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

SB 1494

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 36-2806 AND 36-2816, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2820 AND 36-2821; RELATING TO MEDICAL MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-2806, Arizona Revised Statutes, is amended to read:

36-2806. Registered nonprofit medical marijuana dispensaries: requirements; rules; inspections; testing

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

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

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

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

E. All cultivation of marijuana must take place in an enclosed, locked facility at a physical address provided to the department during the registration process, which can only be accessed by registered nonprofit medical marijuana dispensary agents associated in the registry with the nonprofit medical marijuana dispensary.

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

G. A nonprofit medical marijuana dispensary shall not permit any person to consume marijuana on the property of a nonprofit medical marijuana dispensary.

H. Registered nonprofit medical marijuana dispensaries are subject to reasonable inspection by the department. The department shall:

1. Give reasonable notice of an inspection under this subsection.
2. ADOPT RULES FOR THE INSPECTION OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES THAT INCLUDE INSPECTING DISPENSARY PREMISES BEGINNING JUNE 1, 2021 FOR SANITARY CONDITIONS FOR STORING AND PROCESSING MEDICAL MARIJUANA AND FOR THE EXISTENCE OF MOLD IN ANY BUILDING OPERATED BY THE DISPENSARY.

3. ESTABLISH REMEDIATION REQUIREMENTS FOR NONPROFIT MEDICAL MARIJUANA DISPENSARY PREMISES WHERE AN INSPECTION VIOLATION IS FOUND.

4. ADOPT RULES RELATING TO CULTIVATING MARIJUANA FOR MEDICAL USE AND REQUIRED TESTING BY INDEPENDENT THIRD-PARTY LABORATORIES OF MARIJUANA THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A DESIGNATED CAREGIVER CULTIVATES FOR MEDICAL USE. ONLY PESTICIDE PRODUCTS THAT ARE EXEMPT UNDER THE MINIMUM RISK EXEMPTION REGULATIONS IN 40 CODE OF FEDERAL REGULATIONS SECTION 152.25(f) MAY BE USED IN CULTIVATING MARIJUANA FOR MEDICAL USE.

I. THE DEPARTMENT SHALL ADOPT RULES FOR THE CERTIFICATION OF INDEPENDENT THIRD-PARTY LABORATORIES THAT ANALYZE MARIJUANA CULTIVATED FOR MEDICAL USE, INCLUDING THE REQUIRED SAMPLING AND TESTING OF THE MARIJUANA. AN INDEPENDENT THIRD-PARTY LABORATORY THAT IS CERTIFIED TO ANALYZE MARIJUANA:

1. SHALL REPORT THE TEST RESULTS ONLY TO THE DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT CULTIVATES THE MARIJUANA AND THE DEPARTMENT OF HEALTH SERVICES.

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

J. NOTWITHSTANDING TITLE 13, CHAPTER 34, AN EMPLOYEE OF THE DEPARTMENT OR AN 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 BY SUBSECTION I OF THIS SECTION AND THE RULES ADOPTED PURSUANT TO THIS SECTION.

Sec. 2. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 36-2816, Arizona Revised Statutes, is amended to read:

36-2816. Violations; civil penalty; classification

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

B. A registered nonprofit medical marijuana dispensary or agent may not dispense, deliver or otherwise transfer marijuana to a person other than:

1. Another registered nonprofit medical marijuana dispensary.

2. A registered qualifying patient.

3. A registered qualifying patient's registered designated caregiver.
A CERTIFIED INDEPENDENT THIRD-PARTY LABORATORY FOR PURPOSES PRESCRIBED IN SECTION 36-2806 AND DEPARTMENT RULE.

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

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

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

Sec. 3. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona Revised Statutes, is amended by adding sections 36-2820 and 36-2821, to read:

36-2820. Marijuana laboratory testing reference library

A. THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A MARIJUANA LABORATORY TESTING REFERENCE LIBRARY. THE DEPARTMENT SHALL REQUIRE A CERTIFIED LABORATORY TO PROVIDE MATERIALS FOR THE REFERENCE LIBRARY, EXCEPT THAT A CERTIFIED LABORATORY IS NOT REQUIRED TO PROVIDE TESTING PROTOCOLS.

B. 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 THE DEPARTMENT IN RULE.

C. THE DEPARTMENT MAY INCLUDE IN THE REFERENCE LIBRARY STANDARD SAMPLE ATTAINMENT PROCEDURES AND STANDARDS RELATED TO SAMPLE PREPARATION FOR LABORATORY ANALYSIS.

D. ON OR BEFORE JANUARY 1, 2021, THE DEPARTMENT SHALL MAKE REFERENCE LIBRARY MATERIALS, INCLUDING THE METHODOLOGIES, PUBLICLY AVAILABLE AND MAY CONTINUOUSLY UPDATE THE REFERENCE LIBRARY AS NEW MATERIALS BECOME AVAILABLE.

36-2821. Medical marijuana testing advisory council; membership; duties; council termination

A. THE DIRECTOR SHALL ESTABLISH A MEDICAL MARIJUANA TESTING ADVISORY COUNCIL TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR REGARDING ADMINISTERING AND IMPLEMENTING THIS CHAPTER. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL BE MEMBER OF THE ADVISORY COUNCIL AND SHALL APPOINT NINE MEMBERS TO THE COUNCIL, INCLUDING:
1. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A STATEWIDE ASSOCIATION REPRESENTING THE MARIJUANA DISPENSARIES, OR THE PERSON'S DESIGNEE.

2. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A STATEWIDE CANNABIS TESTING ASSOCIATION, OR THE PERSON'S DESIGNEE.

3. 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.

4. A BOARD MEMBER OF AN ARIZONA-BASED MEDICAL MARIJUANA DISPENSARY.

5. AN OWNER OF AN ARIZONA-BASED CANNABIS TESTING LABORATORY.

6. A LABORATORY SCIENTIST WHO HOLDS A DOCTORATE AND WHO HAS AT LEAST THREE YEARS OF EXPERIENCE IN CANNABIS LABORATORY TESTING.

7. 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.

8. A REGISTERED QUALIFYING PATIENT.

B. THE MEDICAL MARIJUANA TESTING ADVISORY COUNCIL SHALL:

1. MAKE RECOMMENDATIONS AND CONSULT WITH THE DIRECTOR REGARDING TESTING MARIJUANA FOR MEDICAL USE AS REQUIRED BY THIS CHAPTER.

2. ADVISE THE DIRECTOR REGARDING EXPENDITURES FROM THE MEDICAL MARIJUANA FUND.

3. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

C. MEMBERS OF THE ADVISORY COUNCIL ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

D. THE COUNCIL ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2027 PURSUANT TO SECTION 41-3103.

Sec. 4. Requirements for enactment; three-fourths vote

Pursuant to article IV, part 1, section 1, Constitution of Arizona, sections 36-2806 and 36-2816, Arizona Revised Statutes, as amended by this act, and sections 36-2820 and 36-2821, Arizona Revised Statutes, as added by this act, are effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.