (qqq) Phenoperidine.
- 4 (rrr) Piminodine.
- 5 (sss) Piritramide.
- 6 (ttt) Proheptazine.
- 7 (uuu) Properidine.
- 8 (vvv) Propiram.
- 9 (www) Racemethorphan.
- 10 (xxx) Racemoramide.
- 11 (yyy) Racemorphan.
- 12 (zzz) Sufentanil.
- 13 (aaaa) Thenylfentanyl.
- 14 (bbbb) Thiofentanyl.
- 15 (cccc) Tilidine.
- 16 (dddd) Trimeperidine.
- 17 ~~18~~ 20. "Opium" means any compound, manufacture, salt, isomer, salt
- 18 of isomer, derivative, mixture or preparation of the following, but does not
- 19 include apomorphine or any of its salts:
- 20 (a) Acetorphine.
- 21 (b) Acetyldihydrocodeine.
- 22 (c) Benzylmorphine.
- 23 (d) Codeine.
- 24 (e) Codeine methylbromide.
- 25 (f) Codeine-n-oxide.
- 26 (g) Cyprenorphine.
- 27 (h) Desomorphine.
- 28 (i) Dihydromorphine.
- 29 (j) Drotebanol.
- 30 (k) Ethylmorphine.
- 31 (l) Etorphine.
- 32 (m) Heroin.
- 33 (n) Hydrocodone.
- 34 (o) Hydromorphanol.
- 35 (p) Hydromorphone.
- 36 (q) Methyldesorphine.
- 37 (r) Methyldihydromorphine.
- 38 (s) Metopon.
- 39 (t) Morphine.
- 40 (u) Morphine methylbromide.
- 41 (v) Morphine methylsulfonate.
- 42 (w) Morphine-n-oxide.
- 43 (x) Myrophine.

- 1 (y) Nalorphine.
- 2 (z) Nicocodeine.
- 3 (aa) Nicomorphine.
- 4 (bb) Normorphine.
- 5 (cc) Oxycodone.
- 6 (dd) Oxymorphone.
- 7 (ee) Pholcodine.
- 8 (ff) Thebacon.
- 9 (gg) Thebaine.

10 ~~19-~~ 21. "Peyote" means any part of a plant of the genus lophophora,  
11 known as the mescal button.

12 ~~20-~~ 22. "Pharmacy" means a licensed business where drugs are  
13 compounded or dispensed by a licensed pharmacist.

14 ~~21-~~ 23. "Practitioner" means a person licensed to prescribe and  
15 administer drugs.

16 ~~22-~~ 24. "Precursor chemical I" means any material, compound, mixture  
17 or preparation which contains any quantity of the following substances and  
18 their salts, optical isomers or salts of optical isomers:

- 19 (a) N-acetylanthranilic acid.
- 20 (b) Anthranilic acid.
- 21 (c) Ephedrine.
- 22 (d) Ergotamine.
- 23 (e) Isosafrole.
- 24 (f) Lysergic acid.
- 25 (g) Methylamine.
- 26 (h) Phenylacetic acid.
- 27 (i) Piperidine.

28 ~~23-~~ 25. "Precursor chemical II" means any material, compound, mixture  
29 or preparation which contains any quantity of the following substances and  
30 their salts, optical isomers or salts of optical isomers:

- 31 (a) 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
- 32 (b) 4-cyano-1-methyl-4-phenylpiperidine.
- 33 (c) Ethyl-4-phenylpiperidine-4-carboxylate.
- 34 (d) 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
- 35 (e) 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- 36 (f) N-formyl amphetamine.
- 37 (g) N-formyl methamphetamine.
- 38 (h) Phenyl-2-propanone.
- 39 (i) 1-piperidinocyclohexane carbonitrile.
- 40 (j) 1-pyrrolidinocyclohexane carbonitrile.

41 ~~24-~~ 26. "Prescription-only drug" does not include a dangerous drug or  
42 narcotic drug but means:

1 (a) Any drug which because of its toxicity or other potentiality for  
2 harmful effect, or the method of its use, or the collateral measures  
3 necessary to its use, is not generally recognized among experts, qualified  
4 by scientific training and experience to evaluate its safety and efficacy,  
5 as safe for use except by or under the supervision of a medical practitioner.

6 (b) Any drug that is limited by an approved new drug application under  
7 the federal act, as defined in section 32-1901, or section 32-1962 to use  
8 under the supervision of a medical practitioner.

9 (c) Every potentially harmful drug, the labeling of which does not  
10 bear or contain full and adequate directions for use by the consumer.

11 (d) Any drug required by the federal act as defined in section 32-1901  
12 to bear on its label the legend "Caution: Federal law prohibits dispensing  
13 without prescription".

14 ~~25-~~ 27. "Produce" means grow, plant, cultivate, harvest, dry, process  
15 or prepare for sale.

16 ~~26-~~ 28. "Sale" or "sell" means an exchange for anything of value or  
17 advantage, present or prospective.

18 ~~27-~~ 29. "Scientific purpose" means research, teaching or chemical  
19 analysis.

20 ~~28-~~ 30. "Threshold amount" means a weight, market value or other form  
21 of measurement of an unlawful substance as follows:

22 (a) One gram of heroin.

23 (b) Nine grams of cocaine.

24 (c) Seven hundred fifty milligrams of cocaine base or hydrolyzed  
25 cocaine.

26 (d) Four grams or 50 milliliters of PCP.

27 (e) Nine grams of methamphetamine.

28 (f) Nine grams of amphetamine.

29 (g) One-half milliliter of lysergic acid diethylamide, or in the case  
30 of blotter dosage units fifty dosage units.

31 (h) Two pounds of marijuana.

32 (i) For any combination consisting solely of those unlawful substances  
33 listed in subdivisions (a) through (h) of this paragraph, an amount equal to  
34 or in excess of the threshold amount, as determined by the application of  
35 section 13-3420.

36 (j) For any unlawful substance not listed in subdivisions (a) through  
37 (h) of this paragraph or any combination involving any unlawful substance not  
38 listed in subdivisions (a) through (h) of this paragraph, a value of at least  
39 one thousand dollars.

40 ~~29-~~ 31. "Transfer" means furnish, deliver or give away.

41 ~~30-~~ 32. "Vapor-releasing substance containing a toxic substance" means  
42 paint or varnish dispensed by the use of aerosol spray, or any glue, which  
43 releases vapors or fumes containing acetone, volatile acetates, benzene,

1 butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl  
2 alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene,  
3 volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide,  
4 xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, mek or diacetone  
5 alcohol or isobutyl nitrite.

6 ~~31-~~ 33. "Weight" unless otherwise specified includes the entire weight  
7 of any mixture or substance that contains a detectable amount of an unlawful  
8 substance. If a mixture or substance contains more than one unlawful  
9 substance, the weight of the entire mixture or substance is assigned to the  
10 unlawful substance that results in the greater offense. If a mixture or  
11 substance contains lysergic acid diethylamide, the offense that results from  
12 the unlawful substance shall be based on the greater offense as determined  
13 by the entire weight of the mixture or substance or the number of blotter  
14 dosage units. For the purposes of this paragraph, "mixture" means any  
15 combination of substances from which the unlawful substance cannot be removed  
16 without a chemical process.

17 ~~32-~~ 34. "Wholesaler" means a person who in the usual course of  
18 business lawfully supplies narcotic or dangerous drugs that he himself has  
19 not produced or prepared, but not on prescriptions.

20 Sec. 4. Repeal

21 A. Section 13-3401, Arizona Revised Statutes, as amended by Laws 1997,  
22 chapter 104, section 3, is repealed.

23 B. Section 13-3422, Arizona Revised Statutes, as added by Laws 1997,  
24 chapter 104, section 5, is repealed.

25 Sec. 5. Title 13, chapter 34, Arizona Revised Statutes, is amended by  
26 adding a new section 13-3422, to read:

27 13-3422. Drug court programs; establishment; participation

28 A. THE PRESIDING JUDGE OF THE SUPERIOR COURT IN EACH COUNTY MAY  
29 ESTABLISH A DRUG COURT PROGRAM. CASES ASSIGNED TO A DRUG COURT PROGRAM MAY  
30 CONSIST OF DEFENDANTS WHO ARE DRUG DEPENDENT PERSONS AND WHO ARE CHARGED WITH  
31 A PROBATION ELIGIBLE OFFENSE UNDER THIS CHAPTER, INCLUDING PREPARATORY  
32 OFFENSES.

33 B. A DEFENDANT MAY BE ADMITTED INTO A DRUG COURT PROGRAM ONLY ON THE  
34 AGREEMENT OF THE COURT AND THE PROSECUTOR.

35 C. A DEFENDANT IS NOT ELIGIBLE FOR ENTRY INTO A DRUG COURT PROGRAM  
36 PURSUANT TO SUBSECTIONS E AND G OF THIS SECTION IF ANY OF THE FOLLOWING  
37 APPLIES:

38 1. THE DEFENDANT HAS BEEN CONVICTED OF A SERIOUS OFFENSE AS DEFINED  
39 IN SECTION 13-604.

40 2. THE DEFENDANT HAS BEEN CONVICTED OF AN OFFENSE UNDER CHAPTER 14 OF  
41 THIS TITLE.

42 3. THE DEFENDANT HAS BEEN CONVICTED OF AN OFFENSE INVOLVING THE  
43 DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS

1 INSTRUMENT OR THE INTENTIONAL OR KNOWING INFLICTION OF SERIOUS PHYSICAL  
2 INJURY.

3 4. THE DEFENDANT HAS COMPLETED OR PREVIOUSLY BEEN TERMINATED FROM A  
4 DRUG COURT PROGRAM.

5 D. FOR THE PURPOSES OF SUBSECTION C OF THIS SECTION, THE AGE OF THE  
6 CONVICTION DOES NOT MATTER.

7 E. NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF A DEFENDANT WHO IS  
8 ASSIGNED TO A DRUG COURT PROGRAM IS FOUND GUILTY OF AN OFFENSE AND PROBATION  
9 IS OTHERWISE AVAILABLE, THE COURT, WITHOUT ENTERING A JUDGMENT OF GUILT AND  
10 WITH THE CONCURRENCE OF THE PROSECUTOR AND THE DEFENDANT, MAY DEFER FURTHER  
11 PROCEEDINGS AND PLACE THE DEFENDANT ON PROBATION. THE TERMS AND CONDITIONS  
12 OF PROBATION SHALL PROVIDE FOR THE TREATMENT OF THE DRUG DEPENDENT PERSON AND  
13 SHALL INCLUDE ANY OTHER CONDITIONS AND REQUIREMENTS THAT THE COURT DEEMS  
14 APPROPRIATE, INCLUDING THE IMPOSITION OF A FINE, PAYMENT OF FEES AND ANY  
15 OTHER TERMS AND CONDITIONS AS PROVIDED BY LAW.

16 F. IF THE DEFENDANT IS PLACED ON PROBATION PURSUANT TO SUBSECTION E  
17 OF THIS SECTION AND THE DEFENDANT VIOLATES A TERM OR CONDITION OF PROBATION,  
18 THE COURT MAY TERMINATE THE DEFENDANT'S PARTICIPATION IN THE DRUG COURT  
19 PROGRAM, ENTER AN ADJUDICATION OF GUILT AND REVOKE THE DEFENDANT'S PROBATION.

20 G. IF THE DEFENDANT IS PLACED ON PROBATION PURSUANT TO SUBSECTION E  
21 OF THIS SECTION, ON FULFILLMENT OF THE TERMS AND CONDITIONS OF PROBATION, THE  
22 COURT MAY DISCHARGE THE DEFENDANT AND DISMISS THE PROCEEDINGS AGAINST THE  
23 DEFENDANT OR MAY DISPOSE OF THE CASE AS PROVIDED BY LAW.

24 H. A DEFENDANT IS NOT ELIGIBLE FOR DISMISSAL OF PROCEEDINGS PURSUANT  
25 TO SUBSECTION G OF THIS SECTION IF THE DEFENDANT IS CONVICTED OF AN OFFENSE  
26 OTHER THAN AN OFFENSE INVOLVING A VIOLATION OF SECTION 13-3405, SUBSECTION  
27 A, PARAGRAPH 1, SECTION 13-3406, SUBSECTION A, PARAGRAPH 1, SECTION 13-3407,  
28 SUBSECTION A, PARAGRAPH 1 OR SECTION 13-3408, SUBSECTION A, PARAGRAPH 1,  
29 INCLUDING PREPARATORY OFFENSES.

30 I. IF THE DEFENDANT IS PLACED ON PROBATION PURSUANT TO SUBSECTION E  
31 OF THIS SECTION AND THE DEFENDANT FAILS TO FULFILL THE TERMS AND CONDITIONS  
32 OF PROBATION, THE COURT SHALL ENTER AN ADJUDICATION OF GUILT AND SENTENCE THE  
33 DEFENDANT AS PROVIDED BY LAW.

34 J. IF A DEFENDANT CHOOSES NOT TO PARTICIPATE IN A DRUG COURT PROGRAM,  
35 THE DEFENDANT SHALL BE PROSECUTED AS PROVIDED BY LAW.

36 M. THIS SECTION DOES NOT PROHIBIT A COURT FROM ESTABLISHING A DRUG  
37 COURT WITH OTHER TERMS AND CONDITIONS, INCLUDING REQUIRING A DEFENDANT TO  
38 PARTICIPATE IN A DRUG COURT PROGRAM SUBSEQUENT TO THE ENTRY OF JUDGMENT OF  
39 GUILT AND SENTENCING.