

39-17-428. Mandatory minimum fines - Allocation of proceeds.

(a) Notwithstanding any other provision of this part to the contrary, any person convicted of violating any provision of this part shall be fined no less than the amount set out in the schedule in subsection (b). The fines set out in such schedule shall be the minimum mandatory fine for each type of offense and offender and shall not be construed to be a separate fine or in addition to the fines currently authorized by law for the offense committed. Nothing in this section shall prohibit the court from imposing a fine in excess of the minimum set out in such schedule; provided, that such amount is authorized by law.

(b) In determining the minimum fine to impose upon any person convicted of violating any provision of this part, the court shall first determine whether the person was convicted of a misdemeanor or felony violation of this part and then shall determine if the person has any previous convictions for violations of this part. Having determined the category of offense and offender, the judge shall impose a minimum mandatory fine based upon the following:

(1) First conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish	\$250
(2) Second conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish	500
(3) Third or subsequent conviction for a misdemeanor drug offense involving a Schedule VI controlled substance classified as marijuana or hashish, enhanced as a felony under § 39-17-418(e)	1,000
(4) First conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI	750
(5) Second conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI.	850
(6) Third or subsequent conviction for a misdemeanor drug offense involving a scheduled controlled substance other than Schedule VI, enhanced as a felony under § 39-17-418(e)	1,000
(7) First conviction for possession of drug paraphernalia under § 39-17-425(a)(1)	150
(8) Second or subsequent conviction for possession of drug paraphernalia under § 39-17-425(a)(1) and conviction for all other misdemeanor drug offenses	250
(9) First conviction for all felony drug offenses involving a scheduled controlled substance	2,000
(10) Second conviction for all felony drug offenses involving a scheduled controlled substance	3,000

(11) Third or subsequent conviction for all felony drug offenses involving a scheduled controlled substance	5,000
(12) First conviction for all other felony drug offenses including § 39-17-423(a) and (b) and § 39-17-425(b)(1)	1,000
(13) Second or subsequent conviction for all other felony drug offenses including § 39-17-423(a) and (b) and § 39-17-425(b)(1)	1,500

(c) (1) Fifty percent (50%) of any fine collected pursuant to subsection (b) shall be allocated in the manner set out in § [39-17-420](#). The remaining fifty percent (50%) shall be paid to the general fund of the governing body of the law enforcement agency responsible for the investigation and arrest which resulted in the drug conviction; provided, that if a drug task force is responsible for the investigation and arrest, the amount above the minimum fine shall be paid to the general fund of the governing body of one (1) or more counties and cities within the judicial district as directed by the court. Notwithstanding the provisions of § [39-17-420\(a\)\(1\)](#) or any other law to the contrary, a portion of any fine collected pursuant to subsection (b) may be expended to fund programs and services for infants and children who are afflicted by HIV or AIDS.

(2) Nothing in this section shall be construed as prohibiting the use of proceeds from fines imposed pursuant to this section for the purpose of drug education.

(d) (1) Unless the judge, using the applicable criteria set out in § [40-14-202\(c\)](#), determines that a person convicted of violating this section is indigent, or that payment of the minimum fine would result in a severe economic hardship, or such fine would otherwise not be in the interests of justice, the minimum fines imposed by this section shall be mandatory and shall not be reduced, suspended, waived or otherwise released by the court. No plea agreement shall be accepted by a court if such agreement attempts to reduce or suspend all or any portion of the mandatory fines imposed by this section unless the judge determines that one (1) of the conditions set out in the first sentence of this subdivision (d)(1) exists.

(2) If the judge of a court of general sessions determines that it is necessary to reduce, suspend, waive or otherwise release the minimum fines imposed by this section, the judge shall assess the fine, and write on the warrant the amount of the fine, the fact that it is reduced, suspended, waived or released and the reasons therefor. If done by the judge of a court of record, such judge shall assess the fine and make a specific finding of fact on the record relative to the reduction, suspension, waiver or release and the reasons therefor.

[Acts 1990, ch. 1036, § 1; 1994, ch. 923, § 2; 1998, ch. 1079, § 5; 1999, ch. 503, § 1; 2000, ch. 881, § 1.]