

REFERENCE TITLE: **medical marijuana; cultivation; facilities**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2405

Introduced by
Representatives Leach, Thorpe, Finchem, Kern, Livingston

AN ACT

AMENDING SECTIONS 36-2801 AND 36-2804.05, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL MARIJUANA ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 36-2801, Arizona Revised
4 Statutes, is amended to read:

5 36-2801. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Allowable amount of marijuana"

8 (a) With respect to a qualifying patient, the "allowable amount of
9 marijuana" means:

10 (i) Two-and-one-half ounces of usable marijuana; and

11 (ii) If the qualifying patient's registry identification card states
12 that the qualifying patient is authorized to cultivate marijuana, twelve
13 marijuana plants contained in an enclosed, locked facility, except that the
14 plants are not required to be in an enclosed, locked facility if the plants
15 are being transported because the qualifying patient is moving.

16 (b) With respect to a designated caregiver, the "allowable amount of
17 marijuana" for each patient assisted by the designated caregiver under this
18 chapter means:

19 (i) Two-and-one-half ounces of usable marijuana; and

20 (ii) If the designated caregiver's registry identification card
21 provides that the designated caregiver is authorized to cultivate marijuana,
22 twelve marijuana plants contained in an enclosed, locked facility, except
23 that the plants are not required to be in an enclosed, locked facility if the
24 plants are being transported because the designated caregiver is moving.

25 (c) Marijuana that is incidental to medical use, but is not usable
26 marijuana as defined in this chapter, shall not be counted toward a
27 qualifying patient's or designated caregiver's allowable amount of marijuana.

28 2. "Cardholder" means a qualifying patient, a designated caregiver or
29 a nonprofit medical marijuana dispensary agent who has been issued and
30 possesses a valid registry identification card.

31 3. "Debilitating medical condition" means one or more of the
32 following:

33 (a) Cancer, glaucoma, positive status for human immunodeficiency
34 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral
35 sclerosis, crohn's disease, agitation of alzheimer's disease or the treatment
36 of these conditions.

37 (b) A chronic or debilitating disease or medical condition or its
38 treatment that produces one or more of the following: cachexia or wasting
39 syndrome; severe and chronic pain; severe nausea; seizures, including those
40 characteristic of epilepsy; or severe and persistent muscle spasms, including
41 those characteristic of multiple sclerosis.

42 (c) Any other medical condition or its treatment added by the
43 department pursuant to section 36-2801.01.

44 4. "Department" means the Arizona department of health services or its
45 successor agency.

- 1 5. "Designated caregiver" means a person who:
2 (a) Is at least twenty-one years of age.
3 (b) Has agreed to assist with a patient's medical use of marijuana.
4 (c) Has not been convicted of an excluded felony offense.
5 (d) Assists no more than five qualifying patients with the medical use
6 of marijuana.
7 (e) May receive reimbursement for actual costs incurred in assisting a
8 registered qualifying patient's medical use of marijuana if the registered
9 designated caregiver is connected to the registered qualifying patient
10 through the department's registration process. The designated caregiver may
11 not be paid any fee or compensation for ~~his~~ service as a caregiver. Payment
12 for costs under this subdivision shall not constitute an offense under title
13 13, chapter 34 or under title 36, chapter 27, article 4.
- 14 6. "Enclosed, locked facility" means a closet, room, greenhouse or
15 other enclosed, **ROOFED** area **THAT HAS A HARDENED COVERING AND THAT IS** equipped
16 with locks or other security devices that permit access only by a cardholder.
- 17 7. "Excluded felony offense" means:
18 (a) A violent crime as defined in section 13-901.03, subsection B,
19 that was classified as a felony in the jurisdiction where the person was
20 convicted.
21 (b) A violation of a state or federal controlled substance law that
22 was classified as a felony in the jurisdiction where the person was convicted
23 but does not include:
24 (i) An offense for which the sentence, including any term of
25 probation, incarceration or supervised release, was completed ten or more
26 years earlier.
27 (ii) An offense involving conduct that would be immune from arrest,
28 prosecution or penalty under section 36-2811, except that the conduct
29 occurred before the effective date of this chapter or was prosecuted by an
30 authority other than the state of Arizona.
- 31 8. "Marijuana" means all parts of any plant of the genus cannabis
32 whether growing or not, and the seeds of such plant.
- 33 9. "Medical use" means the acquisition, possession, cultivation,
34 manufacture, use, administration, delivery, transfer or transportation of
35 marijuana or paraphernalia relating to the administration of marijuana to
36 treat or alleviate a registered qualifying patient's debilitating medical
37 condition or symptoms associated with the patient's debilitating medical
38 condition.
- 39 ~~11.~~ 10. "Nonprofit medical marijuana dispensary" means a
40 not-for-profit entity that acquires, possesses, cultivates, manufactures,
41 delivers, transfers, transports, supplies, sells or dispenses marijuana or
42 related supplies and educational materials to cardholders. A nonprofit
43 medical marijuana dispensary may receive payment for all expenses incurred in
44 its operation.
- 45 ~~10.~~ 11. "Nonprofit medical marijuana dispensary agent" means a
46 principal officer, board member, employee or volunteer of a nonprofit medical

1 marijuana dispensary who is at least twenty-one years of age and has not been
2 convicted of an excluded felony offense.

3 12. "Physician" means a doctor of medicine who holds a valid and
4 existing license to practice medicine pursuant to title 32, chapter 13 or its
5 successor, a doctor of osteopathic medicine who holds a valid and existing
6 license to practice osteopathic medicine pursuant to title 32, chapter 17 or
7 its successor, a naturopathic physician who holds a valid and existing
8 license to practice naturopathic medicine pursuant to title 32, chapter 14 or
9 its successor or a homeopathic physician who holds a valid and existing
10 license to practice homeopathic medicine pursuant to title 32, chapter 29 or
11 its successor.

12 13. "Qualifying patient" means a person who has been diagnosed by a
13 physician as having a debilitating medical condition.

14 14. "Registry identification card" means a document issued by the
15 department that identifies a person as a registered qualifying patient,
16 registered designated caregiver or a registered nonprofit medical marijuana
17 dispensary agent.

18 15. "Usable marijuana" means the dried flowers of the marijuana plant,
19 and any mixture or preparation thereof, but does not include the seeds,
20 stalks and roots of the plant and does not include the weight of any
21 non-marijuana ingredients combined with marijuana and prepared for
22 consumption as food or drink.

23 16. "Verification system" means a secure, password-protected, web-based
24 system established and maintained by the department that is available to law
25 enforcement personnel and nonprofit medical marijuana dispensary agents on a
26 twenty-four hour basis for verification of registry identification cards.

27 17. "Visiting qualifying patient" means a person:

28 (a) Who is not a resident of Arizona or who has been a resident of
29 Arizona less than thirty days.

30 (b) Who has been diagnosed with a debilitating medical condition by a
31 person who is licensed with authority to prescribe drugs to humans in the
32 state of the person's residence or, in the case of a person who has been a
33 resident of Arizona less than thirty days, the state of the person's former
34 residence.

35 18. "Written certification" means a document dated and signed by a
36 physician, stating that in the physician's professional opinion the patient
37 is likely to receive therapeutic or palliative benefit from the medical use
38 of marijuana to treat or alleviate the patient's debilitating medical
39 condition or symptoms associated with the debilitating medical condition.
40 The physician must:

41 (a) Specify the qualifying patient's debilitating medical condition in
42 the written certification.

43 (b) Sign and date the written certification only in the course of a
44 physician-patient relationship after the physician has completed a full
45 assessment of the qualifying patient's medical history.

1 Sec. 2. Subject to the requirements of article IV, part 1, section 1,
2 Constitution of Arizona, section 36-2804.05, Arizona Revised Statutes, is
3 amended to read:

4 36-2804.05. Denial of registry identification card

5 A. The department may deny an application or renewal of a qualifying
6 patient's registry identification card only if the applicant:

- 7 1. Does not meet the requirements of section 36-2801, paragraph 13.
- 8 2. Does not provide the information required.
- 9 3. Previously had a registry identification card revoked for violating
10 this chapter.

11 4. Provides false information.

12 B. The department may deny an application or renewal of a designated
13 caregiver's registry identification card if the applicant:

- 14 1. Does not meet the requirements of section 36-2801, paragraph 5.
- 15 2. Does not provide the information required.
- 16 3. Previously had a registry identification card revoked for violating
17 this chapter.

18 4. Provides false information.

19 C. The department may deny a registry identification card to a
20 nonprofit medical marijuana dispensary agent if:

21 1. The agent applicant does not meet the requirements of section
22 ~~36-2801(10)~~ 36-2801, PARAGRAPH 11.

23 2. The applicant or ~~dispensary~~ DISPENSARY did not provide the
24 required information.

25 3. THE AGENT APPLICANT previously had a registry identification card
26 revoked for violating this chapter.

27 4. The applicant or dispensary provides false information.

28 D. The department may conduct a criminal records check of each
29 designated caregiver or nonprofit medical marijuana dispensary agent
30 applicant to carry out this section.

31 E. The department shall give written notice to the registered
32 nonprofit medical marijuana dispensary of the reason for denying a registry
33 identification card to a nonprofit medical marijuana dispensary agent.

34 F. The department shall give written notice to the qualifying patient
35 of the reason for denying a registry identification card to the qualifying
36 patient's designated caregiver.

37 G. Denial of an application or renewal is considered a final decision
38 of the department subject to judicial review pursuant to title 12, chapter 7,
39 article 6. Jurisdiction and venue for judicial review are vested in the
40 superior court.

41 Sec. 3. Requirements for enactment; three-fourths vote

42 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
43 sections 36-2801 and 36-2804.05, Arizona Revised Statutes, as amended by this
44 act, are effective only on the affirmative vote of at least three-fourths of
45 the members of each house of the legislature.