

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 287
SENATE BILL 1098

AN ACT

AMENDING TITLE 3, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; AMENDING SECTIONS 13-3405, 41-619.51, 41-1758, 41-1758.01 AND 41-1758.07, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO AGRICULTURAL LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 3, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 4.1, to read:

4 ARTICLE 4.1. INDUSTRIAL HEMP

5 3-311. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "AGRICULTURAL PILOT PROGRAM" MEANS THE INDUSTRIAL HEMP PROGRAM
8 THAT IS DESIGNED TO RESEARCH THE GROWTH, CULTIVATION AND MARKETING OF
9 INDUSTRIAL HEMP, HEMP SEEDS AND HEMP PRODUCTS AS AUTHORIZED BY THIS
10 ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS
11 ARTICLE.

12 2. "CROP" MEANS ANY INDUSTRIAL HEMP THAT IS GROWN UNDER A SINGLE
13 INDUSTRIAL HEMP LICENSE ISSUED BY THE DEPARTMENT.

14 3. "GROWER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
15 CORPORATION THAT PROPAGATES INDUSTRIAL HEMP UNDER THIS ARTICLE AND RULES
16 AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

17 4. "HARVESTER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
18 CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO HARVEST INDUSTRIAL HEMP
19 FOR A LICENSED GROWER.

20 5. "HEMP PRODUCTS" MEANS ALL PRODUCTS MADE FROM INDUSTRIAL HEMP,
21 INCLUDING CLOTH, CORDAGE, FIBER, FUEL, GRAIN, PAINT, PAPER, CONSTRUCTION
22 MATERIALS, PLASTICS AND BY-PRODUCTS DERIVED FROM STERILE HEMP SEED OR HEMP
23 SEED OIL. HEMP PRODUCTS EXCLUDES ANY PRODUCT MADE TO BE INGESTED EXCEPT
24 FOOD MADE FROM STERILE HEMP SEED OR HEMP SEED OIL.

25 6. "HEMP SEED" MEANS ANY VIABLE CANNABIS SATIVA L. SEED THAT
26 PRODUCES AN INDUSTRIAL HEMP PLANT THAT IS SUBJECT TO THIS ARTICLE AND
27 RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

28 7. "INDUSTRIAL HEMP" MEANS THE PLANT CANNABIS SATIVA L. AND ANY
29 PART OF SUCH A PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9
30 TETRAHYDROCANNABINOL CONCENTRATION OF NOT MORE THAN THREE-TENTHS PERCENT
31 ON A DRY-WEIGHT BASIS.

32 8. "INDUSTRIAL HEMP SITE" MEANS THE LOCATION IN WHICH A GROWER,
33 HARVESTER, TRANSPORTER OR PROCESSOR POSSESSES A CROP, A HARVESTED CROP OR
34 HEMP SEED.

35 9. "LICENSE" MEANS THE AUTHORIZATION THAT IS GRANTED BY THE
36 DEPARTMENT TO PROPAGATE, HARVEST, TRANSPORT OR PROCESS INDUSTRIAL HEMP IN
37 THIS STATE UNDER THIS ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR
38 PURSUANT TO THIS ARTICLE.

39 10. "LICENSEE" MEANS A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR
40 WITH A VALID LICENSE.

41 11. "PROCESSOR" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
42 CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO RECEIVE INDUSTRIAL HEMP
43 FOR PROCESSING INTO HEMP PRODUCTS OR HEMP SEED.

1 12. "TRANSPORTER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR
2 CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO TRANSPORT INDUSTRIAL
3 HEMP FOR A LICENSED GROWER TO A PROCESSOR.

4 3-312. Legislative findings; purpose; authorization

5 A. THE LEGISLATURE FINDS AND DETERMINES THAT DEVELOPING AND USING
6 INDUSTRIAL HEMP CAN IMPROVE THE ECONOMY AND AGRICULTURAL VITALITY OF THIS
7 STATE AND THAT THE PRODUCTION OF INDUSTRIAL HEMP CAN BE REGULATED SO AS
8 NOT TO INTERFERE WITH STRICT REGULATION OF MARIJUANA IN THIS STATE.

9 B. THE PURPOSES OF THIS ARTICLE ARE:

10 1. TO PROMOTE THE ECONOMY AND AGRICULTURE IN THIS STATE BY ALLOWING
11 INSTITUTIONS OF HIGHER LEARNING AND THE DEPARTMENT TO DEVELOP AND REGULATE
12 INDUSTRIAL HEMP AS PART OF AN AGRICULTURAL PILOT PROGRAM FOR THE PURPOSE
13 OF RESEARCH INTO THE GROWTH, CULTIVATION AND MARKETING OF INDUSTRIAL HEMP
14 AS AUTHORIZED BY THE AGRICULTURAL ACT OF 2014 (P.L. 113-79; 128 STAT. 649;
15 7 UNITED STATES CODE SECTION 5940).

16 2. TO ALLOW THE COMMERCIAL GROWTH, CULTIVATION AND MARKETING OF
17 INDUSTRIAL HEMP IF THE COMMERCIAL GROWTH, CULTIVATION AND MARKETING OF
18 INDUSTRIAL HEMP IS AUTHORIZED BY FEDERAL LAW, WHILE MAINTAINING STRICT
19 CONTROL OF MARIJUANA.

20 C. INDUSTRIAL HEMP IS AN AGRICULTURAL PRODUCT THAT IS SUBJECT TO
21 REGULATION BY THE DEPARTMENT.

22 D. INDUSTRIAL HEMP PROPAGATION, PROCESSING, MANUFACTURING,
23 DISTRIBUTION AND MARKET RESEARCH ARE AUTHORIZED IN THIS STATE UNDER A
24 PREAPPROVED AGRICULTURAL PILOT PROGRAM. HEMP SEED THAT IS AUTHORIZED FOR
25 AN AGRICULTURAL PILOT PROGRAM SHALL BE CERTIFIED SOLELY THROUGH THE
26 DEPARTMENT. UNAUTHORIZED HEMP SEED MAY NOT BE PLANTED. HEMP SEED THAT IS
27 DERIVED FROM PREVIOUSLY AUTHORIZED HEMP SEED IS CONSIDERED AUTHORIZED HEMP
28 SEED FOR THE PURPOSES OF THIS ARTICLE.

29 E. IF AUTHORIZED UNDER FEDERAL LAW, THE COMMERCIAL PRODUCTION,
30 PROCESSING, MANUFACTURING, DISTRIBUTION AND COMMERCE OF INDUSTRIAL HEMP IN
31 THIS STATE IS ALLOWED OUTSIDE OF THE AGRICULTURAL PILOT PROGRAM.

32 3-313. Rulemaking; fees; intent

33 A. FOR THE PURPOSES OF CARRYING OUT THIS ARTICLE, THE DIRECTOR
34 SHALL:

35 1. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO OVERSEE THE
36 LICENSING, PRODUCTION AND MANAGEMENT OF INDUSTRIAL HEMP AND HEMP SEED IN
37 THIS STATE PURSUANT TO THIS ARTICLE.

38 2. ADOPT FEES BY RULE.

39 3. AUTHORIZE QUALIFIED APPLICANTS TO PROPAGATE, HARVEST, TRANSPORT
40 OR PROCESS, OR ANY COMBINATION THEREOF, INDUSTRIAL HEMP ACCORDING TO RULES
41 ADOPTED BY THE DIRECTOR.

42 B. THE LEGISLATURE INTENDS THAT THE FEES ADOPTED PURSUANT TO
43 SUBSECTION A, PARAGRAPH 2 OF THIS SECTION BE USED TO FUND THE DEPARTMENT'S
44 ACTIVITIES IN LICENSING, TESTING, INSPECTING AND SUPERVISING INDUSTRIAL
45 HEMP PRODUCTION.

1 3-314. Industrial hemp licenses; applications; fees;
2 fingerprinting requirements; renewal; revocation

3 A. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR SHALL OBTAIN AN
4 INDUSTRIAL HEMP LICENSE FROM THE DEPARTMENT.

5 B. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR SHALL APPLY FOR A
6 LICENSE PURSUANT TO RULES AND ORDERS ADOPTED BY THE DIRECTOR.

7 C. AN APPLICATION FOR AN ORIGINAL OR RENEWAL INDUSTRIAL HEMP
8 LICENSE SHALL COMPLY WITH ALL OF THE FOLLOWING:

9 1. BE ON A FORM THAT IS PROVIDED BY THE DEPARTMENT.

10 2. INCLUDE COMPLETE AND ACCURATE INFORMATION.

11 3. BE ACCOMPANIED BY THE LICENSE FEE PRESCRIBED BY THE DIRECTOR.
12 THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES
13 COLLECTED UNDER THIS PARAGRAPH IN THE INDUSTRIAL HEMP TRUST FUND
14 ESTABLISHED BY SECTION 3-315.

15 D. AN APPLICANT SHALL PROVIDE PROOF TO THE DEPARTMENT OF HAVING A
16 VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07 FOR
17 THE PURPOSE OF VALIDATING APPLICANT ELIGIBILITY.

18 E. A LICENSE ISSUED PURSUANT TO THIS SECTION IS VALID FOR ONE YEAR,
19 UNLESS REVOKED, AND MAY BE RENEWED AS PROVIDED BY THE DEPARTMENT. RATHER
20 THAN RENEWING A LICENSEE'S LICENSE EVERY YEAR, A LICENSEE MAY RENEW THE
21 LICENSEE'S LICENSE EVERY TWO YEARS BY PAYING A LICENSE FEE THAT IS TWICE
22 THE AMOUNT DESIGNATED BY THE FEE SCHEDULE IN RULE THAT IS ADOPTED BY THE
23 DIRECTOR AND OTHER APPLICABLE FEES. LICENSEES THAT RENEW EVERY TWO YEARS
24 SHALL COMPLY WITH ANY ANNUAL REPORTING REQUIREMENTS.

25 F. THE DEPARTMENT MAY REVOKE OR REFUSE TO ISSUE OR RENEW A LICENSE
26 FOR A VIOLATION OF ANY LAW OF THIS STATE, ANY FEDERAL LAW OR ANY RULE OR
27 ORDER ADOPTED BY THE DIRECTOR.

28 G. A MEMBER OF AN INDIAN TRIBE MAY APPLY FOR A LICENSE PURSUANT TO
29 THIS SECTION. IF A MEMBER OF AN INDIAN TRIBE IS ISSUED A LICENSE PURSUANT
30 TO THIS SECTION, THE MEMBER IS SUBJECT TO THE REQUIREMENTS PRESCRIBED IN
31 THIS ARTICLE.

32 3-315. Industrial hemp trust fund

33 A. THE INDUSTRIAL HEMP TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
34 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING INDUSTRIAL HEMP
35 LICENSING. THE TRUST FUND CONSISTS OF MONIES RECEIVED FROM LEGISLATIVE
36 APPROPRIATIONS, LICENSING FEES AND ALL OTHER SOURCES UNDER THIS ARTICLE.
37 THE MONIES COLLECTED CONSTITUTE A SEPARATE AND PERMANENT FUND FOR USE BY
38 THE DIRECTOR IN ADMINISTERING AND ENFORCING THIS ARTICLE.

39 B. THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE
40 STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY
41 MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST
42 MONIES AS DEFINED IN SECTION 35-310 AND MAY NOT BE COMMINGLED WITH ANY
43 OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON
44 NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY
45 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS

1 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED
2 TO THE TRUST FUND.

3 C. THE DIRECTOR MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE
4 GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IN CARRYING OUT THE
5 PURPOSES OF THIS ARTICLE.

6 D. THE BENEFICIARY OF THE TRUST IS THE INDUSTRIAL HEMP PROGRAM
7 ESTABLISHED PURSUANT TO THIS ARTICLE, INCLUDING SALARIES, FEES AND OFFICE,
8 ADMINISTRATIVE, BONDING AND TRAVEL EXPENSES THAT ARE INCURRED AS A RESULT
9 OF THE INDUSTRIAL HEMP PROGRAM.

10 E. ANY MONIES REMAINING UNEXPENDED IN THE TRUST FUND ON JUNE 30 OF
11 EACH YEAR SHALL BE CARRIED FORWARD TO THE FOLLOWING YEAR AND DO NOT REVERT
12 TO THE STATE GENERAL FUND.

13 3-316. Recordkeeping, inspection, transportation and
14 distribution requirements

15 A. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR OF INDUSTRIAL HEMP
16 THAT IS LICENSED PURSUANT TO THIS ARTICLE SHALL KEEP AND MAINTAIN RECORDS
17 AS REQUIRED BY RULE OR ORDER. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY
18 INSPECT OR AUDIT THE RECORDS DURING NORMAL BUSINESS HOURS TO ENSURE
19 COMPLIANCE WITH THIS ARTICLE OR ANY DEPARTMENT RULE OR ORDER.

20 B. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY PHYSICALLY INSPECT
21 AN INDUSTRIAL HEMP SITE TO ENSURE COMPLIANCE WITH THIS ARTICLE OR ANY
22 DEPARTMENT RULE OR ORDER. DURING ANY PHYSICAL INSPECTION OF AN INDUSTRIAL
23 HEMP SITE, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TAKE A
24 REPRESENTATIVE SAMPLE FOR ANALYSIS BY THE STATE AGRICULTURAL LABORATORY OR
25 A LABORATORY THAT IS CERTIFIED BY THE STATE AGRICULTURAL LABORATORY. IF A
26 CROP CONTAINS AN AVERAGE CARBOXYLATED DELTA-9 TETRAHYDROCANNABINOL
27 CONCENTRATION THAT EXCEEDS THREE-TENTHS PERCENT ON A DRY-WEIGHT BASIS OR
28 VIOLATES ANY OTHER PESTICIDE LAW, THE DEPARTMENT MAY TAKE CORRECTIVE
29 ACTION PURSUANT TO SECTION 3-317.

30 C. NOTWITHSTANDING SECTION 13-3405, THE DIRECTOR OR THE DIRECTOR'S
31 DESIGNEE MAY POSSESS AND TRANSPORT SAMPLES OF CANNABIS SATIVA L. COLLECTED
32 FOR TESTING TO DETERMINE DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION FOR
33 ELIGIBILITY AS INDUSTRIAL HEMP.

34 D. ONLY A LICENSED GROWER, HARVESTER, PROCESSOR OR TRANSPORTER OR
35 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TRANSPORT INDUSTRIAL HEMP OFF
36 THE INDUSTRIAL HEMP SITE. WHEN TRANSPORTING INDUSTRIAL HEMP OFF THE
37 INDUSTRIAL HEMP SITE, THE LICENSED GROWER, PROCESSOR OR TRANSPORTER SHALL
38 CARRY THE LICENSING DOCUMENTS AS EVIDENCE THAT THE INDUSTRIAL HEMP WAS
39 GROWN BY A LICENSED GROWER. THIS SUBSECTION DOES NOT APPLY TO THE
40 TRANSPORTATION OF HEMP PRODUCTS.

41 E. A LICENSED GROWER SHALL NOTIFY THE DEPARTMENT OF ALL OF THE
42 FOLLOWING:

43 1. THE SALE OR DISTRIBUTION OF ANY INDUSTRIAL HEMP GROWN UNDER THE
44 GROWER'S LICENSE.

1 2. THE NAME AND ADDRESS OF THE PERSON OR ENTITY RECEIVING THE
2 INDUSTRIAL HEMP.

3 3. THE AMOUNT OF THE INDUSTRIAL HEMP SOLD OR DISTRIBUTED.

4 3-317. Corrective actions; hearing

5 A. THE DIRECTOR SHALL ADOPT RULES TO ADDRESS, CORRECT AND REMEDIATE
6 VIOLATIONS OF THIS ARTICLE AND RULES OR ORDERS ADOPTED PURSUANT TO THIS
7 ARTICLE.

8 B. THE DIRECTOR MAY:

9 1. ISSUE AND ENFORCE A WRITTEN CEASE AND DESIST ORDER AGAINST A
10 GROWER, HARVESTER, TRANSPORTER OR PROCESSOR OF ANY INDUSTRIAL HEMP THAT
11 THE DIRECTOR FINDS IS IN VIOLATION OF THIS ARTICLE. THE ORDER SHALL
12 PROHIBIT THE FURTHER SALE, PROCESSING OR TRANSPORTATION OF THE INDUSTRIAL
13 HEMP EXCEPT ON APPROVAL OF THE DIRECTOR.

14 2. ISSUE A STOP SALE ORDER.

15 3. SEIZE AND DESTROY ANY CROP, HARVESTED CROP OR HEMP SEED THAT
16 DOES NOT COMPLY WITH THIS ARTICLE OR ANY RULE OR ORDER ADOPTED PURSUANT TO
17 THIS ARTICLE.

18 4. TAKE ANY OTHER ACTION TO ENFORCE THIS ARTICLE AND THE RULES AND
19 ORDERS ADOPTED PURSUANT TO THIS ARTICLE.

20 C. A PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE OR ORDER ADOPTED
21 PURSUANT TO THIS ARTICLE MAY REQUEST A HEARING BEFORE AN ADMINISTRATIVE
22 LAW JUDGE PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE DECISION OF
23 THE ADMINISTRATIVE LAW JUDGE IS SUBJECT TO REVIEW BY THE DIRECTOR AS
24 PROVIDED BY TITLE 41, CHAPTER 6, ARTICLE 10. A REQUEST PURSUANT TO THIS
25 SUBSECTION DOES NOT STAY A CEASE AND DESIST ORDER ISSUED PURSUANT TO THIS
26 SECTION.

27 3-318. Industrial hemp advisory council; members; duties

28 A. THE DIRECTOR SHALL ESTABLISH BY RULE OR ORDER AN INDUSTRIAL HEMP
29 ADVISORY COUNCIL TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR
30 REGARDING THE ADMINISTRATION AND IMPLEMENTATION OF THIS ARTICLE. THE
31 DIRECTOR SHALL APPOINT FIVE MEMBERS TO THE COUNCIL, INCLUDING ONE PUBLIC
32 MEMBER.

33 B. THE INDUSTRIAL HEMP ADVISORY COUNCIL SHALL:

34 1. ADVISE THE DIRECTOR REGARDING EXPENDITURES FROM THE INDUSTRIAL
35 HEMP TRUST FUND.

36 2. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

37 3-319. Violations; classification; civil penalties

38 A. IN ADDITION TO ANY LIABILITY ESTABLISHED BY THIS ARTICLE OR ANY
39 PENALTY PROVIDED BY LAW, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY OF NOT
40 MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION OF ANY OF THE
41 FOLLOWING:

42 1. A LICENSING REQUIREMENT.

43 2. A LICENSE TERM OR CONDITION.

44 3. A RULE OR ORDER ADOPTED BY THE DIRECTOR THAT RELATES TO
45 PROPAGATING, HARVESTING, TRANSPORTING OR PROCESSING INDUSTRIAL HEMP.

1 B. A PERSON WHO INTENTIONALLY VIOLATES THIS ARTICLE OR ANY RULE OR
2 ORDER RELATED TO THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

3 C. A PERSON WHO DOES NOT HOLD A LICENSE ISSUED BY THE DEPARTMENT OR
4 WHO IS NOT A DESIGNEE OR AGENT OF A PERSON WHO HOLDS A LICENSE ISSUED BY
5 THE DEPARTMENT MAY NOT PROPAGATE, HARVEST, TRANSPORT OR PROCESS INDUSTRIAL
6 HEMP. A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO SECTION
7 13-3405.

8 3-320. Affirmative defense

9 A. IT IS AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION FOR THE
10 POSSESSION OR CULTIVATION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER 34
11 THAT THE DEFENDANT IS A LICENSEE, OR A DESIGNEE OR AGENT OF A LICENSEE,
12 WHO IS IN COMPLIANCE WITH THIS ARTICLE.

13 B. THIS SECTION IS NOT A DEFENSE TO A CHARGE OF POSSESSION, SALE,
14 TRANSPORTATION OR DISTRIBUTION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER
15 34 THAT IS NOT INDUSTRIAL HEMP.

16 Sec. 2. Section 13-3405, Arizona Revised Statutes, is amended to
17 read:

18 13-3405. Possession, use, production, sale or transportation
19 of marijuana; classification; exceptions

20 A. A person shall not knowingly:

- 21 1. Possess or use marijuana.
- 22 2. Possess marijuana for sale.
- 23 3. Produce marijuana.
- 24 4. Transport for sale, import into this state or offer to transport
25 for sale or import into this state, sell, transfer or offer to sell or
26 transfer marijuana.

27 B. A person who violates:

28 1. Subsection A, paragraph 1 of this section involving an amount of
29 marijuana not possessed for sale having a weight of less than two pounds
30 is guilty of a class 6 felony.

31 2. Subsection A, paragraph 1 of this section involving an amount of
32 marijuana not possessed for sale having a weight of at least two pounds
33 but less than four pounds is guilty of a class 5 felony.

34 3. Subsection A, paragraph 1 of this section involving an amount of
35 marijuana not possessed for sale having a weight of four pounds or more is
36 guilty of a class 4 felony.

37 4. Subsection A, paragraph 2 of this section involving an amount of
38 marijuana having a weight of less than two pounds is guilty of a class 4
39 felony.

40 5. Subsection A, paragraph 2 of this section involving an amount of
41 marijuana having a weight of at least two pounds but not more than four
42 pounds is guilty of a class 3 felony.

43 6. Subsection A, paragraph 2 of this section involving an amount of
44 marijuana having a weight of more than four pounds is guilty of a class 2
45 felony.

1 7. Subsection A, paragraph 3 of this section involving an amount of
2 marijuana having a weight of less than two pounds is guilty of a class 5
3 felony.

4 8. Subsection A, paragraph 3 of this section involving an amount of
5 marijuana having a weight of at least two pounds but not more than four
6 pounds is guilty of a class 4 felony.

7 9. Subsection A, paragraph 3 of this section involving an amount of
8 marijuana having a weight of more than four pounds is guilty of a class 3
9 felony.

10 10. Subsection A, paragraph 4 of this section involving an amount
11 of marijuana having a weight of less than two pounds is guilty of a class
12 3 felony.

13 11. Subsection A, paragraph 4 of this section involving an amount
14 of marijuana having a weight of two pounds or more is guilty of a class 2
15 felony.

16 C. If the aggregate amount of marijuana involved in one offense or
17 all of the offenses that are consolidated for trial equals or exceeds the
18 statutory threshold amount, a person who is sentenced pursuant to
19 subsection B, paragraph 5, 6, 8, 9 or 11 of this section is not eligible
20 for suspension of sentence, probation, pardon or release from confinement
21 on any basis until the person has served the sentence imposed by the
22 court, the person is eligible for release pursuant to section 41-1604.07
23 or the sentence is commuted.

24 D. In addition to any other penalty prescribed by this title, the
25 court shall order a person who is convicted of a violation of any
26 provision of this section to pay a fine of not less than seven hundred
27 fifty dollars or three times the value as determined by the court of the
28 marijuana involved in or giving rise to the charge, whichever is greater,
29 and not more than the maximum authorized by chapter 8 of this title. A
30 judge shall not suspend any part or all of the imposition of any fine
31 required by this subsection.

32 E. A person who is convicted of a felony violation of any provision
33 of this section for which probation or release before the expiration of
34 the sentence imposed by the court is authorized is prohibited from using
35 any marijuana, dangerous drug or narcotic drug except as lawfully
36 administered by a practitioner and as a condition of any probation or
37 release shall be required to submit to drug testing administered under the
38 supervision of the probation department of the county or the state
39 department of corrections as appropriate during the duration of the term
40 of probation or before the expiration of the sentence imposed.

41 F. If the aggregate amount of marijuana involved in one offense or
42 all of the offenses that are consolidated for trial is less than the
43 statutory threshold amount, a person who is sentenced pursuant to
44 subsection B, paragraph 4, 7 or 10 and who is granted probation by the
45 court shall be ordered by the court that as a condition of probation the

1 person perform not less than two hundred forty hours of community
2 restitution with an agency or organization providing counseling,
3 rehabilitation or treatment for alcohol or drug abuse, an agency or
4 organization that provides medical treatment to persons who abuse
5 controlled substances, an agency or organization that serves persons who
6 are victims of crime or any other appropriate agency or organization.

7 G. If a person who is sentenced pursuant to subsection B, paragraph
8 1, 2 or 3 of this section is granted probation for a felony violation of
9 this section, the court shall order that as a condition of probation the
10 person perform not less than twenty-four hours of community restitution
11 with an agency or organization providing counseling, rehabilitation or
12 treatment for alcohol or drug abuse, an agency or organization that
13 provides medical treatment to persons who abuse controlled substances, an
14 agency or organization that serves persons who are victims of crime or any
15 other appropriate agency or organization.

16 H. If a person is granted probation for a misdemeanor violation of
17 this section, the court shall order as a condition of probation that the
18 person attend eight hours of instruction on the nature and harmful effects
19 of narcotic drugs, marijuana and other dangerous drugs on the human
20 system, and on the laws related to the control of these substances, or
21 perform twenty-four hours of community restitution.

22 I. THIS SECTION DOES NOT APPLY TO EITHER:

23 1. A PERSON WHO IS LICENSED PURSUANT TO TITLE 3, CHAPTER 2, ARTICLE
24 4.1 AND WHO POSSESSES, USES, SELLS, PRODUCES, MANUFACTURES OR TRANSPORTS
25 INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311.

26 2. A PERSON WHO ENGAGES IN THE COMMERCIAL PRODUCTION, PROCESSING,
27 MANUFACTURING, DISTRIBUTION OR COMMERCE OF INDUSTRIAL HEMP AS DEFINED IN
28 SECTION 3-311 IN THIS STATE OUTSIDE OF THE AGRICULTURAL PILOT PROGRAM
29 ESTABLISHED PURSUANT TO TITLE 3, CHAPTER 2, ARTICLE 4.1 IF THE PERSON'S
30 ACTIONS ARE AUTHORIZED UNDER FEDERAL LAW.

31 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to
32 read:

33 41-619.51. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Agency" means the supreme court, the department of economic
36 security, the department of child safety, the department of education, the
37 department of health services, the department of juvenile corrections, the
38 department of emergency and military affairs, the department of public
39 safety, the department of transportation, the state real estate
40 department, the department of financial institutions, the Arizona game and
41 fish department, THE ARIZONA DEPARTMENT OF AGRICULTURE, the board of
42 examiners of nursing care institution administrators and assisted living
43 facility managers, the state board of dental examiners, the Arizona state
44 board of pharmacy or the board of physical therapy or the state board of
45 technical registration.

1 2. "Board" means the board of fingerprinting.

2 3. "Central registry exception" means notification to the
3 department of economic security, the department of child safety or the
4 department of health services, as appropriate, pursuant to section
5 41-619.57 that the person is not disqualified because of a central
6 registry check conducted pursuant to section 8-804.

7 4. "Expedited review" means an examination, in accordance with
8 board rule, of the documents an applicant submits by the board or its
9 hearing officer without the applicant being present.

10 5. "Good cause exception" means the issuance of a fingerprint
11 clearance card to an employee pursuant to section 41-619.55.

12 6. "Person" means a person who is required to be fingerprinted
13 pursuant to this article or who is subject to a central registry check and
14 any of the following:

- 15 (a) SECTION 3-314.
- 16 ~~(a)~~ (b) Section 8-105.
- 17 ~~(b)~~ (c) Section 8-322.
- 18 ~~(c)~~ (d) Section 8-463.
- 19 ~~(d)~~ (e) Section 8-509.
- 20 ~~(e)~~ (f) Section 8-802.
- 21 ~~(f)~~ (g) Section 8-804.
- 22 ~~(g)~~ (h) Section 15-183.
- 23 ~~(h)~~ (i) Section 15-503.
- 24 ~~(i)~~ (j) Section 15-512.
- 25 ~~(j)~~ (k) Section 15-534.
- 26 ~~(k)~~ (l) Section 15-763.01.
- 27 ~~(l)~~ (m) Section 15-782.02.
- 28 ~~(m)~~ (n) Section 15-1330.
- 29 ~~(n)~~ (o) Section 15-1881.
- 30 ~~(o)~~ (p) Section 17-215.
- 31 ~~(p)~~ (q) Section 28-3228.
- 32 ~~(q)~~ (r) Section 28-3413.
- 33 ~~(r)~~ (s) Section 32-122.05.
- 34 ~~(s)~~ (t) Section 32-122.06.
- 35 ~~(t)~~ (u) Section 32-1232.
- 36 ~~(u)~~ (v) Section 32-1284.
- 37 ~~(v)~~ (w) Section 32-1297.01.
- 38 ~~(w)~~ (x) Section 32-1904.
- 39 ~~(x)~~ (y) Section 32-1941.
- 40 ~~(y)~~ (z) Section 32-2022.
- 41 ~~(z)~~ (aa) Section 32-2108.01.
- 42 ~~(aa)~~ (bb) Section 32-2123.
- 43 ~~(bb)~~ (cc) Section 32-2371.
- 44 ~~(cc)~~ (dd) Section 32-3620.
- 45 ~~(dd)~~ (ee) Section 32-3668.

- 1 ~~(ee)~~ (ff) Section 32-3669.
- 2 ~~(ff)~~ (gg) Section 36-207.
- 3 ~~(gg)~~ (hh) Section 36-411.
- 4 ~~(hh)~~ (ii) Section 36-425.03.
- 5 ~~(ii)~~ (jj) Section 36-446.04.
- 6 ~~(jj)~~ (kk) Section 36-594.01.
- 7 ~~(kk)~~ (ll) Section 36-594.02.
- 8 ~~(ll)~~ (mm) Section 36-882.
- 9 ~~(mm)~~ (nn) Section 36-883.02.
- 10 ~~(nn)~~ (oo) Section 36-897.01.
- 11 ~~(oo)~~ (pp) Section 36-897.03.
- 12 ~~(pp)~~ (qq) Section 36-3008.
- 13 ~~(qq)~~ (rr) Section 41-619.53.
- 14 ~~(rr)~~ (ss) Section 41-1964.
- 15 ~~(ss)~~ (tt) Section 41-1967.01.
- 16 ~~(tt)~~ (uu) Section 41-1968.
- 17 ~~(uu)~~ (vv) Section 41-1969.
- 18 ~~(vv)~~ (ww) Section 41-2814.
- 19 ~~(ww)~~ (xx) Section 46-141, subsection A.
- 20 ~~(xx)~~ (yy) Section 46-321.

21 Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to
22 read:

23 41-1758. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Agency" means the supreme court, the department of economic
26 security, the department of child safety, the department of education, the
27 department of health services, the department of juvenile corrections, the
28 department of emergency and military affairs, the department of public
29 safety, the department of transportation, the state real estate
30 department, the department of financial institutions, the board of
31 fingerprinting, the Arizona game and fish department, **THE ARIZONA**
32 **DEPARTMENT OF AGRICULTURE**, the board of examiners of nursing care
33 institution administrators and assisted living facility managers, the
34 state board of dental examiners, the Arizona state board of pharmacy or
35 the board of physical therapy or the state board of technical
36 registration.

37 2. "Division" means the fingerprinting division in the department
38 of public safety.

39 3. "Electronic or internet-based fingerprinting services" means a
40 secure system for digitizing applicant fingerprints and transmitting the
41 applicant data and fingerprints of a person or entity submitting
42 fingerprints to the department of public safety for any authorized purpose
43 under this title. For the purposes of this paragraph, "secure system"
44 means a system that complies with the information technology security
45 policy approved by the department of public safety.

1 4. "Good cause exception" means the issuance of a fingerprint
2 clearance card to an applicant pursuant to section 41-619.55.

3 5. "Person" means a person who is required to be fingerprinted
4 pursuant to any of the following:

5 (a) SECTION 3-314.

6 ~~(a)~~ (b) Section 8-105.

7 ~~(b)~~ (c) Section 8-322.

8 ~~(c)~~ (d) Section 8-463.

9 ~~(d)~~ (e) Section 8-509.

10 ~~(e)~~ (f) Section 8-802.

11 ~~(f)~~ (g) Section 15-183.

12 ~~(g)~~ (h) Section 15-503.

13 ~~(h)~~ (i) Section 15-512.

14 ~~(i)~~ (j) Section 15-534.

15 ~~(j)~~ (k) Section 15-763.01.

16 ~~(k)~~ (l) Section 15-782.02.

17 ~~(l)~~ (m) Section 15-1330.

18 ~~(m)~~ (n) Section 15-1881.

19 ~~(n)~~ (o) Section 17-215.

20 ~~(o)~~ (p) Section 28-3228.

21 ~~(p)~~ (q) Section 28-3413.

22 ~~(q)~~ (r) Section 32-122.05.

23 ~~(r)~~ (s) Section 32-122.06.

24 ~~(s)~~ (t) Section 32-1232.

25 ~~(t)~~ (u) Section 32-1284.

26 ~~(u)~~ (v) Section 32-1297.01.

27 ~~(v)~~ (w) Section 32-1904.

28 ~~(w)~~ (x) Section 32-1941.

29 ~~(x)~~ (y) Section 32-2022.

30 ~~(y)~~ (z) Section 32-2108.01.

31 ~~(z)~~ (aa) Section 32-2123.

32 ~~(aa)~~ (bb) Section 32-2371.

33 ~~(bb)~~ (cc) Section 32-3620.

34 ~~(cc)~~ (dd) Section 32-3668.

35 ~~(dd)~~ (ee) Section 32-3669.

36 ~~(ee)~~ (ff) Section 36-207.

37 ~~(ff)~~ (gg) Section 36-411.

38 ~~(gg)~~ (hh) Section 36-425.03.

39 ~~(hh)~~ (ii) Section 36-446.04.

40 ~~(ii)~~ (jj) Section 36-594.01.

41 ~~(jj)~~ (kk) Section 36-594.02.

42 ~~(kk)~~ (ll) Section 36-882.

43 ~~(ll)~~ (mm) Section 36-883.02.

44 ~~(mm)~~ (nn) Section 36-897.01.

45 ~~(nn)~~ (oo) Section 36-897.03.

- 1 ~~(oo)~~ (pp) Section 36-3008.
- 2 ~~(pp)~~ (qq) Section 41-619.52.
- 3 ~~(qq)~~ (rr) Section 41-619.53.
- 4 ~~(rr)~~ (ss) Section 41-1964.
- 5 ~~(ss)~~ (tt) Section 41-1967.01.
- 6 ~~(tt)~~ (uu) Section 41-1968.
- 7 ~~(uu)~~ (vv) Section 41-1969.
- 8 ~~(vv)~~ (ww) Section 41-2814.
- 9 ~~(ww)~~ (xx) Section 46-141, subsection A.
- 10 ~~(xx)~~ (yy) Section 46-321.

11 6. "Vulnerable adult" has the same meaning prescribed in section
12 13-3623.

13 Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to
14 read:

15 41-1758.01. Fingerprinting division: powers and duties

16 A. The fingerprinting division is established in the department of
17 public safety and shall:

18 1. Conduct fingerprint background checks for persons and applicants
19 who are seeking licenses from state agencies, employment with licensees,
20 contract providers and state agencies or employment or educational
21 opportunities with agencies that require fingerprint background checks
22 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,
23 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,
24 28-3228, 28-3413, 32-122.05, 32-122.06, 32-1232, 32-1284, 32-1297.01,
25 32-1904, 32-1941, 32-2022, 32-2108.01, 32-2123, 32-2371, 32-3620, 32-3668,
26 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,
27 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53,
28 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,
29 subsection A and section 46-321.

30 2. Issue fingerprint clearance cards. On issuance, a fingerprint
31 clearance card becomes the personal property of the cardholder and the
32 cardholder shall retain possession of the fingerprint clearance card.

33 3. On submission of an application for a fingerprint clearance
34 card, collect the fees established by the board of fingerprinting pursuant
35 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,
36 the monies collected in the board of fingerprinting fund.

37 4. Inform in writing each person who submits fingerprints for a
38 fingerprint background check of the right to petition the board of
39 fingerprinting for a good cause exception pursuant to section 41-1758.03,
40 41-1758.04 or 41-1758.07.

41 5. If after conducting a state and federal criminal history records
42 check the division determines that it is not authorized to issue a
43 fingerprint clearance card to a person, inform the person in writing that
44 the division is not authorized to issue a fingerprint clearance card. The
45 notice shall include the criminal history information on which the denial

1 was based. This criminal history information is subject to dissemination
2 restrictions pursuant to section 41-1750 and Public Law 92-544.

3 6. Notify the person in writing if the division suspends, revokes
4 or places a driving restriction notation on a fingerprint clearance card
5 pursuant to section 41-1758.04. The notice shall include the criminal
6 history information on which the suspension, revocation or placement of
7 the driving restriction notation was based. This criminal history
8 information is subject to dissemination restrictions pursuant to section
9 41-1750 and Public Law 92-544.

10 7. Administer and enforce this article.

11 B. The fingerprinting division may contract for electronic or
12 internet-based fingerprinting services through an entity or entities for
13 the acquisition and transmission of applicant fingerprint and data
14 submissions to the department, including identity verified fingerprints
15 pursuant to section 15-106. The entity or entities contracted by the
16 department of public safety may charge the applicant a fee for services
17 provided pursuant to this article. The entity or entities contracted by
18 the department of public safety shall comply with:

19 1. All information privacy and security measures and submission
20 standards established by the department of public safety.

21 2. The information technology security policy approved by the
22 department of public safety.

23 Sec. 6. Section 41-1758.07, Arizona Revised Statutes, is amended to
24 read:

25 41-1758.07. Level I fingerprint clearance cards; definitions

26 A. On receiving the state and federal criminal history record of a
27 person who is required to be fingerprinted pursuant to this section, the
28 fingerprinting division in the department of public safety shall compare
29 the record with the list of criminal offenses that preclude the person
30 from receiving a level I fingerprint clearance card. If the person's
31 criminal history record does not contain any of the offenses listed in
32 subsections B and C of this section, the fingerprinting division shall
33 issue the person a level I fingerprint clearance card.

34 B. A person who is subject to registration as a sex offender in
35 this state or any other jurisdiction or who is awaiting trial on or who
36 has been convicted of committing or attempting, soliciting, facilitating
37 or conspiring to commit one or more of the following offenses in this
38 state or the same or similar offenses in another state or jurisdiction is
39 precluded from receiving a level I fingerprint clearance card:

40 1. Sexual abuse of a vulnerable adult.

41 2. Incest.

42 3. Homicide, including first or second degree murder, manslaughter
43 and negligent homicide.

44 4. Sexual assault.

45 5. Sexual exploitation of a minor.

- 1 6. Sexual exploitation of a vulnerable adult.
- 2 7. Commercial sexual exploitation of a minor.
- 3 8. Commercial sexual exploitation of a vulnerable adult.
- 4 9. Child sex trafficking as prescribed in section 13-3212.
- 5 10. Child abuse.
- 6 11. Felony child neglect.
- 7 12. Abuse of a vulnerable adult.
- 8 13. Sexual conduct with a minor.
- 9 14. Molestation of a child.
- 10 15. Molestation of a vulnerable adult.
- 11 16. Dangerous crimes against children as defined in section 13-705.
- 12 17. Exploitation of minors involving drug offenses.
- 13 18. Taking a child for the purpose of prostitution as prescribed in
- 14 section 13-3206.
- 15 19. Neglect or abuse of a vulnerable adult.
- 16 20. Sex trafficking.
- 17 21. Sexual abuse.
- 18 22. Production, publication, sale, possession and presentation of
- 19 obscene items as prescribed in section 13-3502.
- 20 23. Furnishing harmful items to minors as prescribed in section
- 21 13-3506.
- 22 24. Furnishing harmful items to minors by internet activity as
- 23 prescribed in section 13-3506.01.
- 24 25. Obscene or indecent telephone communications to minors for
- 25 commercial purposes as prescribed in section 13-3512.
- 26 26. Luring a minor for sexual exploitation.
- 27 27. Enticement of persons for purposes of prostitution.
- 28 28. Procurement by false pretenses of person for purposes of
- 29 prostitution.
- 30 29. Procuring or placing persons in a house of prostitution.
- 31 30. Receiving earnings of a prostitute.
- 32 31. Causing one's spouse to become a prostitute.
- 33 32. Detention of persons in a house of prostitution for debt.
- 34 33. Keeping or residing in a house of prostitution or employment in
- 35 prostitution.
- 36 34. Pandering.
- 37 35. Transporting persons for the purpose of prostitution, polygamy
- 38 and concubinage.
- 39 36. Portraying adult as a minor as prescribed in section 13-3555.
- 40 37. Admitting minors to public displays of sexual conduct as
- 41 prescribed in section 13-3558.
- 42 38. Any felony offense involving contributing to the delinquency of
- 43 a minor.
- 44 39. Unlawful sale or purchase of children.
- 45 40. Child bigamy.

1 41. Any felony offense involving domestic violence as defined in
2 section 13-3601 except for a felony offense only involving criminal damage
3 in an amount of more than two hundred fifty dollars but less than one
4 thousand dollars if the offense was committed before June 29, 2009.

5 42. Any felony offense in violation of title 13, chapter 12 if
6 committed within five years before the date of applying for a level I
7 fingerprint clearance card.

8 43. Felony drug or alcohol related offenses if committed within
9 five years before the date of applying for a level I fingerprint clearance
10 card.

11 44. Felony indecent exposure.

12 45. Felony public sexual indecency.

13 46. Terrorism.

14 47. Any offense involving a violent crime as defined in section
15 13-901.03.

16 48. Trafficking of persons for forced labor or services.

17 C. A person who is awaiting trial on or who has been convicted of
18 committing or attempting, soliciting, facilitating or conspiring to commit
19 one or more of the following offenses in this state or the same or similar
20 offenses in another state or jurisdiction is precluded from receiving a
21 level I fingerprint clearance card, except that the person may petition
22 the board of fingerprinting for a good cause exception pursuant to section
23 41-619.55:

24 1. Any misdemeanor offense in violation of title 13, chapter 12.

25 2. Misdemeanor indecent exposure.

26 3. Misdemeanor public sexual indecency.

27 4. Aggravated criminal damage.

28 5. Theft.

29 6. Theft by extortion.

30 7. Shoplifting.

31 8. Forgery.

32 9. Criminal possession of a forgery device.

33 10. Obtaining a signature by deception.

34 11. Criminal impersonation.

35 12. Theft of a credit card or obtaining a credit card by fraudulent
36 means.

37 13. Receipt of anything of value obtained by fraudulent use of a
38 credit card.

39 14. Forgery of a credit card.

40 15. Fraudulent use of a credit card.

41 16. Possession of any machinery, plate or other contrivance or
42 incomplete credit card.

43 17. False statement as to financial condition or identity to obtain
44 a credit card.

45 18. Fraud by persons authorized to provide goods or services.

- 1 19. Credit card transaction record theft.
- 2 20. Misconduct involving weapons.
- 3 21. Misconduct involving explosives.
- 4 22. Depositing explosives.
- 5 23. Misconduct involving simulated explosive devices.
- 6 24. Concealed weapon violation.
- 7 25. Misdemeanor possession and misdemeanor sale of peyote.
- 8 26. Felony possession and felony sale of peyote if committed more
- 9 than five years before the date of applying for a level I fingerprint
- 10 clearance card.
- 11 27. Misdemeanor possession and misdemeanor sale of a
- 12 vapor-releasing substance containing a toxic substance.
- 13 28. Felony possession and felony sale of a vapor-releasing
- 14 substance containing a toxic substance if committed more than five years
- 15 before the date of applying for a level I fingerprint clearance card.
- 16 29. Misdemeanor sale of precursor chemicals.
- 17 30. Felony sale of precursor chemicals if committed more than five
- 18 years before the date of applying for a level I fingerprint clearance
- 19 card.
- 20 31. Misdemeanor possession, misdemeanor use or misdemeanor sale of
- 21 marijuana, dangerous drugs or narcotic drugs.
- 22 32. Felony possession, felony use or felony sale of marijuana,
- 23 dangerous drugs or narcotic drugs if committed more than five years before
- 24 the date of applying for a level I fingerprint clearance card.
- 25 33. Misdemeanor manufacture or misdemeanor distribution of an
- 26 imitation controlled substance.
- 27 34. Felony manufacture or felony distribution of an imitation
- 28 controlled substance if committed more than five years before the date of
- 29 applying for a level I fingerprint clearance card.
- 30 35. Misdemeanor manufacture or misdemeanor distribution of an
- 31 imitation prescription-only drug.
- 32 36. Felony manufacture or felony distribution of an imitation
- 33 prescription-only drug if committed more than five years before the date
- 34 of applying for a level I fingerprint clearance card.
- 35 37. Misdemeanor manufacture or misdemeanor distribution of an
- 36 imitation over-the-counter drug.
- 37 38. Felony manufacture or felony distribution of an imitation
- 38 over-the-counter drug if committed more than five years before the date of
- 39 applying for a level I fingerprint clearance card.
- 40 39. Misdemeanor possession or misdemeanor possession with intent to
- 41 use an imitation controlled substance.
- 42 40. Felony possession or felony possession with intent to use an
- 43 imitation controlled substance if committed more than five years before
- 44 the date of applying for a level I fingerprint clearance card.

- 1 41. Misdemeanor possession or misdemeanor possession with intent to
2 use an imitation prescription-only drug.
- 3 42. Felony possession or felony possession with intent to use an
4 imitation prescription-only drug if committed more than five years before
5 the date of applying for a level I fingerprint clearance card.
- 6 43. Misdemeanor possession or misdemeanor possession with intent to
7 use an imitation over-the-counter drug.
- 8 44. Felony possession or felony possession with intent to use an
9 imitation over-the-counter drug if committed more than five years before
10 the date of applying for a level I fingerprint clearance card.
- 11 45. Misdemeanor manufacture of certain substances and drugs by
12 certain means.
- 13 46. Felony manufacture of certain substances and drugs by certain
14 means if committed more than five years before the date of applying for a
15 level I fingerprint clearance card.
- 16 47. Adding poison or other harmful substance to food, drink or
17 medicine.
- 18 48. A criminal offense involving criminal trespass under title 13,
19 chapter 15.
- 20 49. A criminal offense involving burglary under title 13,
21 chapter 15.
- 22 50. A criminal offense under title 13, chapter 23, except
23 terrorism.
- 24 51. Misdemeanor offenses involving child neglect.
- 25 52. Misdemeanor offenses involving contributing to the delinquency
26 of a minor.
- 27 53. Misdemeanor offenses involving domestic violence as defined in
28 section 13-3601.
- 29 54. Felony offenses involving domestic violence if the offense only
30 involved criminal damage in an amount of more than two hundred fifty
31 dollars but less than one thousand dollars and the offense was committed
32 before June 29, 2009.
- 33 55. Arson.
- 34 56. Felony offenses involving sale, distribution or transportation
35 of, offer to sell, transport or distribute or conspiracy to sell,
36 transport or distribute marijuana, dangerous drugs or narcotic drugs if
37 committed more than five years before the date of applying for a level I
38 fingerprint clearance card.
- 39 57. Criminal damage.
- 40 58. Misappropriation of charter school monies as prescribed in
41 section 13-1818.
- 42 59. Taking identity of another person or entity.
- 43 60. Aggravated taking identity of another person or entity.
- 44 61. Trafficking in the identity of another person or entity.
- 45 62. Cruelty to animals.

1 63. Prostitution, as prescribed in section 13-3214.

2 64. Sale or distribution of material harmful to minors through
3 vending machines as prescribed in section 13-3513.

4 65. Welfare fraud.

5 66. Any felony offense in violation of title 13, chapter 12 if
6 committed more than five years before the date of applying for a level I
7 fingerprint clearance card.

8 67. Kidnapping.

9 68. Robbery, aggravated robbery or armed robbery.

10 D. A person who is awaiting trial on or who has been convicted of
11 committing or attempting to commit a misdemeanor violation of section
12 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense
13 in another state or jurisdiction within five years from the date of
14 applying for a level I fingerprint clearance card is precluded from
15 driving any vehicle to transport employees or clients of the employing
16 agency as part of the person's employment. The division shall place a
17 notation on the level I fingerprint clearance card that indicates this
18 driving restriction. This subsection does not preclude a person from
19 driving a vehicle alone as part of the person's employment.

20 E. Notwithstanding subsection C of this section, on receiving
21 written notice from the board of fingerprinting that a good cause
22 exception was granted pursuant to section 41-619.55, the fingerprinting
23 division shall issue a level I fingerprint clearance card to the
24 applicant.

25 F. If the fingerprinting division denies a person's application for
26 a level I fingerprint clearance card pursuant to subsection C of this
27 section and a good cause exception is requested pursuant to section
28 41-619.55, the fingerprinting division shall release, on request by the
29 board of fingerprinting, the person's criminal history record to the board
30 of fingerprinting.

31 G. A person shall be granted a level I fingerprint clearance card
32 pursuant to this section if either of the following applies:

33 1. An agency granted a good cause exception before August 16, 1999
34 and no new precluding offense is identified. The fingerprint clearance
35 card shall specify only the program that granted the good cause exception.
36 On the request of the applicant, the agency that granted the prior good
37 cause exception shall notify the fingerprinting division in writing of the
38 date on which the prior good cause exception was granted, the date of the
39 conviction and the name of the offense for which the good cause exception
40 was granted.

41 2. The board granted a good cause exception and no new precluding
42 offense is identified.

43 H. The licensee or contract provider shall assume the costs of
44 fingerprint checks conducted pursuant to this section and may charge these
45 costs to persons who are required to be fingerprinted.

1 I. A person who is under eighteen years of age or who is at least
2 ninety-nine years of age is exempt from the level I fingerprint clearance
3 card requirements of this section. At all times the person shall be under
4 the direct visual supervision of personnel who have valid level I
5 fingerprint clearance cards.

6 J. The fingerprinting division shall conduct periodic state
7 criminal history records checks and may conduct federal criminal history
8 records checks when authorized pursuant to federal law for the purpose of
9 updating the clearance status of current level I fingerprint clearance
10 cardholders pursuant to this section and may notify the board of
11 fingerprinting and the agency of the results of the records check.

12 K. The fingerprinting division shall revoke a person's level I
13 fingerprint clearance card on receipt of a written request for revocation
14 from the board of fingerprinting pursuant to section 41-619.55.

15 L. If a person's criminal history record contains an offense listed
16 in subsection B or C of this section and the final disposition is not
17 recorded on the record, the division shall conduct research to obtain the
18 disposition within thirty business days after receipt of the record. If
19 the division cannot determine, within thirty business days after receipt
20 of the person's state and federal criminal history record information,
21 whether the person is awaiting trial on or has been convicted of
22 committing or attempting, soliciting, facilitating or conspiring to commit
23 any of the offenses listed in subsection B or C of this section in this
24 state or the same or a similar offense in another state or jurisdiction,
25 the division shall not issue a level I fingerprint clearance card to the
26 person. If the division is unable to make the determination required by
27 this section and does not issue a level I fingerprint clearance card to a
28 person, the person may request a good cause exception pursuant to section
29 41-619.55.

30 M. If after conducting a state and federal criminal history records
31 check the fingerprinting division determines that it is not authorized to
32 issue a level I fingerprint clearance card to an applicant, the division
33 shall notify the agency that the fingerprinting division is not authorized
34 to issue a level I fingerprint clearance card. This notice shall include
35 the criminal history information on which the denial was based. This
36 criminal history information is subject to dissemination restrictions
37 pursuant to section 41-1750 and Public Law 92-544.

38 N. The fingerprinting division is not liable for damages resulting
39 from:

40 1. The issuance of a level I fingerprint clearance card to an
41 applicant who is later found to have been ineligible to receive a level I
42 fingerprint clearance card at the time the card was issued.

43 2. The denial of a level I fingerprint clearance card to an
44 applicant who is later found to have been eligible to receive a level I
45 fingerprint clearance card at the time issuance of the card was denied.

1 O. Notwithstanding any law to the contrary, an individual may apply
2 for and receive a level I fingerprint clearance card pursuant to this
3 section to satisfy a requirement that the person have a valid fingerprint
4 clearance card issued pursuant to section 41-1758.03.

5 P. Notwithstanding any law to the contrary, except as prescribed
6 pursuant to subsection Q of this section, an individual who receives a
7 level I fingerprint clearance card pursuant to this section also satisfies
8 a requirement that the individual have a valid fingerprint clearance card
9 issued pursuant to section 41-1758.03.

10 Q. Unless a cardholder commits an offense listed in subsection B or
11 C of this section after June 29, 2009, a fingerprint clearance card issued
12 pursuant to section 41-1758.03 before June 29, 2009 and its renewals are
13 valid for all requirements for a level I fingerprint clearance card except
14 those relating to the requirements of section 8-105 or 8-509. A
15 fingerprint clearance card issued before June 29, 2009 to meet the
16 requirements of section 8-105 or 8-509 and its renewals are valid after
17 June 29, 2009 to meet all requirements for a level I fingerprint clearance
18 card, including the requirements of section 8-105 or 8-509, if the
19 cardholder has been certified by the court to adopt or has been issued a
20 foster home license before June 29, 2009.

21 R. The issuance of a level I fingerprint clearance card does not
22 entitle a person to employment.

23 S. For the purposes of this section:

24 1. "Person" means a person who is fingerprinted pursuant to:

25 (a) Section [3-314](#), 8-105, 8-463, 8-509, 8-802, 17-215, 36-207,
26 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52,
27 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or 46-141.

28 (b) Subsection 0 of this section.

29 2. "Renewal" means the issuance of a fingerprint clearance card to
30 an existing fingerprint clearance cardholder who applies before the
31 person's existing fingerprint clearance card expires.

32 Sec. 7. [Rulemaking authority; exemption](#)

33 A. The Arizona department of agriculture may adopt rules to carry
34 out title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added by
35 this act.

36 B. For the purposes of this act, the Arizona department of
37 agriculture is exempt from the rulemaking requirements of title 41,
38 chapter 6, Arizona Revised Statutes, for one year after the general
39 effective date of the fifty-third legislature, second regular session.

40 Sec. 8. [Appropriations; Arizona department of agriculture;
41 industrial hemp](#)

42 A. The sum of \$250,000 and 3 FTE positions are appropriated from
43 the state general fund in fiscal year 2019-2020 to the Arizona department
44 of agriculture plant services division for the purposes provided in this
45 act.

1 B. The sum of \$500,000 is appropriated from the state general fund
2 in fiscal year 2019-2020 to the Arizona department of agriculture for the
3 purposes provided in this act.

4 Sec. 9. Effective date

5 Title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added
6 by this act, and sections 13-3405, 41-619.51, 41-1758, 41-1758.01 and
7 41-1758.07, Arizona Revised Statutes, as amended by this act, are
8 effective one year from and after the general effective date of the
9 fifty-third legislature, second regular session.

APPROVED BY THE GOVERNOR MAY 14, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2018.