



ARIZONA HOUSE OF REPRESENTATIVES

SB1494: marijuana; testing; advisory council; library

PRIME SPONSOR: Senator Gowan, LD 14

BILL STATUS: [Health & Human Services](#)

Overview

Establishes the Medical Marijuana Testing Reference Library and the Medical Marijuana Testing Advisory Council (Council).

History

In 2010, [Proposition 203](#) an initiative measure that was approved by the voters established the Arizona Medical Marijuana Act (Act). The Act established the regulatory requirements for the Department of Health Services (DHS) including: rulemaking, registration and certification of a dispensary and dispensary agents, registration of qualifying patients and designated caregivers, issuance of registry identification cards, and finger printing requirements ([Title 36, Chapter 28.1](#)).

Provisions

1. Requires DHS to adopt rules regarding independent third-party laboratory certificates. (Sec. 1)
2. States that the total amount of fees may not exceed an amount that is sufficient to implement and administer the Act. (Sec. 1)
3. Prohibits independent third-party laboratory application fees to exceed \$5,000 and renewal fees may not exceed \$1,000. (Sec. 1)
4. Provides that the total amount of revenue generated from nonprofit medical marijuana dispensary application and renewal fees, registry identification card fee for nonprofit medical marijuana dispensary agents and independent third-party laboratory fees may not exceed an amount sufficient to implement and administer the nonprofit medical marijuana dispensary provisions. (Sec. 1)
5. Requires DHS to adopt rules for testing marijuana for medical use from nonprofit medical marijuana dispensaries before selling or dispensing marijuana to cardholders to determine unsafe levels of microbial contamination, pesticides, herbicides, fungicides, growth regulators and residual solvents and confirming the potency of the marijuana to be dispensed beginning July 2, 2020. The rules must:
 - a. Include process requirements for collecting, storing and testing samples of marijuana for medical use;
 - b. Establish potency standards with the standard variance allowance;
 - c. Establish remediation requirements for nonprofit medical marijuana dispensaries if testing identifies unsafe levels of microbial contamination, pesticides, herbicides, fungicides, growth regulators or residual solvents in the marijuana. Remediation may include destroying contaminated medical marijuana products, imposing fines and suspending or revoking a dispensary's license; and
 - d. Establish standards for reporting test results to DHS and the designated caregiver or nonprofit medical marijuana dispensary that cultivates the marijuana. DHS must make the test results available to the general public. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

6. Mandates that DHS adopt rules to certify independent third-party laboratories that analyze marijuana cultivated for medical use. Additionally, DHS must establish certification fees for laboratories. In order to be certified as an independent third-party laboratory that is allowed to test marijuana for medical use, an independent third-party laboratory:
 - a. Must meet criteria established by DHS;
 - b. May not have any familial or financial relationship with or interest in a nonprofit medical marijuana dispensary or related medical marijuana business entity or management company, or any familial or financial relationship with a designated caregiver for which the laboratory is testing marijuana for medical use in this state;
 - c. Must have a quality assurance program and standards;
 - d. Must have an adequate chain of custody and sample requirement policies;
 - e. Must have an adequate records retention process to preserve records; and
 - f. Must establish procedures to ensure that results are accurate, precise and scientifically valid before reporting the results. (Sec. 1)
7. States that DHS is responsible for proficiency testing and remediating problems with independent third-party laboratories that are certified and regulated. Remediation may include imposing fines and suspending or revoking a laboratory's certification. (Sec. 1)
8. Specifies that, beginning June 1, 2020, registered nonprofit medical marijuana dispensaries are subject to product testing by certified independent third-party laboratories. (Sec. 2)
9. Provides that an employee of DHS or any employee of any certified independent third-party laboratory may not be charged with or prosecuted for possession of any amount of marijuana that is cultivated for medical use and that the employee is using as a sample for testing as required. (Sec. 2)
10. Prohibits a registered nonprofit medical marijuana dispensary or agent from dispensing, delivering, or otherwise transferring marijuana to another person other than a certified independent third-party laboratory. (Sec. 3)

Marijuana Laboratory Testing Reference Library

11. Requires DHS to develop and maintain a marijuana laboratory testing reference library. DHS must require a certified laboratory to provide materials for the reference library, except that a certified laboratory is not required to provide testing protocols. (Sec. 4)
12. Specifies that the reference library must contain a collection of methodologies for marijuana testing in the areas of potency, homogeneity, contaminants and solvents consistent with the laboratory requirements adopted by DHS in rule. (Sec. 4)
13. Allows DHS to include in the reference library standard sample attainment procedures and standards related to sample preparation and laboratory analysis. (Sec. 4)
14. Permits DHS to spend necessary monies from the medical marijuana fund to develop and implement the medical marijuana testing reference library. (Sec. 4)
15. Requires DHS, by January 1, 2021, to make reference library materials, including the methodologies, publicly available and may continuously update the reference library as new materials become available. (Sec. 4)

Medical Marijuana Testing Advisory Council (Council)

16. Requires the DHS director to establish a Council to assist and make recommendations to the director regarding administering and implementing the Act. The director or the director's

designee must be a member of the advisory council and must appoint eleven members to the council including:

- a. The president or executive director of a statewide association representing the marijuana dispensaries, or the person's designee;
- b. The president or executive director of a statewide cannabis testing association, or the person's designee;
- c. The president or executive director of a medical marijuana trade association that does not primarily consist of dispensaries or cannabis laboratory testing facility owners, or the person's designee;
- d. A board member of an Arizona-based medical marijuana dispensary that is primarily focused on cultivation;
- e. A board member of a medical marijuana dispensary that is focused on concentrate;
- f. A board member of an Arizona-based cannabis testing laboratory;
- g. A laboratory scientist who holds a doctorate or who has at least three years of experience in cannabis laboratory testing;
- h. A person with a finance background who is a certified public accountant and who has at least three years of experience in finance and the medical marijuana industry;
- i. A registered qualifying patient; and
- j. A resident of this state who is a veteran of the United States Armed Forces. (Sec. 4)

17. Requires the Council to:

- a. Make recommendations and consult with the director regarding testing marijuana for medical use;
- b. Advise the director regarding expenditures from the Medical Marijuana Fund; and
- c. Provide additional assistance as the director deems necessary. (Sec. 4)

18. Provides that members of Council are not eligible to receive compensation but are eligible for reimbursement of expenses. (Sec. 4)

19. Sunsets the Council on July 1, 2027. (Sec. 4)

20. Contains both a proposition 105 and 108 clause. (Sec. 5 and 6)