



ARIZONA STATE SENATE
Fifty-Fourth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1494

marijuana; testing advisory council; library

Purpose

Requires the Department of Health Services (DHS) to adopt rules relating to nonprofit medical marijuana dispensary (dispensary) inspection and the certification of independent laboratories for testing. Requires DHS to develop a marijuana laboratory testing reference library (reference library) and establishes the Medical Marijuana Advisory Council (Council). Contains requirements for enactment for initiatives and referendums (Proposition 105 and Proposition 108).

Background

In 2010, Arizona voters approved the Arizona Medical Marijuana Act (Act) which establishes a regulatory system, overseen by DHS, for a permissible amount of medical marijuana to be dispensed to a qualifying patient or the qualifying patient's designated caregiver. Dispensaries must operate on a not-for-profit basis and register with DHS. All cultivation of marijuana must take place in an enclosed, locked facility that can only be accessed by registered dispensary agents. The physical address of any cultivation facility must be submitted to DHS with the application for a dispensary registration certificate. Dispensaries are subject to reasonable inspection by DHS, which must give reasonable notice before any inspection ([A.R.S. § 36-2806](#)).

According to DHS rule, an application for a dispensary registration certificate must include a statement that the dispensary will not operate until an inspection is conducted and approval to operate is obtained through DHS. Submission of an application for a dispensary registration certificate constitutes permission to enter and inspect the dispensary and the dispensary's cultivation site. An onsite inspection of a dispensary or dispensary's cultivation site must occur at a date and time that is agreed to by DHS and the dispensary no more than five business days after the date DHS submits a written request to the dispensary to schedule a certification or compliance inspection.

If DHS receives an allegation of noncompliance with the Act by a dispensary or cultivation site, DHS may conduct an unannounced inspection of the dispensary or cultivation site. An allegation of noncompliance with the Act may not be accepted by DHS from an anonymous source. If DHS identifies a violation of the Act during an inspection, DHS must provide the dispensary written notice that includes the specific violation. A dispensary must notify DHS in writing within 20 business days after the notice of a violation outlining corrective actions that were taken ([A.C.C. R9-17-309](#)).

DHS administers the Medical Marijuana Fund, which consists of collected fees, imposed civil penalties and private donations received pursuant to the Act. The Director of DHS (Director) may accept and spend private gifts, donations, contributions and devises to assist in carrying out the requirements of the Act. According to the Joint Legislative Budget Committee Baseline, the year-end Medical Marijuana Fund balance in FY 2018 was \$49,650,900 ([JLBC Baseline](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation. There may be an increase in expenditures from the Medical Marijuana Fund (Fund) due to the ability of DHS to spend Fund monies necessary to develop and implement the reference library. The bill also allows DHS to establish application and renewal fees for independent testing laboratories, which are capped at \$5,000 for an application and \$1,000 for a renewal. Additionally, the bill replaces the current requirement that all DHS fees generate revenues sufficient to implement and administer the Act, and instead prohibits the total amount of revenue received from application and renewal fees, including the new certified laboratory fees, and medical marijuana registration identification cards from exceeding the amount necessary to administer the Act and DHS rule. As a result, there may be an additional fiscal impact to the Fund.

Provisions

1. Requires DHS to adopt rules that:
 - a) establish application and renewal fees for independent third-party laboratory (lab) certificates, that may not exceed \$5,000 for an initial application and \$1,000 for a renewal;
 - b) require testing of medical marijuana from dispensaries to determine unsafe levels of microbial contamination, pesticides, herbicides, fungicides, growth regulators and residual solvents;
 - c) require the potency of medical marijuana from dispensaries to be confirmed; and
 - d) certify labs that analyze medical marijuana.
2. Requires the medical marijuana testing rules adopted by DHS to:
 - a) include process requirements for collecting, storing and testing samples of medical marijuana;
 - b) establish potency standards with the standard variance allowance;
 - c) establish remediation requirements for dispensaries if testing identifies unsafe microbial contamination, pesticides, herbicides, fungicides, growth regulators or residual solvents in marijuana; and
 - d) establish standards for reporting test results to DHS and the designated caregiver or dispensary that cultivates the marijuana.
3. Subjects, beginning June 1, 2020, dispensaries to product testing by certified lab testing.
4. Prohibits the total amount of all medical marijuana fees collected by DHS from exceeding an amount sufficient to implement and administer the Act, rather than requiring the total amount of fees to generate revenues sufficient to implement and administer the Act.
5. Allows the remediation requirements in DHS rule to include destroying contaminated medical marijuana products, imposing fines and suspending or revoking dispensary licenses.
6. Requires DHS to make dispensary test results available to the public.
7. Requires a lab, in order to test medical marijuana, to:
 - a) meet criteria established by DHS;
 - b) not have any familial or financial relationship with or interest in a designated caregiver, dispensary or related medical marijuana business entity or management company;
 - c) have a quality assurance program and standards;

- d) have adequate policies for chain of custody and sample requirements;
 - e) have an adequate records retention process; and
 - f) establish procedures to ensure that results are accurate, precise and scientifically valid before reporting test results.
8. Specifies that DHS is responsible for proficiency testing and remediating problems with certified labs, which may include imposing fines and suspending or revoking a lab's certification.
 9. Requires DHS to develop and maintain a reference library.
 10. Allows DHS to spend Fund monies as necessary to develop and implement the reference library.
 11. Specifies that only pesticide products that are exempt from the Federal Insecticide, Fungicide and Rodenticide Act regulations pursuant to federal minimum risk exemption regulations can be used in cultivating marijuana for medical use.
 12. Requires DHS to establish remediation requirements for dispensary premises where an inspection violation is found.
 13. Prohibits an employee of DHS or a certified lab from being charged with or prosecuted for possession of marijuana that is cultivated for medical use and that the employee is using as a sample for testing.
 14. Requires DHS to require a certified lab to provide materials, excluding testing protocols, for the reference library.
 15. Requires the reference library to contain a collection of methodologies for marijuana testing in the areas of potency, homogeneity, contaminants and solvents consistent with certified lab requirements adopted by DHS in rule.
 16. Allows DHS to include sample attainment procedures and standards related to sample preparation for certified lab analysis in the reference library.
 17. Requires DHS to make reference library materials, including methodologies, publicly available by January 1, 2021, and allows DHS to continually update the reference library as new materials become available.
 18. Requires the Director to establish the Council to assist and make recommendations regarding administering and implementing the Act.
 19. Requires the Director or Director's designee to be a member of the Council and appoint 11 Council members, including:
 - a) the president or executive director of a statewide association representing the 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, or the person's designee;
- d) a board member of an Arizona-based dispensary that is focused primarily on cultivation;
- e) a board member of an Arizona-based dispensary that is focused on edible manufacturing by units;
- f) a board member of a dispensary that is focused on concentrate;
- g) an owner of an Arizona-based cannabis testing lab;
- h) a lab scientist who holds a doctorate or who has at least three years' experience in cannabis lab testing;
- i) a person with a financial background who is a certified public accountant and who has at least three years of experience in finance and the medical marijuana industry;
- j) a registered qualifying patient; and
- k) an Arizona resident who is a veteran of the U.S. Armed Services.

20. 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 Fund; and
- c) provide additional assistance as the Director deems necessary.

21. Specifies Council members are not eligible to receive compensation, except for reimbursement of expenses.

22. Terminates the Council on July 1, 2027.

23. Makes technical and conforming changes.

24. Contains a Proposition 108 clause.

25. Requires for enactment the affirmative vote of at least three-fourths of the members of each house of the Legislature (Proposition 105).

26. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

- 1. Requires DHS to establish initial application and renewal fees for lab certificates in rule, capped at \$5,000 for initial applications and \$1,000 for renewals.
- 2. Prohibits the total amount of all medical marijuana fees collected by DHS from exceeding an amount sufficient to implement and administer the Act, rather than requiring the total amount of fees to generate revenues sufficient to implement and administer the Act.
- 3. Adds a Proposition 108 clause.
- 4. Outlines requirements for medical marijuana testing rules adopted by DHS.
- 5. Allows remediation requirements in DHS rule to include destroying contaminated medical marijuana products, imposing fines and suspending or revoking dispensary licenses.

6. Requires DHS to make dispensary results available to the public.
7. Subjects dispensaries to product testing by certified labs beginning June 1, 2020, rather than June 1, 2021.
8. Outlines criteria and requirements for certified labs that test medical marijuana.
9. Allows DHS to use Fund monies to develop and implement the reference library.
10. Expands membership of the Council from 9 members to 11 members.
11. Makes technical and conforming changes.

Senate Action

HHS 2/20/19 DP 8-0-0

Prepared by Senate Research

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MH/kja