



# ARIZONA HOUSE OF REPRESENTATIVES

## SCR 1021: medical marijuana; fingerprinting; enforcement

**PRIME SPONSOR:** Senator Borrelli, LD 5

**BILL STATUS:** [Health and Human Services](#)

### **Overview**

Requires a valid fingerprint clearance card (FPCC) for specified members associated with a nonprofit medical marijuana dispensary (dispensary). Outlines the regulatory requirements for the Department of Agriculture (DOA) and the Department of Health Services (DHS) regarding medical marijuana.

### **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 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 fingerprinting requirements ([Title 36, Chapter 28.1](#)).

Statute requires personnel in certain professions to have an active FPCC prior to or as a condition of licensure, certification or employment. The Fingerprinting Division under the Department of Public Safety receives applications and reviews state and federal criminal records to determine if the applicant is eligible to receive a FPCC. Regular FPCC precluding offenses are listed in [A.R.S. § 41-1758.03](#) and Level 1 FPCC precluding offenses are listed in [A.R.S. § 41-1758.07](#).

### **Provisions**

1. Specifies that marijuana cultivated for medical use (medical marijuana) by a dispensary or a designated caregiver is an agricultural commodity as defined in rule by DOA. (Sec. 2)
2. Regulates medical marijuana under Title 3 and adopted rules beginning June 1, 2021. (Sec. 2)
3. Allows the director of DOA to adopt any rule necessary relating to cultivating medical marijuana and required testing by independent third-party laboratories or marijuana that a dispensary or a designated caregiver cultivates for medical use. (Sec. 2)
4. Provides that only pesticide products that are exempt from federal regulation under the minimum risk exemption regulations in 40 CFR 152.25(f) may be used in cultivating medical marijuana. (Sec. 2)
5. Requires a person that provides laboratory analysis of medical marijuana to apply for a certification from the state agricultural laboratory. (Sec. 3)
6. Requires the director of DOA to adopt rules for certifying laboratories that analyze medical marijuana, including the required sampling and testing of marijuana. (Sec. 3)
7. Specifies that a laboratory that is certified to analyze marijuana:
  - a. Must report the test results only to the dispensary or designated caregiver that cultivates the marijuana, DHS and the state agricultural laboratory; and
  - b. May not have any familial or financial interest in the dispensary. (Sec. 3)

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

8. Exempts an employee of DOA or a third-party laboratory from being charged with or prosecuted for possession of any amount of medical marijuana that is being used as a sample for testing. (Sec. 3)
9. Authorizes the director of DOA to enter a private property where medical marijuana is cultivated at reasonable times to determine compliance with any rules or orders adopted and requires the director or the director's agent to notify the dispensary or a *designated caregiver* when entering the property if the notice is practicable. (Sec. 6)
10. Requires a dispensary to submit documentation that state and local tax deficiencies are paid or temporarily released with a renewal application. (Sec. 8)
11. Requires each of the principal officers or board members of a dispensary to have a valid FPCC. (Sec. 8)
12. Removes the ability of DHS to conduct a criminal record check regarding a registration and certification application for a dispensary or a dispensary agent. (Sec. 8, 9)
13. Prohibits a person without a valid FPCC from being a dispensary agent. (Sec. 9)
14. Provides that registry identification cards and registration certificates expire every two years rather than every year and establishes a \$100 renewal fee for a qualifying patient. (Sec. 10)
15. Allows DHS to inspect a dispensary during the dispensary's normal business hours to determine compliance. (Sec. 11)
16. Allows data to be used for public health research and the data must not be combined or linked in any manner with any other list or database. (Sec. 12)
17. Requires DHS to notify the public regarding inspection and compliance information for a dispensary, including the name, address and any complaints and enforcement actions against the dispensary. (Sec. 12)
18. Authorizes the director of DHS to deny, suspend or revoke any registration issued if the registered party or an officer, agent or employee of the registered party does either of the following:
  - a. Violates statute or any rule adopted; or
  - b. Has been, is or may continue to be in violation of the requirements for registration and as a result the health or safety of the public is in danger. (Sec. 13)
19. Adds a civil penalty in an amount not to exceed \$5,000 for each violation with a maximum amount of \$25,000 for any 30-day period in addition to any other penalties authorized.
  - a. Each day a violation occurs constitutes a separate violation. (Sec. 13)
20. Requires the director of DHS to issue a notice of assessment that includes the proposed amount of the assessment. In determining the amount of a civil penalty against a person DHS must consider all the following:
  - a. Repeated violations of adopted rules;
  - b. Patterns of noncompliance;
  - c. The types of violations;
  - d. The severity of the violations;
  - e. The potential for and occurrences of actual harm;
  - f. Threats to health and safety;
  - g. The number of violations and persons affected by the violations; and
  - h. The length of time the violations have been occurring. (Sec. 13)

21. Allows DOA to use monies in the Medical Marijuana Fund to regulate marijuana as an agricultural commodity. (Sec. 14)
22. Requires a valid FPCC for the following:
  - a. A designated caregiver;
  - b. A principal officer, agent or employee of a nonprofit medical marijuana dispensary; and
  - c. A nonprofit medical marijuana dispensary agent. (Sec. 9)
23. Requires the Fingerprint Division of the Department of Public Safety to conduct fingerprint background checks on persons and applicants that are required to possess and maintain a valid FPCC. (Sec. 16)
24. Removes the definition of *excluded felony offense*. (Sec. 7)
25. Modifies the definitions of *plant or crop*, *agricultural seed*, *noxious weed seed*, *designated caregiver*, and *a nonprofit medical marijuana dispensary agent*. (Sec. 4, 5, 7)
26. Defines *designated caregiver*, *nonprofit medical marijuana dispensary agent* and *person*. (Sec. 16)
27. Requires the Secretary of State to submit the proposition to the voters at the next general election. (Sec. 16)
28. Becomes effective if approved by the voters and on proclamation of the Governor.