

REFERENCE TITLE: economic loss; definition

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HB 2179

Introduced by  
Representative Farnsworth

AN ACT

AMENDING SECTION 13-105, ARIZONA REVISED STATUTES; RELATING TO ECONOMIC LOSS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-105, Arizona Revised Statutes, is amended to  
3 read:  
4 13-105. Definitions  
5 In this title, unless the context otherwise requires:  
6 1. "Act" means a bodily movement.  
7 2. "Benefit" means anything of value or advantage, present or  
8 prospective.  
9 3. "Calendar year" means three hundred sixty-five days' actual time  
10 served without release, suspension or commutation of sentence, probation,  
11 pardon or parole, work furlough or release from confinement on any other  
12 basis.  
13 4. "Community supervision" means that portion of a felony sentence  
14 imposed by the court pursuant to section 13-603, subsection I and THAT IS  
15 served in the community after completing a period of imprisonment or served  
16 in prison in accordance with section 41-1604.07.  
17 5. "Conduct" means an act or omission and its accompanying culpable  
18 mental state.  
19 6. "Crime" means a misdemeanor or a felony.  
20 7. "Criminal street gang" means an ongoing formal or informal  
21 association of persons ~~whose~~ IN WHICH members or associates individually or  
22 collectively engage in the commission, attempted commission, facilitation or  
23 solicitation of any felony act and that has at least one individual who is a  
24 criminal street gang member.  
25 8. "Criminal street gang member" means an individual to whom two of  
26 the following seven criteria that indicate criminal street gang membership  
27 apply:  
28 (a) Self-proclamation.  
29 (b) Witness testimony or official statement.  
30 (c) Written or electronic correspondence.  
31 (d) Paraphernalia or photographs.  
32 (e) Tattoos.  
33 (f) Clothing or colors.  
34 (g) Any other indicia of street gang membership.  
35 9. "Culpable mental state" means intentionally, knowingly, recklessly  
36 or with criminal negligence as those terms are ~~thusly~~ defined:  
37 (a) "Intentionally" or "with the intent to" means, with respect to a  
38 result or to conduct described by a statute defining an offense, that a  
39 person's objective is to cause that result or to engage in that conduct.  
40 (b) "Knowingly" means, with respect to conduct or to a circumstance  
41 described by a statute defining an offense, that a person is aware or  
42 believes that ~~his or her~~ THE PERSON'S conduct is of that nature or that the  
43 circumstance exists. It does not require any knowledge of the unlawfulness  
44 of the act or omission.

1 (c) "Recklessly" means, with respect to a result or to a circumstance  
2 described by a statute defining an offense, that a person is aware of and  
3 consciously disregards a substantial and unjustifiable risk that the result  
4 will occur or that the circumstance exists. The risk must be of such nature  
5 and degree that disregard of such risk constitutes a gross deviation from the  
6 standard of conduct that a reasonable person would observe in the  
7 situation. A person who creates such a risk but WHO is unaware of such risk  
8 solely by reason of voluntary intoxication also acts recklessly with respect  
9 to such risk.

10 (d) "Criminal negligence" means, with respect to a result or to a  
11 circumstance described by a statute defining an offense, that a person fails  
12 to perceive a substantial and unjustifiable risk that the result will occur  
13 or that the circumstance exists. The risk must be of such nature and degree  
14 that the failure to perceive it constitutes a gross deviation from the  
15 standard of care that a reasonable person would observe in the situation.

16 10. "Dangerous drug" means dangerous drug as defined by IN section  
17 13-3401.

18 11. "Dangerous instrument" means anything that under the circumstances  
19 in which it is used, attempted to be used or threatened to be used is readily  
20 capable of causing death or serious physical injury.

21 12. "Deadly physical force" means force which THAT is used with the  
22 purpose of causing death or serious physical injury or in the manner of its  
23 use or intended use is capable of creating a substantial risk of causing  
24 death or serious physical injury.

25 13. "Deadly weapon" means anything designed for lethal use, including a  
26 firearm.

27 14. "Economic loss" means any loss incurred by a person as a result of  
28 the commission of an offense. Economic loss includes lost interest, lost  
29 earnings and other losses which THAT would not have been incurred but for the  
30 offense. Economic loss does not include losses incurred by the convicted  
31 person, ~~damages for pain and suffering, OR punitive damages or consequential~~  
32 ~~damages~~ BUT DOES INCLUDE FUTURE LOST EARNINGS OF THE VICTIM.

33 15. "Enterprise" includes any corporation, association, labor union or  
34 other legal entity.

35 16. "Felony" means an offense for which a sentence to a term of  
36 imprisonment in the custody of the state department of corrections is  
37 authorized by any law of this state.

38 17. "Firearm" means any loaded or unloaded handgun, pistol, revolver,  
39 rifle, shotgun or other weapon which THAT will or is designed to or may  
40 readily be converted to expel a projectile by the action of expanding gases,  
41 except that it does not include a firearm in permanently inoperable  
42 condition.

43 18. "Government" means the state, any political subdivision of the  
44 state or any department, agency, board, commission, institution or  
45 governmental instrumentality of or within the state or political subdivision.

- 1           19. "Government function" means any activity ~~which~~ THAT a public  
2 servant is legally authorized to undertake on behalf of a government.
- 3           20. "Intoxication" means any mental or physical incapacity resulting  
4 from use of drugs, toxic vapors or intoxicating liquors.
- 5           21. "Misdemeanor" means an offense for which a sentence to a term of  
6 imprisonment other than to the custody of the state department of corrections  
7 is authorized by any law of this state.
- 8           22. "Narcotic drug" means narcotic drugs as defined ~~by~~ IN section  
9 13-3401.
- 10          23. "Offense" or "public offense" means conduct for which a sentence to  
11 a term of imprisonment or of a fine is provided by any law of the state in  
12 which it occurred or by any law, regulation or ordinance of a political  
13 subdivision of that state and, if the act occurred in a state other than this  
14 state, it would be so punishable under the laws, regulations or ordinances of  
15 this state or of a political subdivision of this state if the act had  
16 occurred in this state.
- 17          24. "Omission" means the failure to perform an act as to which a duty  
18 of performance is imposed by law.
- 19          25. "Peace officer" means any person vested by law with a duty to  
20 maintain public order and make arrests.
- 21          26. "Person" means a human being and, as the context requires, an  
22 enterprise, a public or private corporation, an unincorporated association, a  
23 partnership, a firm, a society, a government, a governmental authority or an  
24 individual or entity capable of holding a legal or beneficial interest in  
25 property.
- 26          27. "Petty offense" means an offense for which a sentence of a fine  
27 only is authorized by law.
- 28          28. "Physical force" means force used upon or directed toward the body  
29 of another person and includes confinement, but does not include deadly  
30 physical force.
- 31          29. "Physical injury" means the impairment of physical condition.
- 32          30. "Possess" means knowingly to have physical possession or otherwise  
33 to exercise dominion or control over property.
- 34          31. "Possession" means a voluntary act if the defendant knowingly  
35 exercised dominion or control over property.
- 36          32. "Property" means anything of value, tangible or intangible.
- 37          33. "Public servant":
- 38           (a) Means any officer or employee of any branch of government, whether  
39 elected, appointed or otherwise employed, including a peace officer, and any  
40 person participating as an advisor or consultant or otherwise in performing a  
41 governmental function.
- 42           (b) Does not include jurors or witnesses.
- 43           (c) Includes those who have been elected, appointed, employed or  
44 designated to become a public servant although not yet occupying that  
45 position.

1           34. "Serious physical injury" includes physical injury ~~which~~ THAT  
2 creates a reasonable risk of death, or ~~which~~ THAT causes serious and  
3 permanent disfigurement, serious impairment of health or loss or protracted  
4 impairment of the function of any bodily organ or limb.

5           35. "Unlawful" means contrary to law or, where the context so requires,  
6 not permitted by law.

7           36. "Vehicle" means a device in, upon or by which any person or  
8 property is, may be or could have been transported or drawn upon a highway,  
9 waterway or airway, excepting devices moved by human power or used  
10 exclusively upon stationary rails or tracks.

11           37. "Voluntary act" means a bodily movement performed consciously and  
12 as a result of effort and determination.

13           38. "Voluntary intoxication" means intoxication caused by the knowing  
14 use of drugs, toxic vapors or intoxicating liquors by a person, the tendency  
15 of which to cause intoxication the person knows or ought to know, unless the  
16 person introduces them pursuant to medical advice or under such duress as  
17 would afford a defense to an offense.