

REFERENCE TITLE: **medical marijuana**

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

HCR 2019

Introduced by
Representatives Lawrence, Thorpe; Boyer, Mitchell

A CONCURRENT RESOLUTION

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
MEDICAL MARIJUANA.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the legislature,
4 the following measure, relating to medical marijuana, is enacted to become
5 valid as a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 AMENDING SECTIONS 36-2801, 36-2804.06 AND 36-2815, ARIZONA
8 REVISED STATUTES; RELATING TO MEDICAL MARIJUANA.

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

10 Section 1. Section 36-2801, Arizona Revised Statutes, is
11 amended to read:

12 36-2801. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Allowable amount of marijuana"

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

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

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

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

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

28 (ii) If the designated caregiver's registry
29 identification card provides that the designated caregiver is
30 authorized to cultivate marijuana, twelve marijuana plants
31 contained in an enclosed, locked facility, except that the
32 plants are not required to be in an enclosed, locked facility if
33 the plants are being transported because the designated
34 caregiver is moving.

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

39 2. "Cardholder" means a qualifying patient, a designated
40 caregiver or a nonprofit medical marijuana dispensary agent who
41 has been issued and possesses a valid registry identification
42 card.

43 3. "Debilitating medical condition" means one or more of
44 the following:

1 (a) Cancer, glaucoma, positive status for human
2 immunodeficiency virus, acquired immune deficiency syndrome,
3 hepatitis C, amyotrophic lateral sclerosis, crohn's disease,
4 agitation of alzheimer's disease or the treatment of these
5 conditions.

6 (b) A chronic or debilitating disease or medical
7 condition or its treatment that produces one or more of the
8 following: cachexia or wasting syndrome; severe and chronic
9 pain; severe nausea; seizures, including those characteristic of
10 epilepsy; or severe and persistent muscle spasms, including
11 those characteristic of multiple sclerosis.

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

14 4. "Department" means the Arizona department of health
15 services or its successor agency.

16 5. "Designated caregiver" means a person who:

17 (a) Is at least twenty-one years of age.

18 (b) Has agreed to assist with a patient's medical use of
19 marijuana.

20 (c) Has not been convicted of an excluded felony offense.

21 (d) Assists no more than five qualifying patients with
22 the medical use of marijuana.

23 (e) May receive reimbursement for actual costs incurred
24 in assisting a registered qualifying patient's medical use of
25 marijuana if the registered designated caregiver is connected to
26 the registered qualifying patient through the department's
27 registration process. The designated caregiver may not be paid
28 any fee or compensation for ~~his~~ service as a caregiver. Payment
29 for costs under this subdivision shall not constitute an offense
30 under title 13, chapter 34 or under title 36, chapter 27,
31 article 4.

32 6. "Enclosed, locked facility" means a closet, room,
33 greenhouse or other enclosed area equipped with locks or other
34 security devices that permit access only by a cardholder.

35 7. "Excluded felony offense" means:

36 (a) A violent crime as defined in section 13-901.03,
37 subsection B, that was classified as a felony in the
38 jurisdiction where the person was convicted.

39 (b) A violation of a state or federal controlled
40 substance law that was classified as a felony in the
41 jurisdiction where the person was convicted but does not
42 include:

43 (i) An offense for which the sentence, including any term
44 of probation, incarceration or supervised release, was completed
45 ten or more years earlier.

1 (ii) An offense involving conduct that would be immune
2 from arrest, prosecution or penalty under section 36-2811,
3 except that the conduct occurred before the effective date of
4 this chapter or was prosecuted by an authority other than the
5 state of Arizona.

6 8. "Marijuana" means all parts of any plant of the genus
7 cannabis whether growing or not, and the seeds of such plant.

8 9. "Medical use" means the acquisition, possession,
9 cultivation, manufacture, use, administration, delivery,
10 transfer or transportation of marijuana or paraphernalia
11 relating to the administration of marijuana to treat or
12 alleviate a registered qualifying patient's debilitating medical
13 condition or symptoms associated with the patient's debilitating
14 medical condition.

15 ~~11.~~ 10. "Nonprofit medical marijuana dispensary" means a
16 not-for-profit entity that acquires, possesses, cultivates,
17 manufactures, delivers, transfers, transports, supplies, sells
18 or dispenses marijuana or related supplies and educational
19 materials to cardholders. A nonprofit medical marijuana
20 dispensary may receive payment for all expenses incurred in its
21 operation.

22 ~~10.~~ 11. "Nonprofit medical marijuana dispensary agent"
23 means a principal officer, board member, employee or volunteer
24 of a nonprofit medical marijuana dispensary who is at least
25 twenty-one years of age and has not been convicted of an
26 excluded felony offense.

27 12. "Physician" means a doctor of medicine who holds a
28 valid and existing license to practice medicine pursuant to
29 title 32, chapter 13 or its successor, OR a doctor of
30 osteopathic medicine who holds a valid and existing license to
31 practice osteopathic medicine pursuant to title 32, chapter 17
32 or its successor, ~~a naturopathic physician who holds a valid and
33 existing license to practice naturopathic medicine pursuant to
34 title 32, chapter 14 or its successor or a homeopathic physician
35 who holds a valid and existing license to practice homeopathic
36 medicine pursuant to title 32, chapter 29 or its successor.~~

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

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

44 15. "Usable marijuana" means the dried flowers of the
45 marijuana plant, and any mixture or preparation thereof, but

1 does not include the seeds, stalks and roots of the plant and
2 does not include the weight of any non-marijuana ingredients
3 combined with marijuana and prepared for consumption as food or
4 drink.

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

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

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

14 (b) Who has been diagnosed with a debilitating medical
15 condition by a person who is licensed with authority ~~to~~
16 ~~prescribe drugs to humans~~ EQUIVALENT TO A PHYSICIAN in the state
17 of the person's residence or, in the case of a person who has
18 been a resident of Arizona less than thirty days, the state of
19 the person's former residence.

20 18. "Written certification" means a document dated and
21 signed by a physician, stating that in the physician's
22 professional opinion the patient is likely to receive
23 therapeutic or palliative benefit from the medical use of
24 marijuana to treat or alleviate the patient's debilitating
25 medical condition or symptoms associated with the debilitating
26 medical condition. The physician must:

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

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

33 Sec. 2. Section 36-2804.06, Arizona Revised Statutes, is
34 amended to read:

35 36-2804.06. Expiration and renewal of registry
36 identification cards and registration
37 certificates; replacement

38 A. ~~All~~ A registry identification ~~cards~~ CARD and
39 registration ~~certificates~~ CERTIFICATE FOR A NONPROFIT MEDICAL
40 MARIJUANA DISPENSARY AGENT OR A DESIGNATED CAREGIVER expire one
41 year after THE date of issue. A REGISTRY IDENTIFICATION CARD
42 AND REGISTRATION CERTIFICATE FOR A QUALIFYING PATIENT EXPIRE SIX
43 MONTHS AFTER THE DATE OF ISSUE, AT WHICH TIME THE QUALIFYING
44 PATIENT SHALL OBTAIN A NEW WRITTEN CERTIFICATION FROM THE
45 PATIENT'S PHYSICIAN.

1 B. A registry identification card of a nonprofit medical
2 marijuana dispensary agent shall be cancelled and ~~his~~ access to
3 the verification system shall be deactivated ~~upon~~ **ON**
4 notification to the department by a registered nonprofit medical
5 marijuana dispensary that the nonprofit medical marijuana
6 dispensary agent is no longer employed by or no longer
7 volunteers at the registered nonprofit medical marijuana
8 dispensary.

9 C. A renewal nonprofit medical marijuana dispensary
10 registration certificate shall be issued within ten days of
11 receipt of the prescribed renewal application and renewal fee
12 from a registered nonprofit medical marijuana dispensary if its
13 registration certificate is not under suspension and has not
14 been revoked.

15 D. If a cardholder loses ~~his~~ **THE CARDHOLDER'S** registry
16 identification card, ~~he~~ **THE CARDHOLDER** shall promptly notify the
17 department. Within five days of the notification, and ~~upon~~ **ON**
18 payment of a ten dollar fee, the department shall issue a new
19 registry identification card with a new random identification
20 number to the cardholder and, if the cardholder is a registered
21 qualifying patient, to the registered qualifying patient's
22 registered designated caregiver, if any.

23 Sec. 3. Section 36-2815, Arizona Revised Statutes, is
24 amended to read:

25 **36-2815. Revocation**

26 A. The department shall immediately revoke the registry
27 identification card of a nonprofit medical marijuana dispensary
28 agent who violates section 36-2804.01, subsection D, or section
29 36-2816, subsection B. The department shall suspend or revoke
30 the registry identification card of a nonprofit medical
31 marijuana dispensary agent for other violations of this chapter.

32 B. The department shall immediately revoke the
33 registration certificate of a registered nonprofit medical
34 marijuana dispensary that violates section ~~2816~~ **36-2816**,
35 ~~subsections~~ **SUBSECTION** B or C, and its board members and
36 principal officers may not serve as the board members or
37 principal officers for any other registered nonprofit medical
38 marijuana dispensary.

39 C. Any cardholder who sells marijuana to a person who is
40 not allowed to possess marijuana for medical purposes under this
41 chapter shall have ~~his~~ **THE CARDHOLDER'S** registry identification
42 card revoked, ~~—~~ and shall be subject to other penalties for the
43 unauthorized sale of marijuana and other applicable offenses. **A**
44 **CARDHOLDER WHO SELLS OR TRANSFERS MARIJUANA TO A PERSON WHO IS**
45 **UNDER EIGHTEEN YEARS OF AGE SHALL HAVE THE CARDHOLDER'S REGISTRY**

1 IDENTIFICATION CARD PERMANENTLY REVOKED AND MAY BE GUILTY OF A
2 CLASS 2 FELONY PURSUANT TO SECTION 13-3409.

3 D. The department may revoke the registry identification
4 card of any cardholder who knowingly violates this chapter, and
5 the cardholder shall be subject to other penalties for the
6 applicable offense.

7 E. Revocation is a final decision of the department
8 subject to judicial review pursuant to title 12, chapter 7,
9 article 6. Jurisdiction and venue are vested in the superior
10 court.

11 2. The Secretary of State shall submit this proposition to the voters
12 at the next general election as provided by article IV, part 1, section 1,
13 Constitution of Arizona.