

Chart

State Statute	Offense	Aggravated Felony?	Offense "Related To"?	Case Law
21 U.S.C. § 841(a)(1)	Manufacture of Methamphetamine	Yes. Felony under CSA.		<i>Olivera-Garcia v. INS</i> , 328 F.3d 1083 (9th Cir. 2003)
Cal. Health & Safety Code § 11350(a)	Possession of a Controlled Substance	No.	Maybe. Apply modified categorical approach ("MCA") to identify drug.	<i>United States v. Figueroa-Ocampo</i> , 494 F.3d 1211 (9th Cir. 2007); <i>Matter of Mena</i> , 17 I&N Dec. 38 (BIA 1979).
Cal. Health & Safety Code § 11352(a)	Transporting, Importing, Selling, Furnishing, Administering, Giving Away a Controlled Substance or "Offer to" or Attempt to	Maybe. Apply MCA to identify drug and discard possibility that convicted of transportation or solicitation.	Maybe. Apply MCA to identify drug.	<i>Paredes-Perez v. Keisler</i> , 2007 WL 3088240 (9th Cir. 2007) (unpublished); <i>Duran-Jurado v. Keisler</i> , 2007 WL 2915567 (9th Cir. 2007) (unpublished); <i>Desire v. Gonzales</i> , 2007 WL 2326214 (9th Cir. 2007) (unpublished); <i>Jesus Granados v. Gonzales</i> , 233 Fed. Appx. 691 (9th Cir. 2007); <i>Menjivar-Palma v. Gonzales</i> , 210 Fed. Appx. 625 (9th Cir. 2006) (unpublished); <i>Fajugon-Hurquilla v. Gonzales</i> , 175 Fed. Appx. 832 (9th Cir. 2006) (unpublished); <i>Al-Husseini v. Gonzales</i> , 213 Fed. Appx. 568 (9th Cir. 2006) (unpublished); <i>Valencia Lopez v. Gonzales</i> , 2227 Fed. Appx. 597 (9th Cir. 2006) (unpublished).
Cal. Health & Safety Code § 11360(a)	Transporting, Importing, Selling, Furnishing, Administering, Giving Away Marijuana or "Offer to" or Attempt to	Maybe. Apply MCA to discard possibility that convicted of transportation or solicitation.		<i>United States v. Rivera-Sanchez</i> , 247 F.3d 905 (9th Cir. 2001).
Cal. Health & Safety Code § 11366	Opening or Maintaining a Place for Selling, Giving Away, or Using a Controlled Substance	Yes. Felony punishable under CSA (21 USC § 856(a)).		<i>Salviejo-Fernandez v. Gonzales</i> , 455 F.3d 1063 (9th Cir. 2006).
Cal. Health & Safety Code § 11377	Possession of a Controlled Substance	No.	Maybe. Apply MCA to identify drug.	<i>Ruiz-Vidal v. Gonzales</i> , 473 F.3d 1072 (9th Cir. 2007); <i>Ferreira v. Ashcroft</i> , 382 F.3d 1045 (9th Cir. 2004); <i>Retuta v. Gonzales</i> , 233 Fed. Appx. 676 (9th Cir. 2007) (unpublished)
Cal. Health & Safety Code § 11379(a)	Transporting, Importing, Selling, Furnishing, Administering, Giving Away a Controlled Substance or "Offer to" or Attempt to	Maybe. Apply MCA to identify drug and to discard possibility that convicted of transportation or solicitation	Maybe. Apply MCA to identify drug.	<i>Sandoval-Lua v. Gonzales</i> , 499 F.3d 1121 (9th Cir. 2007); <i>Polikarpovas v. Gonzales</i> , 233 Fed. Appx. 669 (9th Cir. 2007) (unpublished); <i>Hernandez-Aguilar v. Gonzales</i> , 232 Fed. Appx. 737 (9th Cir. 2007) (unpublished).
Cal. Health & Safety Code § 11550	Using and Being Under the Influence of a Controlled Substance		Maybe. Apply MCA to identify drug.	<i>Flores-Arellano v. INS</i> , 5 F.3d 360 (9th Cir. 1993); <i>Matter of Hernandez-Ponce</i> , 19 I&N Dec. 613 (BIA 1988).
Ariz. Rev. Stat.	Criminal Solicitation	No. Solicitation not	No. Generic solicitation	<i>Coronado-Durazo v. INS</i> , 123 F.3d 1322 (9th Cir.

§ 13-1002		punishable under CSA	not offense related to a controlled substance, even if underlying conduct involves controlled substances.	1997); <i>Leyva-Licea v. INS</i> , 187 F.3d 1147 (9th Cir. 1999)
Ariz. Rev. Stat. §§ 13-1003, 13-2317(A)(1) and (C)	Conspiracy to Commit Money Laundering	Maybe. Apply MCA to determine if racketeering for drugs.	No.	<i>Lara-Chacon v. Ashcroft</i> , 345 F.3d 1148 (9th Cir. 2003).
Ariz. Rev. Stat. § 13-3405(A)(1)	Possession of Marijuana	No.	Yes.	<i>Tucker v. Gonzales</i> , 213 Fed. Appx. 523 (9th Cir. 2006) (unpublished)
Ariz. Rev. Stat. § 13-3407	Possession of methamphetamine	No.	Yes.	<i>Cazarez-Gutierrez v. Ashcroft</i> , 382 F.3d 905 (9th Cir. 2004)
Ariz. Rev. Stat. § 13-3415(A)	Possession of Drug Paraphernalia	No.	Yes.	<i>Luu-Le v. INS</i> , 224 F.3d 911 (9th Cir. 2000). See <i>Cardenas-Urriarte v. INS</i> , 227 F.3d 1132 (9th Cir. 2006) (possession of drug paraphernalia not prohibited by CSA).

Last updated 1/8/2008