

REFERENCE TITLE: marijuana; testing; advisory council; library

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)

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

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

5 36-2806. Registered nonprofit medical marijuana dispensaries;
6 requirements; rules; inspections; testing

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

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

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

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

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

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

39 G. A nonprofit medical marijuana dispensary shall not ~~permit~~ ALLOW
40 any person to consume marijuana on the property of ~~a~~ THE nonprofit
41 medical marijuana dispensary.

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

- 44 1. Give reasonable notice of an inspection under this subsection.

1 2. ADOPT RULES FOR THE INSPECTION OF NONPROFIT MEDICAL MARIJUANA
2 DISPENSARIES THAT INCLUDE INSPECTING DISPENSARY PREMISES BEGINNING JUNE 1,
3 2021 FOR SANITARY CONDITIONS FOR STORING AND PROCESSING MEDICAL MARIJUANA
4 AND FOR THE EXISTENCE OF MOLD IN ANY BUILDING OPERATED BY THE DISPENSARY.

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

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

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

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

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

25 J. NOTWITHSTANDING TITLE 13, CHAPTER 34, AN EMPLOYEE OF THE
26 DEPARTMENT OR AN EMPLOYEE OF ANY CERTIFIED INDEPENDENT THIRD-PARTY
27 LABORATORY MAY NOT BE CHARGED WITH OR PROSECUTED FOR POSSESSION OF ANY
28 AMOUNT OF MARIJUANA THAT IS CULTIVATED FOR MEDICAL USE AND THAT THE
29 EMPLOYEE IS USING AS A SAMPLE FOR TESTING AS REQUIRED BY SUBSECTION I OF
30 THIS SECTION AND THE RULES ADOPTED PURSUANT TO THIS SECTION.

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

34 36-2816. Violations; civil penalty; classification

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

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

- 42 1. Another registered nonprofit medical marijuana dispensary. ~~;~~
- 43 2. A registered qualifying patient. ~~or~~
- 44 3. A registered qualifying patient's registered designated
45 caregiver.

1 4. A CERTIFIED INDEPENDENT THIRD-PARTY LABORATORY FOR PURPOSES
2 PRESCRIBED IN SECTION 36-2806 AND DEPARTMENT RULE.

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

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

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

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

22 36-2820. Marijuana laboratory testing reference library

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

27 B. THE REFERENCE LIBRARY MUST CONTAIN A COLLECTION OF METHODOLOGIES
28 FOR MARIJUANA TESTING IN THE AREAS OF POTENCY, HOMOGENEITY, CONTAMINANTS
29 AND SOLVENTS CONSISTENT WITH THE LABORATORY REQUIREMENTS ADOPTED BY THE
30 DEPARTMENT IN RULE.

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

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

38 36-2821. Medical marijuana testing advisory council;
39 membership; duties; council termination

40 A. THE DIRECTOR SHALL ESTABLISH A MEDICAL MARIJUANA TESTING
41 ADVISORY COUNCIL TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR
42 REGARDING ADMINISTERING AND IMPLEMENTING THIS CHAPTER. THE DIRECTOR OR
43 THE DIRECTOR'S DESIGNEE SHALL BE MEMBER OF THE ADVISORY COUNCIL AND SHALL
44 APPOINT NINE MEMBERS TO THE COUNCIL, INCLUDING:

1 1. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A STATEWIDE ASSOCIATION
2 REPRESENTING THE MARIJUANA DISPENSARIES, OR THE PERSON'S DESIGNEE.

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

5 3. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A MEDICAL MARIJUANA TRADE
6 ASSOCIATION THAT DOES NOT PRIMARILY CONSIST OF DISPENSARIES OR CANNABIS
7 LABORATORY TESTING FACILITY OWNERS, OR THE PERSON'S DESIGNEE.

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

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

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

12 7. A PERSON WITH A FINANCE BACKGROUND WHO IS A CERTIFIED PUBLIC
13 ACCOUNTANT AND WHO HAS AT LEAST THREE YEARS OF EXPERIENCE IN FINANCE AND
14 THE MEDICAL MARIJUANA INDUSTRY.

15 8. A REGISTERED QUALIFYING PATIENT.

16 B. THE MEDICAL MARIJUANA TESTING ADVISORY COUNCIL SHALL:

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

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

21 3. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

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

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

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

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