



COCONINO COUNTY ARIZONA

OFFICE OF THE COUNTY ATTORNEY

TO: Citizens of Coconino County
Coconino County Law Enforcement Agencies

FROM: William P. Ring, Coconino County Attorney

DATE: December 1, 2020

RE: Implementation of Prop 207

Implementing the Arizona Proposition 207 Initiative (“Prop 207”)

On November 30, 2020, Governor Doug Ducey certified the results of the Arizona general election, making Prop 207 the law in the State of Arizona.

Prop 207’s main purposes are to: (1) create a framework for the lawful sale of marijuana products; and: (2) make it possible for consumers to legally possess small quantities of marijuana products. Note that, under Prop 207, the term “marijuana” includes the plant as well as the many different reductions of the plant into more potent forms of the active ingredient: tetrahydrocannabinol (THC).

Going forward, the legalized marijuana marketplace will be regulated by the Arizona Department of Health Services. Still, criminal conduct with marijuana products will occur and those incidents will be investigated and prosecuted by local law enforcement including the Coconino County Attorney’s Office.

As set forth below, CCAO intends to prosecute drug crimes consistent with Prop 207 and the Criminal Code, where possession in excess of allowed amounts, transportation, distribution for sale, and sale of marijuana and marijuana products are concerned. CCAO retains the discretion to deviate from these general guidelines when the circumstances and public safety needs require it. Our mission remains the same. We will enforce the law while being mindful of the rights and liberties of citizens, and we will protect the public and the victims of crime.

Please note that these guidelines may change over time as we encounter unanticipated circumstances in the application of Prop 207.

Finally, this document is NOT designed to describe to individual citizens or organizations or businesses what can be done legally with marijuana and marijuana products. It is not intended to be, nor should it be, construed as legal advice. It is not a substitute for reading Proposition 207 and/or asking your lawyer for legal advice.

For persons 18 years of age and over:

- Possession of marijuana, not held for sale, with a weight of at least 2.5 oz. but less than 2 pounds. Class 6 Felony, but designation as a Class 1 Misdemeanor is presumptive, unless the facts warrant the greater consequence.
- All other marijuana offenses, involving a weight in excess of 2 pounds, Standard felony prosecution as set for in Title 13, Chapter 34.
- All marijuana concentrates (including cannabis where cannabis is defined in ARS 13-3401(4) & (20)(w) and weighed as set forth in ARS 13-3401(39)) involving a weight in excess of 12.5 grams, Standard felony prosecution as set forth in Title 13, chapter 34.
- Driving while being impaired to the slightest degree by THC. Class 1 Misdemeanor under ARS 28-1381 (first & second DUI offense); or Class 4 Felony under ARS 28-1383.
- Public Smoking Marijuana or concentrates or cannabis, petty offense.

The following are NOT subject to prosecution under Prop 207:

- Possession of marijuana under 1 oz, including 5g of marijuana concentrates or cannabis (as defined in ARS 36—2850(16) &(17), the weight of which is set by the method described in ARS 36-2850(16)(c).
- Possession of drug paraphernalia associated with the personal use of marijuana and marijuana concentrates/cannabis.
- Cultivating 6 marijuana plants per adult (but no more than 12 plants per household); enforcement of growth restrictions are the responsibility of ADHS.
- Transfer as a gift of 1oz of MJ, including 5g of cannabis/concentrate, to an adult.

For persons under 18 years of age:

- In conjunction with the efforts of the Juvenile Probation Department of the Superior Court, all offenses listed in ARS 36-2851 & 2853(B) and those listed in Title 13, chapter 34 will be prosecuted when and to the extent it is in the best interests of the juvenile and public safety to do so.

Conclusion.

Prop 207 calls itself the “Smart and Safe Arizona Act”. The Proposition is neither smart nor safe. Nonetheless, The Coconino County Attorney’s Office will uphold the law by interpreting and applying the law as it is written. Where we have the authority to prosecute, we will generally abide by the direction set forth above. And we will continue

to exercise discretion to adjust our perspective: (1) On a case by case basis as the circumstances of each case requires; and (2) over time as we see the effects of Prop 207 on our community.

If you are a juvenile under the age of 18 stay away from marijuana and marijuana products. If you are an adult of 18 years or older then act responsibly and expect to be held accountable for your criminal conduct.

To summarize, Prop 207 creates a marijuana marketplace regulated by the Arizona Department of Health Services. But there are legal boundaries. If you intend to possess and use marijuana products make yourself acquainted with the Act. Do not acquaint yourself with the Act simply by reading this prosecutorial disclosure and working backwards from the consequences. If you have questions about your rights and the limits of your opportunities, please seek the advice of a lawyer.