

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE CONCURRENT RESOLUTION 1021

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE A MEASURE RELATING TO
THE ARIZONA MEDICAL MARIJUANA ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

7 AN ACT

8 AMENDING SECTION 3-101, ARIZONA REVISED STATUTES; AMENDING
9 TITLE 3, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
10 ADDING SECTION 3-109.03; AMENDING SECTIONS 3-145, 3-201,
11 3-231, 3-364, 36-2801, 36-2804, 36-2804.01, 36-2804.06,
12 36-2806, 36-2810, 36-2816, 36-2817 AND 36-2819, ARIZONA
13 REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.1, ARIZONA
14 REVISED STATUTES, BY ADDING SECTION 36-2820; RELATING TO THE
15 ARIZONA MEDICAL MARIJUANA ACT.

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

17 Section 1. Section 3-101, Arizona Revised Statutes, is
18 amended to read:

19 3-101. Definitions

20 In this title, unless the context otherwise requires:

21 1. "Department" means the Arizona department of
22 agriculture.

23 2. "DESIGNATED CAREGIVER" HAS THE SAME MEANING
24 PRESCRIBED IN SECTION 36-2801.

25 ~~2.~~ 3. "Director" means the director of the department.

26 4. "MARIJUANA" HAS THE SAME MEANING PRESCRIBED IN
27 SECTION 36-2801.

28 5. "MEDICAL USE" HAS THE SAME MEANING PRESCRIBED IN
29 SECTION 36-2801.

30 6. "NONPROFIT MEDICAL MARIJUANA DISPENSARY" HAS THE
31 SAME MEANING PRESCRIBED IN SECTION 36-2801.

32 Sec. 2. Title 3, chapter 1, article 1, Arizona Revised
33 Statutes, is amended by adding section 3-109.03, to read:

34 3-109.03. Marijuana for medical use; agricultural
35 commodity; rules; allowable pesticide
36 products

37 MARIJUANA THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY
38 OR A DESIGNATED CAREGIVER CULTIVATES FOR MEDICAL USE IS AN
39 AGRICULTURAL COMMODITY AS DEFINED IN RULE BY THE DEPARTMENT
40 AND, BEGINNING JUNE 1, 2021, IS SUBJECT TO REGULATION UNDER
41 THIS TITLE AND RULES ADOPTED PURSUANT TO THIS TITLE. THE
42 DIRECTOR MAY ADOPT ANY RULE NECESSARY RELATING TO CULTIVATING
43 MARIJUANA FOR MEDICAL USE AND REQUIRED TESTING BY INDEPENDENT
44 THIRD-PARTY LABORATORIES OF MARIJUANA THAT A NONPROFIT MEDICAL
45 MARIJUANA DISPENSARY OR A DESIGNATED CAREGIVER CULTIVATES FOR

1 MEDICAL USE. ONLY PESTICIDE PRODUCTS THAT ARE EXEMPT FROM
2 FEDERAL REGULATION UNDER THE MINIMUM RISK EXEMPTION
3 REGULATIONS IN 40 CODE OF FEDERAL REGULATIONS 152.25(f) MAY BE
4 USED IN CULTIVATING MARIJUANA FOR MEDICAL USE.

5 Sec. 3. Section 3-145, Arizona Revised Statutes, is
6 amended to read:

7 3-145. Mandatory and voluntary certification; sampling
8 procedures; application; immunity; expiration;
9 renewal

10 A. A person ~~who~~ THAT establishes, conducts or maintains
11 a laboratory that provides agricultural laboratory services to
12 agencies or departments of this state or its political
13 subdivisions shall apply for a certificate from the state
14 agricultural laboratory as proof that the laboratory so
15 certified is in compliance with rules adopted by the director
16 for the certification of such laboratories. Any other person
17 providing agricultural laboratory services may apply for such
18 a certificate.

19 B. A person providing guaranteed laboratory analysis
20 information to distributors of commercial feed and whole seeds
21 for consumption by livestock shall be certified under this
22 section.

23 C. An individual who collects samples for the state
24 agricultural laboratory or for any certified agricultural
25 laboratory shall follow the sampling procedures established by
26 the director.

27 D. A PERSON THAT PROVIDES LABORATORY ANALYSIS OF
28 MARIJUANA CULTIVATED FOR MEDICAL USE SHALL APPLY FOR A
29 CERTIFICATE FROM THE STATE AGRICULTURAL LABORATORY. THE
30 DIRECTOR SHALL ADOPT RULES FOR CERTIFYING LABORATORIES THAT
31 ANALYZE MARIJUANA CULTIVATED FOR MEDICAL USE, INCLUDING THE
32 REQUIRED SAMPLING AND TESTING OF MARIJUANA. A LABORATORY THAT
33 IS CERTIFIED TO ANALYZE MARIJUANA:

34 1. SHALL REPORT THE TEST RESULTS ONLY TO THE NONPROFIT
35 MEDICAL MARIJUANA DISPENSARY OR DESIGNATED CAREGIVER THAT
36 CULTIVATES THE MARIJUANA, THE DEPARTMENT OF HEALTH SERVICES
37 AND THE STATE AGRICULTURAL LABORATORY.

38 2. MAY NOT HAVE ANY FAMILIAL OR FINANCIAL RELATIONSHIP
39 WITH OR INTEREST IN A NONPROFIT MEDICAL MARIJUANA DISPENSARY
40 OR DESIGNATED CAREGIVER FOR WHICH THE LABORATORY IS TESTING
41 MARIJUANA FOR MEDICAL USE.

42 E. NOTWITHSTANDING TITLE 13, CHAPTER 34, AN EMPLOYEE OF
43 THE ARIZONA DEPARTMENT OF AGRICULTURE OR AN EMPLOYEE OF ANY
44 CERTIFIED THIRD-PARTY LABORATORY MAY NOT BE CHARGED WITH OR
45 PROSECUTED FOR POSSESSION OF ANY AMOUNT OF MARIJUANA THAT IS

1 CULTIVATED FOR MEDICAL USE AND THAT THE EMPLOYEE IS USING AS A
2 SAMPLE FOR TESTING AS REQUIRED BY THIS SECTION AND RULES
3 ADOPTED PURSUANT TO THIS TITLE.

4 ~~F.~~ F. A certified laboratory shall report test results
5 only to the party ~~who provided~~ THAT PROVIDES the original
6 sample and, on request, to the state agricultural laboratory
7 or as required by section 3-2611.01.

8 ~~F.~~ G. A person ~~who~~ THAT desires a certificate pursuant
9 to this section shall file with the state agricultural
10 laboratory an application for a certificate accompanied by the
11 application fee.

12 ~~F.~~ H. The application shall be on a form prescribed by
13 the assistant director and furnished by the state agricultural
14 laboratory and shall contain:

- 15 1. The name and location of the laboratory.
- 16 2. The name of the person owning the laboratory and the
17 name of the person supervising the laboratory.
- 18 3. A description of the programs, services and
19 functions provided by the laboratory.
- 20 4. Such other information as the assistant director
21 deems necessary to carry out the purposes of this section.

22 ~~G.~~ I. The assistant director shall issue a certificate
23 to an applicant if the assistant director is satisfied that
24 the applicant has complied with the rules prescribing
25 standards for certified laboratories.

26 ~~H.~~ J. A certificate expires one year after the date of
27 issuance and shall be renewed ~~upon~~ ON payment of the renewal
28 application fee as prescribed in section 3-146 and continued
29 compliance with this article and the applicable rules.

30 Sec. 4. Section 3-201, Arizona Revised Statutes, is
31 amended to read:

32 3-201. Definitions

33 In this article, unless the context otherwise requires:

- 34 1. "Associate director" means the associate director of
35 the division.
- 36 2. "Diseases" includes any fungus, bacterium, virus or
37 other organism of any kind and any unknown cause that is or
38 may be found to be injurious, or likely to be or to become
39 injurious to any domesticated or cultivated plant, or to the
40 product of any such plant.
- 41 3. "Division" means the plant services division of the
42 Arizona department of agriculture.
- 43 4. "Noxious weed" means any species of plant that is,
44 or is liable to be, detrimental or destructive and difficult
45 to control or eradicate and ~~shall include~~ INCLUDES any species

1 that the director, after investigation and hearing, ~~shall~~
2 ~~determine~~ DETERMINES to be a noxious weed.

3 5. "Nursery" means real property or other premises on
4 or in which nursery stock is propagated, grown or cultivated
5 or from which ~~source~~ nursery stock is offered for distribution
6 or sale.

7 6. "Nursery stock" includes all trees, shrubs, vines,
8 cacti, agaves, succulents, herbaceous plants whether annuals,
9 biennials or perennials, bulbs, corms, rizomes, roots,
10 decorative plant material, flowers, fruit pits or seeds,
11 cuttings, buds, grafts, scions and other plants intended for
12 sale, gift or propagation, either cultivated or collected in
13 the wild, except seeds as regulated by article 2 of this
14 chapter, fruit and vegetables regulated by chapter 3, articles
15 2 and 4 of this title and cotton plants.

16 7. "Pests" includes all noxious weeds, insects,
17 diseases, mites, spiders, nematodes and other animal or plant
18 organisms found TO BE injurious, or likely to be or to become
19 injurious, to any domesticated, cultivated, native or wild
20 plant, or to the product of any such plant.

21 8. "Plant" or "crop" includes:

22 (a) Every kind of vegetation, WHETHER wild or
23 domesticated, and any part ~~thereof~~ OF THAT VEGETATION, as well
24 as seed, fruit or ~~other~~ ANOTHER natural product of ~~such~~ THAT
25 vegetation.

26 (b) MARIJUANA THAT A NONPROFIT MEDICAL MARIJUANA
27 DISPENSARY OR A DESIGNATED CAREGIVER CULTIVATES FOR MEDICAL
28 USE.

29 9. "Shipment" includes anything that is brought into
30 ~~the~~ THIS state or that is transported within ~~the~~ THIS state
31 and that may be the host or may contain or carry or may be
32 susceptible of containing, carrying or having present on, in
33 or about it any plant pest or plant disease.

34 Sec. 5. Section 3-231, Arizona Revised Statutes, is
35 amended to read:

36 3-231. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Advertisement" means all representations, other
39 than those on the label, made in any manner relating to seed
40 within the scope of this article.

41 2. "Agricultural seed":

42 (a) Means the seeds of grass, forage, cereal, ~~and~~
43 fiber crops and any other kinds of seeds commonly recognized
44 within this state as agricultural seeds, lawn seeds and
45 mixtures of such seeds. ~~, and~~

1 (b) May include noxious-weed seeds ~~when~~ IF the
2 department determines that ~~such~~ THE seed is being used as
3 agricultural seed.

4 (c) INCLUDES SEEDS OF MARIJUANA THAT A NONPROFIT
5 MEDICAL MARIJUANA DISPENSARY OR A DESIGNATED CAREGIVER
6 CULTIVATES FOR MEDICAL USE.

7 3. "Cease and desist order" means an administrative
8 order THAT IS provided by law restraining the sale, use,
9 disposition and movement of a definite amount of seed.

10 4. "Certified seed" or "registered seed" means seed
11 that has been produced and labeled in accordance with the
12 procedures and in compliance with the rules and regulations of
13 an officially recognized seed-certifying agency.

14 5. "Custom application" means an application of
15 pesticide to a seed by a pesticide applicator ~~who~~ THAT does
16 not hold title to the seed.

17 6. "Dealer" means any person ~~who~~ THAT sells seed.

18 7. "Division" means the environmental services division
19 of the Arizona department of agriculture.

20 8. "Established plant, warehouse, or place of business"
21 means any permanent office headquarters maintained by an
22 importer, broker, seller or authorized manufacturer's agent,
23 or any permanent warehouse, building or structure in or from
24 which a permanent business is operated, at which stocks of
25 agricultural seed, vegetable seed or ornamental plant seed
26 regulated by this article are sold, distributed, processed,
27 mixed, stored or kept.

28 9. "Hybrid" means the first generation seed of a
29 crossbreed THAT IS produced by controlling pollination and by
30 combining two or more inbred lines, or one inbred or a single
31 crossbreed with an open pollinated variety, or two varieties
32 or species, except open pollinated varieties of corn (zea
33 mays). The second generation, or subsequent generations from
34 such crosses, shall not be regarded as crosses. Hybrid
35 designations shall be treated as variety names. Any kinds or
36 varieties that have pure seed ~~which~~ THAT is less than
37 ninety-five ~~per cent~~ PERCENT but more than seventy-five ~~per~~
38 ~~cent~~ PERCENT hybrid seed as a result of incompletely
39 controlled pollination in a cross shall be labeled to show the
40 percentage of pure seed that is hybrid seed, ~~or~~ shall be
41 labeled with a statement such as "contains from seventy-five
42 ~~per cent~~ PERCENT to ninety-five ~~per cent~~ PERCENT hybrid seed".
43 No one kind of seed shall be labeled as hybrid if the pure
44 seed contains less than seventy-five ~~per cent~~ PERCENT hybrid
45 seed.

1 10. "Inoculant" means a commercial preparation
2 containing nitrogen-fixing bacteria that is applied to seed.

3 11. "Kind" means one or more related species or
4 subspecies ~~which~~ THAT singly or collectively are known by one
5 common name, such as corn, oats, alfalfa and timothy.

6 12. "Label" means any label or other written, printed
7 or graphic representations, in any form whatsoever,
8 accompanying or pertaining to any seed whether in bulk or in
9 containers and includes representations or invoices.

10 13. "Labeler" means any person whose name and address
11 appear on the label pertaining to or attached to a lot or
12 container of agricultural, vegetable or ornamental plant seed
13 THAT IS sold, offered for sale, exposed for sale or
14 transported for sowing purposes.

15 14. "License" means an Arizona state seed license that
16 is obtained from the department.

17 15. "Lot" means a definite quantity of seed THAT IS
18 identified by a lot number or other mark, every portion or bag
19 of which is uniform within recognized tolerances for the
20 factors ~~which~~ THAT appear in the labeling.

21 16. "Noxious-weed seeds" means ~~"prohibited noxious-weed
22 seeds" and "restricted noxious-weed seeds" as defined as
23 follows and~~ THE FOLLOWING as listed in the rules adopted under
24 this article: :-

25 (a) "Prohibited noxious-weed seeds", WHICH are the
26 seeds of perennial or annual weeds ~~which~~ THAT, when
27 established, are highly destructive and difficult to control
28 by ordinary good cultural practice and the seed of which is
29 prohibited by this article subject to recognized tolerances.

30 (b) "Restricted noxious-weed seeds", WHICH are all
31 noxious-weed seed not classified as prohibited noxious-weed
32 seed.

33 17. "Ornamental plant seed" means the seed of any plant
34 THAT IS used for decorative or ornamental purposes and
35 includes flower seed.

36 18. "Person" means any individual, partnership,
37 corporation, company, society or association.

38 19. "Pure seed", "germination" and other seed labeling
39 and testing terms in common usage shall be defined as in the
40 federal seed act (53 Stat. 1275; 7 United States Code sections
41 1551 through 1611) and the rules and regulations promulgated
42 under that act.

43 20. "Record" means all information relating to the
44 shipment or shipments involved and includes a file sample of
45 each lot of seed.

1 21. "Sell" means ~~TO~~ offer for sale, expose for sale,
2 possess for sale, exchange, barter or trade.

3 22. "Treated" means that the seed has received an
4 application of a substance or process that is designed to
5 reduce, control or repel certain disease organisms, insects or
6 other pests attacking such seeds or seedlings growing from the
7 seeds.

8 23. "Type" means either a group of varieties so similar
9 that the individual varieties cannot be clearly differentiated
10 except under special conditions or, when used with a variety
11 name, seed of the variety named, which may be mixed with seed
12 of other varieties of the same kind and of similar character.
13 If type is designated, the designation may be associated with
14 the name of the kind but in all cases shall be clearly
15 associated with the word "type". If the type designation does
16 not include a variety name, it shall include a name that
17 describes a group of varieties of similar character, and the
18 pure seed shall be at least ninety ~~per cent~~ PERCENT of one or
19 more varieties ~~THAT~~ all ~~of which~~ conform to the type
20 designation.

21 24. "Variety" means a subdivision of a kind
22 characterized by growth, yield, plant, fruit, seed or other
23 characteristics by which it can be differentiated from other
24 plants of the same kind.

25 25. "Vegetable seeds" means seeds of those crops ~~which~~
26 ~~THAT~~ are grown in gardens and on truck farms and ~~THAT~~ are
27 generally known and sold under the name of vegetable seeds in
28 this state.

29 26. "Weed seeds" means the seeds of all plants ~~THAT ARE~~
30 generally recognized as weeds within this state and includes
31 noxious-weed seeds.

32 Sec. 6. Section 3-364, Arizona Revised Statutes, is
33 amended to read:

34 3-364. Inspection powers; notification requirements

35 A. The director may enter at reasonable times into or
36 on or through any public or private property ~~for the purpose~~
37 ~~of ascertaining~~ TO DETERMINE compliance or noncompliance with
38 any rules or orders adopted or issued under this article. If
39 practicable, and if notice will not inhibit the director's
40 ability to enforce this article, the director or the
41 director's agent shall notify the owner, operator or lessee of
42 the property when entering on the property.

43 B. THE DIRECTOR MAY ENTER AT REASONABLE TIMES INTO OR
44 ON PRIVATE PROPERTY WHERE MARIJUANA IS CULTIVATED FOR MEDICAL
45 USE TO DETERMINE COMPLIANCE OR NONCOMPLIANCE WITH ANY RULES OR

1 ORDERS ADOPTED OR ISSUED UNDER THIS TITLE. IF PRACTICABLE,
2 AND IF NOTICE WILL NOT INHIBIT THE DIRECTOR'S ABILITY TO
3 ENFORCE THIS ARTICLE, THE DIRECTOR OR THE DIRECTOR'S AGENT
4 SHALL NOTIFY THE NONPROFIT MEDICAL MARIJUANA DISPENSARY OR THE
5 DESIGNATED CAREGIVER WHEN ENTERING ON THE PROPERTY.

6 ~~B.~~ C. Within five days after the inspection, the
7 director shall inform any alleged violator in writing if the
8 director anticipates an enforcement action. The notice of a
9 potential enforcement action shall indicate the nature of the
10 alleged violation and the last possible date for issuing a
11 citation under section 3-368, subsection F. If in the course
12 of an investigation the department identifies any additional
13 alleged violator, the director shall inform the additional
14 alleged violator within five days ~~of~~ AFTER initiating the new
15 investigation. The notice of a potential enforcement action
16 against the additional alleged violator shall indicate the
17 nature of the alleged violation and the last possible date for
18 issuing a citation or notice of de minimis violation under
19 section 3-368, subsection F. If the director does not issue a
20 notice of a potential enforcement action, the director shall
21 inform the alleged violator within fifteen days after the
22 inspection that the director does not anticipate any
23 enforcement action.

24 Sec. 7. Section 36-2801, Arizona Revised Statutes, is
25 amended to read:

26 36-2801. Definitions

27 In this chapter, unless the context otherwise requires:

28 1. "Allowable amount of marijuana":

29 (a) With respect to a qualifying patient, ~~the~~
30 ~~"allowable amount of marijuana"~~ means:

31 (i) ~~Two-and-one-half~~ TWO AND ONE-HALF ounces of usable
32 marijuana. ~~;~~ ~~and~~

33 (ii) If the qualifying patient's registry
34 identification card states that the qualifying patient is
35 authorized to cultivate marijuana, twelve marijuana plants
36 contained in an enclosed, locked facility, except that the
37 plants are not required to be in an enclosed, locked facility
38 if the plants are being transported because the qualifying
39 patient is moving.

40 (b) With respect to a designated caregiver, ~~the~~
41 ~~"allowable amount of marijuana"~~ for each patient assisted by
42 the designated caregiver under this chapter, means:

43 (i) ~~Two-and-one-half~~ TWO AND ONE-HALF ounces of usable
44 marijuana. ~~;~~ ~~and~~

1 (ii) If the designated caregiver's registry
2 identification card provides that the designated caregiver is
3 authorized to cultivate marijuana, twelve marijuana plants
4 contained in an enclosed, locked facility, except that the
5 plants are not required to be in an enclosed, locked facility
6 if the plants are being transported because the designated
7 caregiver is moving.

8 (c) DOES NOT INCLUDE marijuana that is incidental to
9 medical use, but is not usable marijuana ~~as defined in this~~
10 ~~chapter, shall not be counted toward a qualifying patient's or~~
11 ~~designated caregiver's allowable amount of marijuana.~~

12 2. "Cardholder" means a qualifying patient, a
13 designated caregiver or a nonprofit medical marijuana
14 dispensary agent who has been issued and possesses a valid
15 registry identification card.

16 3. "Debilitating medical condition" means one or more
17 of the following:

18 (a) Cancer, glaucoma, positive status for human
19 immunodeficiency virus, acquired immune deficiency syndrome,
20 hepatitis C, amyotrophic lateral sclerosis, Crohn's
21 disease, ~~OR~~ agitation of Alzheimer's disease or the treatment
22 of these conditions.

23 (b) A chronic or debilitating disease or medical
24 condition or its treatment that produces one or more of the
25 following:

26 (i) Cachexia or wasting syndrome. ~~;~~

27 (ii) Severe and chronic pain. ~~;~~

28 (iii) Severe nausea. ~~;~~

29 (iv) Seizures, including those characteristic of
30 epilepsy. ~~;~~ ~~OR~~

31 (v) Severe and persistent muscle spasms, including
32 those characteristic of multiple sclerosis.

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

35 4. "Department" means the ~~Arizona~~ department of health
36 services or its successor agency.

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

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

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

41 (c) Has ~~not been convicted of an excluded felony~~
42 ~~offense~~ A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO
43 TITLE 41, CHAPTER 12, ARTICLE 3.1.

44 (d) Assists ~~no~~ NOT more than five qualifying patients
45 with the medical use of marijuana.

1 (e) May receive reimbursement for actual costs incurred
2 in assisting a registered qualifying patient's medical use of
3 marijuana if the registered designated caregiver is connected
4 to the registered qualifying patient through the department's
5 registration process. The designated caregiver may not be
6 paid any fee or compensation for ~~his~~ service as a caregiver.
7 Payment for costs under this subdivision ~~shall~~ DOES not
8 constitute an offense under title 13, chapter 34 or under
9 title 36, chapter 27, article 4.

10 6. "Enclosed, locked facility" means a closet, room,
11 greenhouse or other enclosed area THAT IS equipped with locks
12 or other security devices that permit access only by a
13 cardholder.

14 ~~7. "Excluded felony offense" means:~~

15 ~~(a) A violent crime as defined in section 13-901.03,~~
16 ~~subsection B, that was classified as a felony in the~~
17 ~~jurisdiction where the person was convicted.~~

18 ~~(b) A violation of a state or federal controlled~~
19 ~~substance law that was classified as a felony in the~~
20 ~~jurisdiction where the person was convicted but does not~~
21 ~~include:~~

22 ~~(i) An offense for which the sentence, including any~~
23 ~~term of probation, incarceration or supervised release, was~~
24 ~~completed ten or more years earlier.~~

25 ~~(ii) An offense involving conduct that would be immune~~
26 ~~from arrest, prosecution or penalty under section 36-2811,~~
27 ~~except that the conduct occurred before the effective date of~~
28 ~~this chapter or was prosecuted by an authority other than the~~
29 ~~state of Arizona.~~

30 ~~8.~~ 7. "Marijuana" means all parts of any plant of the
31 genus cannabis whether growing or not, and the seeds of such
32 plant.

33 ~~9.~~ 8. "Medical use" means the acquisition, possession,
34 cultivation, manufacture, use, administration, delivery,
35 transfer or transportation of marijuana or paraphernalia
36 relating to the administration of marijuana to treat or
37 alleviate a registered qualifying patient's debilitating
38 medical condition or symptoms associated with the patient's
39 debilitating medical condition.

40 ~~11.~~ 9. "Nonprofit medical marijuana dispensary" means
41 a not-for-profit entity that acquires, possesses, cultivates,
42 manufactures, delivers, transfers, transports, supplies, sells
43 or dispenses marijuana or related supplies and educational
44 materials to cardholders. A nonprofit medical marijuana

1 dispensary may receive payment for all expenses incurred in
2 its operation.

3 10. "Nonprofit medical marijuana dispensary agent"
4 means a principal officer, board member, employee or volunteer
5 of a nonprofit medical marijuana dispensary who is at least
6 twenty-one years of age and has ~~not been convicted of an~~
7 ~~excluded felony offense~~ A VALID FINGERPRINT CLEARANCE CARD
8 ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

9 ~~12.~~ 11. "Physician" means a doctor of medicine who
10 holds a valid and existing license to practice medicine
11 pursuant to title 32, chapter 13 or its successor, a doctor of
12 osteopathic medicine who holds a valid and existing license to
13 practice osteopathic medicine pursuant to title 32, chapter 17
14 or its successor, a naturopathic physician who holds a valid
15 and existing license to practice naturopathic medicine
16 pursuant to title 32, chapter 14 or its successor or a
17 homeopathic physician who holds a valid and existing license
18 to practice homeopathic medicine pursuant to title 32, chapter
19 29 or its successor.

20 ~~13.~~ 12. "Qualifying patient" means a person who has
21 been diagnosed by a physician as having a debilitating medical
22 condition.

23 ~~14.~~ 13. "Registry identification card" means a
24 document issued by the department that identifies a person as
25 a registered qualifying patient, A registered designated
26 caregiver or a registered nonprofit medical marijuana
27 dispensary agent.

28 ~~15.~~ 14. "Usable marijuana":

29 (a) Means the dried flowers of the marijuana plant, and
30 any mixture or preparation thereof. ~~, but~~

31 (b) Does not include:

32 (i) The seeds, stalks and roots of the plant. ~~and does~~
33 ~~not include~~

34 (ii) The weight of any non-marijuana ingredients
35 combined with marijuana and prepared for consumption as food
36 or drink.

37 ~~16.~~ 15. "Verification system" means a secure,
38 password-protected, web-based system THAT IS established and
39 maintained by the department AND that is available to law
40 enforcement personnel and nonprofit medical marijuana
41 dispensary agents on a ~~twenty-four hour~~ TWENTY-FOUR-HOUR basis
42 for verification of registry identification cards.

43 ~~17.~~ 16. "Visiting qualifying patient" means a person:

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

1 (b) Who has been diagnosed with a debilitating medical
2 condition by a person who is licensed with authority to
3 prescribe drugs to humans in the state of the person's
4 residence or, in the case of a person who has been a resident
5 of Arizona less than thirty days, the state of the person's
6 former residence.

7 ~~18-~~ 17. "Written certification" means a document dated
8 and signed by a physician, stating that in the physician's
9 professional opinion the patient is likely to receive
10 therapeutic or palliative benefit from the medical use of
11 marijuana to treat or alleviate the patient's debilitating
12 medical condition or symptoms associated with the debilitating
13 medical condition. The physician must:

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

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

20 Sec. 8. Section 36-2804, Arizona Revised Statutes, is
21 amended to read:

22 36-2804. Registration and certification of nonprofit
23 medical marijuana dispensaries

24 A. Nonprofit medical marijuana dispensaries shall
25 register with the department.

26 B. Not later than ninety days after receiving an
27 application for a nonprofit medical marijuana dispensary, the
28 department shall register the nonprofit medical marijuana
29 dispensary and issue a registration certificate and a random
30 ~~20-digit~~ TWENTY-DIGIT alphanumeric identification number if:

31 1. The prospective nonprofit medical marijuana
32 dispensary has submitted the following:

33 (a) The application fee.

34 (b) An application, including:

35 (i) The legal name of the nonprofit medical marijuana
36 dispensary.

37 (ii) The physical address of the nonprofit medical
38 marijuana dispensary and the physical address of one
39 additional location, if any, where marijuana will be
40 cultivated, neither of which may be within five hundred feet
41 of a public or private school existing before the date of the
42 nonprofit medical marijuana dispensary application.

43 (iii) The name, address and date of birth of each
44 principal officer and board member of the nonprofit medical
45 marijuana dispensary.

1 (iv) The name, address and date of birth of each
2 nonprofit medical marijuana dispensary agent.

3 (c) Operating procedures consistent with department
4 rules for oversight of the nonprofit medical marijuana
5 dispensary, including procedures to ensure accurate
6 ~~record-keeping~~ RECORDKEEPING and adequate security measures.

7 (d) If the city, town or county in which the nonprofit
8 medical marijuana dispensary would be located has enacted
9 zoning restrictions, a sworn statement certifying that the
10 registered nonprofit medical marijuana dispensary is in
11 compliance with the restrictions.

12 (e) FOR RENEWAL APPLICATIONS, DOCUMENTATION THAT ALL
13 STATE AND LOCAL TAX DEFICIENCIES ARE PAID OR TEMPORARILY
14 RELEASED.

15 2. ~~None~~ EACH of the principal officers or board members
16 has ~~been convicted of an excluded felony offense~~ A VALID
17 FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41,
18 CHAPTER 12, ARTICLE 3.1.

19 3. None of the principal officers or board members has
20 served as a principal officer or board member for a registered
21 nonprofit medical marijuana dispensary that has had its
22 registration certificate revoked.

23 4. None of the principal officers or board members is
24 under twenty-one years of age.

25 C. The department may not issue more than one nonprofit
26 medical marijuana dispensary registration certificate for
27 every ten pharmacies that have registered under section
28 32-1929, have obtained a pharmacy permit from the Arizona
29 STATE board of pharmacy and operate within the state except
30 that the department may issue nonprofit medical marijuana
31 dispensary registration certificates in excess of this limit
32 if necessary to ensure that the department issues at least one
33 nonprofit medical marijuana dispensary registration
34 certificate in each county in which an application has been
35 approved.

36 ~~D. The department may conduct a criminal records check~~
37 ~~in order to carry out this section.~~

38 Sec. 9. Section 36-2804.01, Arizona Revised Statutes,
39 is amended to read:

40 36-2804.01. Registration of nonprofit medical marijuana
41 dispensary agents; notices; civil
42 penalty; classification

43 A. A nonprofit medical marijuana dispensary agent shall
44 be registered with the department before volunteering or
45 working at a NONPROFIT medical marijuana dispensary.

1 B. A nonprofit medical marijuana dispensary may apply
2 to the department for a registry identification card for a
3 nonprofit medical marijuana dispensary agent by submitting:

4 1. The name, address and date of birth of the
5 PROSPECTIVE nonprofit medical marijuana dispensary agent.

6 2. A nonprofit medical marijuana dispensary agent
7 application.

8 3. A statement signed by the prospective nonprofit
9 medical marijuana dispensary agent pledging not to divert
10 marijuana to anyone who is not allowed to possess marijuana
11 pursuant to this chapter.

12 4. The application fee.

13 5. A COPY OF A VALID FINGERPRINT CLEARANCE CARD ISSUED
14 PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

15 C. A registered nonprofit medical marijuana dispensary
16 shall notify the department within ten days after a nonprofit
17 medical marijuana dispensary agent ceases to be employed by or
18 volunteer at the registered nonprofit medical marijuana
19 dispensary.

20 D. ~~No person who has been convicted of an excluded~~
21 ~~felony offense~~ A PERSON WITHOUT A VALID FINGERPRINT CLEARANCE
22 CARD ISSUED PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 may
23 NOT be a nonprofit medical marijuana dispensary agent.

24 E. ~~The department may conduct a criminal records check~~
25 ~~in order to carry out this section.~~

26 Sec. 10. Section 36-2804.06, Arizona Revised Statutes,
27 is amended to read:

28 36-2804.06. Expiration and renewal of registry
29 identification cards and registration
30 certificates; replacement

31 A. All registry identification cards and registration
32 certificates expire ~~one year~~ TWO YEARS after THEIR date of
33 issue. A REGISTERED QUALIFYING PATIENT SHALL PAY A \$100
34 RENEWAL FEE EVERY TWO YEARS.

35 B. ~~A~~ THE DEPARTMENT SHALL CANCEL THE registry
36 identification card of a nonprofit medical marijuana
37 dispensary agent ~~shall be cancelled~~ and ~~his~~ SHALL DEACTIVATE
38 THE AGENT'S access to the verification system ~~shall be~~
39 ~~deactivated upon~~ ON notification to the department by a
40 registered nonprofit medical marijuana dispensary that the
41 nonprofit medical marijuana dispensary agent is no longer
42 employed by or no longer volunteers at the registered
43 nonprofit medical marijuana dispensary.

44 C. THE DEPARTMENT SHALL ISSUE a renewal nonprofit
45 medical marijuana dispensary registration certificate ~~shall be~~

1 ~~issued~~ within ten days ~~of~~ AFTER receipt of the prescribed
2 renewal application and renewal fee from a registered
3 nonprofit medical marijuana dispensary if ~~its~~ THE DISPENSARY'S
4 registration certificate is not under suspension and has not
5 been revoked.

6 D. ~~if~~ A cardholder WHO loses ~~his~~ THE CARDHOLDER'S
7 registry identification card, ~~he~~ shall promptly notify the
8 department. Within five days ~~of~~ AFTER the notification, ~~and~~
9 ~~upon~~ ON payment of a ~~ten-dollar~~ \$10 fee, the department shall
10 issue a new registry identification card with a new random
11 identification number to the cardholder and, if the cardholder
12 is a registered qualifying patient, to the registered
13 qualifying patient's registered designated caregiver, if any.

14 Sec. 11. Section 36-2806, Arizona Revised Statutes, is
15 amended to read:

16 36-2806. Registered nonprofit medical marijuana
17 dispensaries; requirements

18 A. A registered nonprofit medical marijuana dispensary
19 shall be operated on a not-for-profit basis. The bylaws of a
20 registered nonprofit medical marijuana dispensary shall
21 contain such provisions relative to the disposition of
22 revenues and receipts to establish and maintain its nonprofit
23 character. A registered nonprofit medical marijuana
24 dispensary need not be recognized as tax-exempt by the
25 internal revenue service and is not required to incorporate
26 pursuant to title 10, chapter 19, article 1.

27 B. The operating documents of a registered nonprofit
28 medical marijuana dispensary shall include procedures for the
29 oversight of the registered nonprofit medical marijuana
30 dispensary and procedures to ensure accurate recordkeeping.

31 C. A registered nonprofit medical marijuana dispensary
32 shall have a single secure entrance and shall implement
33 appropriate security measures to deter and prevent the theft
34 of marijuana and unauthorized entrance into areas containing
35 marijuana.

36 D. A registered nonprofit medical marijuana dispensary
37 is prohibited from acquiring, possessing, cultivating,
38 manufacturing, delivering, transferring, transporting,
39 supplying or dispensing marijuana for any purpose except to
40 assist registered qualifying patients with the medical use of
41 marijuana directly or through the registered qualifying
42 patients' designated caregivers.

43 E. All cultivation of marijuana must take place in an
44 enclosed, locked facility, at a physical address provided to
45 the department during the registration process, ~~which~~ THAT can

1 ~~only~~ be accessed ONLY by registered nonprofit medical
2 marijuana dispensary agents associated in the registry with
3 the nonprofit medical marijuana dispensary.

4 F. A registered nonprofit medical marijuana dispensary
5 may acquire usable marijuana or marijuana plants from a
6 registered qualifying patient or a registered designated
7 caregiver only if the registered qualifying patient or
8 registered designated caregiver receives no compensation for
9 the marijuana.

10 G. A nonprofit medical marijuana dispensary shall not
11 ~~permit~~ ALLOW any person to consume marijuana on the property
12 of ~~a~~ THE nonprofit medical marijuana dispensary.

13 H. Registered nonprofit medical marijuana dispensaries
14 are subject to reasonable inspection by the department. The
15 department ~~shall give reasonable notice of an inspection~~ MAY
16 INSPECT A NONPROFIT MEDICAL MARIJUANA DISPENSARY under this
17 subsection DURING THE DISPENSARY'S NORMAL BUSINESS HOURS TO
18 DETERMINE WHETHER THE DISPENSARY IS IN COMPLIANCE WITH THIS
19 CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

20 Sec. 12. Section 36-2810, Arizona Revised Statutes, is
21 amended to read:

22 36-2810. Confidentiality

23 A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION,
24 the following information received and records kept by the
25 department for purposes of administering this chapter are
26 confidential, exempt from title 39, chapter 1, article 2,
27 exempt from section 36-105 and not subject to disclosure to
28 any individual or public or private entity, except as
29 necessary for authorized employees of the department to
30 perform official duties of the department pursuant to this
31 chapter:

32 1. Applications or renewals, their contents and
33 supporting information submitted by qualifying patients and
34 designated caregivers, including information regarding their
35 designated caregivers and physicians.

36 2. Applications or renewals, their contents and
37 supporting information submitted by or on behalf of nonprofit
38 medical marijuana dispensaries in compliance with this
39 chapter, including the physical addresses of nonprofit medical
40 marijuana dispensaries.

41 3. The individual names and other information
42 identifying persons to whom the department has issued registry
43 identification cards.

44 B. Any dispensing information required to be kept under
45 section 36-2806.02, subsection B or department regulation

1 shall identify cardholders by their registry identification
2 numbers and not contain names or other personally identifying
3 information.

4 C. Any department hard drives or other data recording
5 media that are no longer in use and that contain cardholder
6 information must be destroyed. The department shall retain a
7 signed statement from a department employee confirming the
8 destruction.

9 D. EXCEPT FOR PUBLIC HEALTH RESEARCH, data subject to
10 this section shall not be combined or linked in any manner
11 with any other list or database and shall not be used for any
12 purpose not provided for in this chapter.

13 E. This section does not preclude the following
14 notifications:

15 1. Department employees may notify law enforcement
16 about falsified or fraudulent information submitted to the
17 department if the employee who suspects that falsified or
18 fraudulent information has been submitted has conferred with
19 the employee's supervisor and both agree that the
20 circumstances warrant reporting.

21 2. The department may notify state or local law
22 enforcement about apparent criminal violations of this chapter
23 if the employee who suspects the offense has conferred with
24 the employee's supervisor and both agree that the
25 circumstances warrant reporting.

26 3. Nonprofit medical marijuana dispensary agents may
27 notify the department of a suspected violation or attempted
28 violation of this chapter or department rules.

29 4. The department may notify the Arizona medical board,
30 the Arizona board of osteopathic examiners in medicine and
31 surgery, the naturopathic physicians medical board and the
32 board of homeopathic and integrated medicine examiners if the
33 department believes a physician has committed an act of
34 unprofessional conduct as prescribed by the appropriate
35 board's statutes because of the licensee's failure to comply
36 with the requirements of this chapter or rules adopted
37 pursuant to this chapter.

38 F. This section does not preclude submission of the
39 section 36-2809 report to the legislature. The annual report
40 submitted to the legislature is subject to title 39, chapter
41 1, article 2.

42 G. THE DEPARTMENT MAY NOTIFY THE PUBLIC OF INSPECTION
43 AND COMPLIANCE INFORMATION FOR A NONPROFIT MEDICAL MARIJUANA
44 DISPENSARY, INCLUDING THE NAME AND ADDRESS OF THE DISPENSARY

1 AND ANY COMPLAINTS AND ENFORCEMENT ACTIONS AGAINST THE
2 DISPENSARY.

3 Sec. 13. Section 36-2816, Arizona Revised Statutes, is
4 amended to read:

5 36-2816. Violations; classification; civil penalty;
6 enforcement

7 A. A registered qualifying patient may not directly, or
8 through ~~his~~ THE PATIENT'S designated caregiver, obtain more
9 than ~~two-and-one-half~~ TWO AND ONE-HALF ounces of marijuana
10 from registered nonprofit medical marijuana dispensaries in
11 any fourteen-day period.

12 B. A registered nonprofit medical marijuana dispensary
13 or agent may not dispense, deliver or otherwise transfer
14 marijuana to a person other than another registered nonprofit
15 medical marijuana dispensary, a registered qualifying patient
16 or a registered qualifying patient's registered designated
17 caregiver.

18 C. A registered nonprofit medical marijuana dispensary
19 may not acquire usable marijuana or mature marijuana plants
20 from any person other than another registered nonprofit
21 medical marijuana dispensary, a registered qualifying patient
22 or a registered designated caregiver. A knowing violation of
23 this subsection is a class 2 felony.

24 D. It is a class 1 misdemeanor for any person,
25 including an employee or official of the department or another
26 state agency or local government, to breach the
27 confidentiality of information obtained pursuant to this
28 chapter.

29 E. Making false statements to a law enforcement
30 official about any fact or circumstance relating to the
31 medical use of marijuana to avoid arrest or prosecution is
32 subject to a civil penalty of not more than ~~five hundred~~
33 ~~dollars~~ \$500, which shall be in addition to any other
34 penalties that may apply for making a false statement or for
35 the use of marijuana other than use undertaken pursuant to
36 this chapter.

37 F. THE DIRECTOR MAY DENY, SUSPEND OR REVOKE, IN WHOLE
38 OR IN PART, ANY REGISTRATION ISSUED UNDER THIS CHAPTER IF THE
39 REGISTERED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE
40 REGISTERED PARTY DOES EITHER OF THE FOLLOWING:

41 1. VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT
42 TO THIS CHAPTER.

43 2. HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL
44 VIOLATION OF THE REQUIREMENTS FOR REGISTRATION AND AS A RESULT

1 THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE
2 DANGER.

3 G. IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED BY
4 THIS CHAPTER, THE DIRECTOR MAY ASSESS A CIVIL PENALTY AGAINST
5 A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED
6 PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED \$5,000 FOR
7 EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A
8 SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS
9 \$25,000 FOR ANY THIRTY-DAY PERIOD.

10 H. THE DIRECTOR SHALL ISSUE A NOTICE OF ASSESSMENT THAT
11 INCLUDES THE PROPOSED AMOUNT OF THE ASSESSMENT. IN
12 DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A
13 PERSON UNDER SUBSECTION G OF THIS SECTION, THE DEPARTMENT
14 SHALL CONSIDER ALL OF THE FOLLOWING:

- 15 1. REPEATED VIOLATIONS OF THIS CHAPTER OR THE RULES
16 ADOPTED PURSUANT TO THIS CHAPTER.
- 17 2. PATTERNS OF NONCOMPLIANCE.
- 18 3. THE TYPES OF VIOLATIONS.
- 19 4. THE SEVERITY OF THE VIOLATIONS.
- 20 5. THE POTENTIAL FOR AND OCCURRENCES OF ACTUAL HARM.
- 21 6. THREATS TO HEALTH AND SAFETY.
- 22 7. THE NUMBER OF VIOLATIONS.
- 23 8. THE NUMBER OF PERSONS AFFECTED BY THE VIOLATIONS.
- 24 9. THE LENGTH OF TIME THE VIOLATIONS HAVE BEEN
25 OCCURRING.

26 Sec. 14. Section 36-2817, Arizona Revised Statutes, is
27 amended to read:

28 36-2817. Medical marijuana fund; private donations

29 A. The medical marijuana fund is established consisting
30 of fees collected, civil penalties imposed and private
31 donations received under this chapter. The department shall
32 administer the fund. Monies in the fund are continuously
33 appropriated.

34 B. The director of the department may accept and spend
35 private grants, gifts, donations, contributions and devises to
36 assist in carrying out ~~the provisions of~~ this chapter.

37 C. THE ARIZONA DEPARTMENT OF AGRICULTURE MAY USE MONIES
38 IN THE FUND TO REGULATE MARIJUANA AS AN AGRICULTURAL
39 COMMODITY.

40 ~~C.~~ D. Monies in the medical marijuana fund do not
41 revert to the state general fund at the end of a fiscal year.

1 Sec. 15. Section 36-2819, Arizona Revised Statutes, is
2 amended to read:

3 36-2819. Fingerprinting requirements

4 Each person applying as a designated caregiver, a
5 principal officer, agent or employee of a nonprofit medical
6 marijuana dispensary or a **NONPROFIT** medical marijuana
7 dispensary agent shall submit a full set of fingerprints to
8 the department **OF HEALTH SERVICES** for the purpose of obtaining
9 a state and federal criminal records check pursuant to section
10 41-1750 and Public Law 92-544. The department of public
11 safety may exchange this fingerprint data with the federal
12 bureau of investigation without disclosing that the records
13 check is related to the medical marijuana act and acts
14 permitted by it. The department shall destroy each set of
15 fingerprints after the criminal records check is completed. **A**
16 **DESIGNATED CAREGIVER, A PRINCIPAL OFFICER, AGENT OR EMPLOYEE**
17 **OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A NONPROFIT**
18 **MEDICAL MARIJUANA DISPENSARY AGENT MUST POSSESS AND MAINTAIN A**
19 **VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO TITLE 41,**
20 **CHAPTER 12, ARTICLE 3.1.**

21 Sec. 16. Title 36, chapter 28.1, Arizona Revised
22 Statutes, is amended by adding section 36-2820, to read:

23 36-2820. Fingerprint clearance card; definition

24 **A. PURSUANT TO SECTIONS 41-1758.01 AND 41-1758.07, THE**
25 **FINGERPRINT DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY SHALL**
26 **CONDUCT FINGERPRINT BACKGROUND CHECKS ON PERSONS AND**
27 **APPLICANTS WHO ARE REQUIRED TO POSSESS AND MAINTAIN A VALID**
28 **FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 36-2819 AND**
29 **PERFORM ALL THE DUTIES REQUIRED WHEN ISSUING A FINGERPRINT**
30 **CLEARANCE CARD.**

31 **B. FOR THE PURPOSES OF TITLE 41, CHAPTER 3, ARTICLE 12**
32 **AND TITLE 41, CHAPTER 12, ARTICLE 3.1, "PERSON" INCLUDES A**
33 **PERSON WHO IS REQUIRED TO POSSESS AND MAINTAIN A VALID**
34 **FINGERPRINT CLEARANCE CARD PURSUANT TO SECTION 36-2819.**

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