

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

Senate Engrossed House Bill

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

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)

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

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

4 13-702. Sentencing

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

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

18 B. The upper or lower term imposed pursuant to section 13-604,
19 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may
20 be imposed only if the circumstances alleged to be in aggravation or
21 mitigation of the crime are found to be true by the trial judge on any
22 evidence or information introduced or submitted to the court before
23 sentencing or any evidence previously heard by the judge at the trial, and
24 factual findings and reasons in support of such findings are set forth on the
25 record at the time of sentencing.

26 C. For the purpose of determining the sentence pursuant to section
27 13-710 and subsection A of this section, the court shall consider the
28 following aggravating circumstances:

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

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

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

39 4. Presence of an accomplice.
40

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

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

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

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

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

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

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

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

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

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

27 15. Evidence that the defendant committed the crime out of malice
28 toward a victim because of the victim's identity in a group listed in section
29 41-1750, subsection A, paragraph 3 or because of the defendant's perception
30 of the victim's identity in a group listed in section 41-1750, subsection A,
31 paragraph 3.

32 16. The defendant was convicted of a violation of section 13-1102,
33 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
34 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
35 committed while driving a motor vehicle and the defendant's alcohol
36 concentration at the time of committing the offense was 0.15 or more. For
37 the purposes of this paragraph, "alcohol concentration" has the same meaning
38 prescribed in section 28-101.

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

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

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

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

3 21. THE DEFENDANT USED A REMOTE STUN GUN OR A PERMITTED REMOTE STUN GUN
4 IN THE COMMISSION OF THE OFFENSE. FOR THE PURPOSES OF THIS PARAGRAPH:

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

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

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

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

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

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

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

24 D. For the purpose of determining the sentence pursuant to section
25 13-710 and subsection A of this section, the court shall consider the
26 following mitigating circumstances:

27 1. The age of the defendant.

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

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

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

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

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

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

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

5 G. Notwithstanding any other provision of this title, if a person is
6 convicted of any class 6 felony not involving the intentional or knowing
7 infliction of serious physical injury or the discharge, use or threatening
8 exhibition of a deadly weapon or dangerous instrument and if the court,
9 having regard to the nature and circumstances of the crime and to the history
10 and character of the defendant, is of the opinion that it would be unduly
11 harsh to sentence the defendant for a felony, the court may enter judgment of
12 conviction for a class 1 misdemeanor and make disposition accordingly or may
13 place the defendant on probation in accordance with chapter 9 of this title
14 and refrain from designating the offense as a felony or misdemeanor until the
15 probation is terminated. The offense shall be treated as a felony for all
16 purposes until such time as the court may actually enter an order designating
17 the offense a misdemeanor. This subsection does not apply to any person who
18 stands convicted of a class 6 felony and who has previously been convicted of
19 two or more felonies. If a crime or public offense is punishable in the
20 discretion of the court by a sentence as a class 6 felony or a class 1
21 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting
22 attorney:

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

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

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

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

31 13-703. Sentence of death or life imprisonment; aggravating and
32 mitigating circumstances; definition

33 A. If the state has filed a notice of intent to seek the death penalty
34 and the defendant is convicted of first degree murder as defined in section
35 13-1105, the defendant shall be sentenced to death or imprisonment in the
36 custody of the state department of corrections for life or natural life as
37 determined and in accordance with the procedures provided in section
38 13-703.01. A defendant who is sentenced to natural life is not eligible for
39 commutation, parole, work furlough, work release or release from confinement
40 on any basis. If the defendant is sentenced to life, the defendant shall not
41 be released on any basis until the completion of the service of twenty-five
42 calendar years if the murdered person was fifteen or more years of age and
43 thirty-five years if the murdered person was under fifteen years of age.

44 B. At the aggravation phase of the sentencing proceeding that is held
45 pursuant to section 13-703.01, the admissibility of information relevant to
46 any of the aggravating circumstances set forth in subsection F of this

1 section shall be governed by the rules of evidence applicable to criminal
2 trials. The burden of establishing the existence of any of the aggravating
3 circumstances set forth in subsection F of this section is on the
4 prosecution. The prosecution must prove the existence of the aggravating
5 circumstances beyond a reasonable doubt.

6 C. At the penalty phase of the sentencing proceeding that is held
7 pursuant to section 13-703.01, the prosecution or the defendant may present
8 any information that is relevant to any of the mitigating circumstances
9 included in subsection G of this section, regardless of its admissibility
10 under the rules governing admission of evidence at criminal trials. The
11 burden of establishing the existence of the mitigating circumstances included
12 in subsection G of this section is on the defendant. The defendant must
13 prove the existence of the mitigating circumstances by a preponderance of the
14 evidence. If the trier of fact is a jury, the jurors do not have to agree
15 unanimously that a mitigating circumstance has been proven to exist. Each
16 juror may consider any mitigating circumstance found by that juror in
17 determining the appropriate penalty.

18 D. Evidence that is admitted at the trial and that relates to any
19 aggravating or mitigating circumstances shall be deemed admitted as evidence
20 at a sentencing proceeding if the trier of fact considering that evidence is
21 the same trier of fact that determined the defendant's guilt. The
22 prosecution and the defendant shall be permitted to rebut any information
23 received at the aggravation or penalty phase of the sentencing proceeding and
24 shall be given fair opportunity to present argument as to whether the
25 information is sufficient to establish the existence of any of the
26 circumstances included in subsections F and G of this section.

27 E. In determining whether to impose a sentence of death or life
28 imprisonment, the trier of fact shall take into account the aggravating and
29 mitigating circumstances that have been proven. The trier of fact shall
30 impose a sentence of death if the trier of fact finds one or more of the
31 aggravating circumstances enumerated in subsection F of this section and then
32 determines that there are no mitigating circumstances sufficiently
33 substantial to call for leniency.

34 F. The trier of fact shall consider the following aggravating
35 circumstances in determining whether to impose a sentence of death:

36 1. The defendant has been convicted of another offense in the United
37 States for which under Arizona law a sentence of life imprisonment or death
38 was imposable.

39 2. The defendant has been or was previously convicted of a serious
40 offense, whether preparatory or completed. Convictions for serious offenses
41 committed on the same occasion as the homicide, or not committed on the same
42 occasion but consolidated for trial with the homicide, shall be treated as a
43 serious offense under this paragraph.

44 3. In the commission of the offense the defendant knowingly created a
45 grave risk of death to another person or persons in addition to the person
46 murdered during the commission of the offense.

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

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

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

7 7. The defendant committed the offense while:

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

11 (b) On probation for a felony offense.

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

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

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

21 11. THE DEFENDANT USED A REMOTE STUN GUN OR A PERMITTED REMOTE STUN GUN
22 IN THE COMMISSION OF THE OFFENSE. FOR THE PURPOSES OF THIS PARAGRAPH:

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

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

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

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

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

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

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

45 1. The defendant's capacity to appreciate the wrongfulness of his
46 conduct or to conform his conduct to the requirements of law was

1 significantly impaired, but not so impaired as to constitute a defense to
2 prosecution.

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

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

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

12 5. The defendant's age.

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

17 1. First degree murder.

18 2. Second degree murder.

19 3. Manslaughter.

20 4. Aggravated assault resulting in serious physical injury or
21 committed by the use, threatened use or exhibition of a deadly weapon or
22 dangerous instrument.

23 5. Sexual assault.

24 6. Any dangerous crime against children.

25 7. Arson of an occupied structure.

26 8. Robbery.

27 9. Burglary in the first degree.

28 10. Kidnapping.

29 11. Sexual conduct with a minor under fifteen years of age.

30 Sec. 3. Section 13-1204, Arizona Revised Statutes, is amended to read:
31 13-1204. Aggravated assault; classification; definition

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

34 1. If the person causes serious physical injury to another.

35 2. If the person uses a deadly weapon or dangerous instrument.

36 3. If the person commits the assault after entering the private home
37 of another with the intent to commit the assault.

38 4. If the person is eighteen years of age or older and commits the
39 assault upon a child the age of fifteen years or under.

40 5. If the person commits the assault knowing or having reason to know
41 that the victim is a peace officer, or a person summoned and directed by the
42 officer while engaged in the execution of any official duties.

43 6. IF THE PERSON KNOWINGLY TAKES OR ATTEMPTS TO EXERCISE CONTROL OVER
44 A PEACE OFFICER'S OR OTHER OFFICER'S FIREARM AND THE PERSON KNOWS OR HAS
45 REASON TO KNOW THAT THE VICTIM IS A PEACE OFFICER OR OTHER OFFICER EMPLOYED
46 BY ONE OF THE AGENCIES LISTED IN PARAGRAPH 10, SUBDIVISION (a), ITEM (i),

1 (ii), (iii), (iv) OR (v) OF THIS SUBSECTION AND IS ENGAGED IN THE EXECUTION
2 OF ANY OFFICIAL DUTIES.

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

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

19 ~~6.~~ 9. If the person commits the assault knowing or having reason to
20 know the victim is a teacher or other person employed by any school and the
21 teacher or other employee is upon the grounds of a school or grounds adjacent
22 to the school or is in any part of a building or vehicle used for school
23 purposes, ~~or~~ any teacher or school nurse visiting a private home in the
24 course of the teacher's or nurse's professional duties, ~~or~~ any teacher
25 engaged in any authorized and organized classroom activity held on other
26 than school grounds.

27 ~~7.~~ 10. If the person meets both of the following conditions:

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

30 (i) The state department of corrections.

31 (ii) The department of juvenile corrections.

32 (iii) A law enforcement agency.

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

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

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

4 ~~8-~~ 11. If the person commits the assault while the victim is bound or
5 otherwise physically restrained or while the victim's capacity to resist is
6 substantially impaired.

7 ~~9-~~ 12. If the person commits the assault knowing or having reason to
8 know that the victim is a fire fighter, fire investigator, fire inspector,
9 emergency medical technician or paramedic engaged in the execution of any
10 official duties, or a person summoned and directed by such individual while
11 engaged in the execution of any official duties.

12 ~~10-~~ 13. If the person commits the assault knowing or having reason to
13 know that the victim is a licensed health care practitioner who is certified
14 or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person
15 summoned and directed by the licensed health care practitioner while engaged
16 in the person's professional duties. The provisions of this paragraph do
17 not apply if the person who commits the assault is seriously mentally ill, as
18 defined in section 36-550, or is afflicted with Alzheimer's disease or
19 related dementia.

20 ~~11-~~ 14. If the person commits assault by any means of force which
21 causes temporary but substantial disfigurement, temporary but substantial
22 loss or impairment of any body organ or part, ~~or~~ or a fracture of any body
23 part.

24 ~~12-~~ 15. If the person commits assault as prescribed by section
25 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an
26 order of protection issued against the person pursuant to section 13-3602 or
27 13-3624.

28 ~~13-~~ 16. If the person commits the assault knowing or having reason to
29 know that the victim is a prosecutor.

30 B. Except pursuant to subsections C and D of this section, aggravated
31 assault pursuant to subsection A, paragraph 1, ~~or~~ 2 OR 6 of this section is a
32 class 3 felony except if the victim is under fifteen years of age in which
33 case it is a class 2 felony punishable pursuant to section
34 13-604.01. Aggravated assault pursuant to subsection A, paragraph ~~11~~ 14 of
35 this section is a class 4 felony. Aggravated assault pursuant to subsection
36 A, paragraph 7 OR 10 of this section is a class 5 felony. Aggravated assault
37 pursuant to subsection A, paragraph 3, 4, 5, ~~6, 8, 9, 10, 12 or 13~~ 8, 9, 11,
38 ~~12, 13, 15~~ OR 16 of this section is a class 6 felony.

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

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

3 D. Aggravated assault pursuant to:

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

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

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

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

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

16 13-3117. Remote stun guns; use; violation; classification;
17 definitions

18 A. IT IS UNLAWFUL FOR A PERSON OR ENTITY TO KNOWINGLY USE OR THREATEN
19 TO USE A REMOTE STUN GUN OR A PERMITTED REMOTE STUN GUN AGAINST A LAW
20 ENFORCEMENT OFFICER WHO IS ENGAGED IN THE PERFORMANCE OF THE OFFICER'S
21 OFFICIAL DUTIES.

22 B. THIS SECTION DOES NOT:

23 1. PRECLUDE THE PROSECUTION OF ANY PERSON FOR THE USE OF A REMOTE STUN
24 GUN OR A PERMITTED REMOTE STUN GUN DURING THE COMMISSION OF ANY CRIMINAL
25 OFFENSE.

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

27 C. THE REGULATION OF REMOTE STUN GUNS AND PERMITTED REMOTE STUN GUNS
28 IS A MATTER OF STATEWIDE CONCERN.

29 D. A VIOLATION OF SUBSECTION A IS A CLASS 4 FELONY.

30 E. FOR THE PURPOSES OF THIS SECTION:

31 1. "PERMITTED REMOTE STUN GUN" MEANS A REMOTE STUN GUN THAT HAS ALL OF
32 THE FOLLOWING:

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

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

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

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

42 2. "REMOTE STUN GUN" MEANS AN ELECTRONIC DEVICE THAT EMITS AN
43 ELECTRICAL CHARGE AND THAT IS DESIGNED AND PRIMARILY EMPLOYED TO INCAPACITATE
44 A PERSON OR ANIMAL EITHER THROUGH CONTACT WITH ELECTRODES ON THE DEVICE
45 ITSELF OR REMOTELY THROUGH WIRED PROBES THAT ARE ATTACHED TO THE DEVICE OR

H.B. 2713

1 THROUGH A SPARK, PLASMA, IONIZATION OR OTHER CONDUCTIVE MEANS EMITTING FROM
2 THE DEVICE.