

Conference Engrossed
medical marijuana; testing

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 439
HOUSE BILL 2605

AN ACT

AMENDING SECTIONS 36-2803, 36-2804.01, 36-2816, 36-2819, 36-2821, 36-2854
AND 41-1758.07, ARIZONA REVISED STATUTES; 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 36-2803, Arizona Revised
4 Statutes, is amended to read:

5 36-2803. Rulemaking; notice; testing of marijuana and
6 marijuana products; fees

7 A. The department shall adopt rules:

8 1. Governing the manner in which the department considers petitions
9 from the public to add debilitating medical conditions or treatments to
10 the list of debilitating medical conditions set forth in section 36-2801,
11 paragraph 3, including public notice of, and an opportunity to comment in
12 a public hearing on, petitions.

13 2. Establishing the form and content of registration and renewal
14 applications submitted under this chapter.

15 3. Governing the manner in which the department considers
16 applications for and renewals of registry identification cards.

17 4. Governing nonprofit medical marijuana dispensaries to protect
18 against diversion and theft without imposing an undue burden on nonprofit
19 medical marijuana dispensaries or compromising the confidentiality of
20 cardholders, including:

21 (a) The manner in which the department considers applications for
22 and renewals of registration certificates.

23 (b) Minimum oversight requirements for nonprofit medical marijuana
24 dispensaries.

25 (c) Minimum recordkeeping requirements for nonprofit medical
26 marijuana dispensaries.

27 (d) Minimum security requirements for nonprofit medical marijuana
28 dispensaries, including requirements to protect each registered nonprofit
29 medical marijuana dispensary location by a fully operational security
30 alarm system.

31 (e) Procedures for suspending or revoking the registration
32 certificate of nonprofit medical marijuana dispensaries that violate this
33 chapter or the rules adopted pursuant to this section.

34 5. Establishing application and renewal fees for registry
35 identification cards, nonprofit medical marijuana dispensary registration
36 certificates and independent third-party laboratory certificates,
37 according to the following:

38 (a) The total amount of all fees shall generate revenues that are
39 sufficient to implement and administer this chapter, except that fee
40 revenue may be offset or supplemented by private donations.

41 (b) Nonprofit medical marijuana dispensary application fees may not
42 exceed \$5,000.

43 (c) Nonprofit medical marijuana dispensary renewal fees may not
44 exceed \$1,000.

(d) The total amount of revenue generated from nonprofit medical marijuana dispensary application and renewal fees, registry identification card fees for nonprofit medical marijuana dispensary agents and independent third-party laboratory agents and application and renewal fees for independent third-party laboratories shall be sufficient to implement and administer this chapter, including the verification system, except that the fee revenue may be offset or supplemented by private donations.

(e) The department may establish a sliding scale of patient application and renewal fees based on a qualifying patient's household income.

(f) The department may consider private donations under section 36-2817 to reduce application and renewal fees.

B. The department of health services shall adopt rules that require each nonprofit medical marijuana dispensary to display in a conspicuous location a sign that warns pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report. The rules shall include the specific warning language that must be included on the sign. The cost and display of the sign required by rule shall be borne by the nonprofit medical marijuana dispensary. The rules shall also require each certifying physician to attest that the physician has provided information to each qualifying female patient that warns about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.

C. The department is authorized to adopt the rules set forth in subsections A and B of this section and shall adopt those rules pursuant to title 41, chapter 6.

D. The department of health services shall post prominently on its public website a warning about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.

E. Beginning November 1, 2020, Before selling or dispensing marijuana or marijuana products to registered qualified patients or registered designated caregivers, nonprofit medical marijuana dispensaries shall test marijuana and marijuana products for medical use to determine unsafe levels **OF CONTAMINATION, INCLUDING UNSAFE LEVELS** of microbial contamination, heavy metals, pesticides, **herbicides**, fungicides, growth regulators and residual solvents and confirm the potency of the marijuana to be dispensed. **THE DRIED FLOWERS OF THE MARIJUANA PLANT ARE NOT**

1 REQUIRED TO BE TESTED FOR RESIDUAL SOLVENTS. IF A NONPROFIT MEDICAL
2 MARIJUANA DISPENSARY'S TEST RESULTS FOR HEAVY METALS COMPLY WITH THE
3 PRESCRIBED REQUIREMENTS FOR A PERIOD OF SIX CONSECUTIVE MONTHS, HEAVY
4 METAL TESTING FOR THAT DISPENSARY'S MARIJUANA AND MARIJUANA PRODUCTS IS
5 REQUIRED ONLY ON A QUARTERLY BASIS.

6 ~~F. Beginning November 1, 2020,~~ Nonprofit medical marijuana
7 dispensaries shall:

8 1. Provide test results to a registered qualifying patient or
9 designated caregiver immediately on request.
10 2. Display in a conspicuous location a sign that notifies patients
11 of their right to receive the certified independent third-party laboratory
12 test results for marijuana and marijuana products for medical use.

13 G. The department shall adopt rules to certify and regulate
14 independent third-party laboratories that analyze marijuana cultivated for
15 medical use. The department shall establish certification fees for
16 laboratories pursuant to subsection A of this section. In order to be
17 certified as an independent third-party laboratory that is allowed to test
18 marijuana and marijuana products for medical use pursuant to this chapter,
19 an independent third-party laboratory:

20 1. Must meet requirements established by the department, including
21 reporting and health and safety requirements.

22 2. May not have any direct or indirect familial or financial
23 relationship with or interest in a nonprofit medical marijuana dispensary
24 or related medical marijuana business entity or management company, or any
25 direct or indirect familial or financial relationship with a designated
26 caregiver for whom the laboratory is testing marijuana and marijuana
27 products for medical use in this state.

28 3. Must have a quality assurance program and standards.

29 4. Must have an adequate chain of custody and sample requirement
30 policies.

31 5. Must have an adequate records retention process to preserve
32 records.

33 6. Must establish procedures to ensure that results are accurate,
34 precise and scientifically valid before reporting the results.

35 7. Must be accredited by a national or international accreditation
36 association or other similar accrediting entity, as determined by the
37 department.

38 8. Must establish policies and procedures for disposal and reverse
39 distribution of samples that are collected by the laboratory.

40 H. The department may conduct proficiency testing and remediate
41 problems with independent third-party laboratories that are certified and
42 regulated pursuant to this chapter. Remediation may include assessing
43 civil penalties and suspending or revoking a laboratory's certification.

44 I. THE DEPARTMENT SHALL ADOPT RULES THAT PRESCRIBE REASONABLE TIME
45 FRAMES FOR TESTING MARIJUANA AND MARIJUANA PRODUCTS.

1 Sec. 2. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2804.01, Arizona Revised
3 Statutes, is amended to read:

4 **36-2804.01. Registration; nonprofit medical marijuana**
5 **dispensary agents; independent third-party**
6 **laboratory agents; requirements**

7 A. A nonprofit medical marijuana dispensary agent or an independent
8 third-party laboratory agent shall be registered with the department
9 before volunteering or working at a nonprofit medical marijuana dispensary
10 or ~~at~~ A CERTIFIED independent third-party laboratory.

11 B. A nonprofit medical marijuana dispensary or a certified
12 independent third-party laboratory may apply to the department for a
13 registry identification card for a nonprofit medical marijuana dispensary
14 agent or an independent third-party laboratory agent by submitting:

15 1. The name, address and date of birth of the prospective nonprofit
16 medical marijuana dispensary agent or independent third-party laboratory
17 agent.

18 2. A nonprofit medical marijuana dispensary agent or independent
19 third-party laboratory agent application.

20 3. A statement signed by either:

21 (a) The prospective nonprofit medical marijuana dispensary agent
22 pledging not to divert marijuana to anyone who is not allowed to possess
23 marijuana pursuant to this chapter.

24 (b) The prospective independent third-party laboratory agent
25 acknowledging that registered independent third-party laboratory agents
26 are prohibited from diverting marijuana pursuant to this chapter.

27 4. The application fee.

28 C. A registered nonprofit medical marijuana dispensary or certified
29 independent third-party laboratory shall notify the department within ten
30 days after a nonprofit medical marijuana dispensary agent or independent
31 third-party laboratory agent ceases to be employed by or volunteer at the
32 registered nonprofit medical marijuana dispensary or certified independent
33 third-party laboratory.

34 D. A person who has been convicted of an excluded felony offense
35 may not be a nonprofit medical marijuana dispensary agent or an
36 independent third-party laboratory agent. NOTWITHSTANDING ANY OTHER
37 PROVISION OF THIS CHAPTER, IF A PROSPECTIVE NONPROFIT MEDICAL MARIJUANA
38 DISPENSARY AGENT OR INDEPENDENT THIRD-PARTY LABORATORY AGENT HOLDS A
39 CURRENT LEVEL I FINGERPRINT CLEARANCE CARD, THE PERSON IS DEEMED TO NOT
40 HAVE BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

41 E. The department may conduct a criminal records check in order to
42 carry out this section.

43 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, IF A
44 MARIJUANA FACILITY AGENT AS DEFINED IN SECTION 36-2850 IS REGISTERED WITH
45 THE DEPARTMENT PURSUANT TO SECTION 36-2855, THE PERSON MAY ACT IN THE

1 CAPACITY OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT WITHOUT
2 REGISTERING PURSUANT TO THIS CHAPTER.

3 Sec. 3. Subject to the requirements of article IV, part 1,
4 section 1, Constitution of Arizona, section 36-2816, Arizona Revised
5 Statutes, is amended to read:

6 **36-2816. Violations; classification; civil penalties**

7 A. A registered qualifying patient may not directly, or through the
8 patient's designated caregiver, obtain more than two and one-half ounces
9 of marijuana from registered nonprofit medical marijuana dispensaries in
10 any fourteen-day period.

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

14 1. Another registered nonprofit medical marijuana dispensary.

15 2. A registered qualifying patient.

16 3. A registered qualifying patient's registered designated
17 caregiver.

18 4. A certified independent third-party laboratory or ~~an~~ A
19 **REGISTERED** independent third-party laboratory agent for purposes
20 prescribed in sections 36-2803 and 36-2806 and department rule.

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

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

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

36 F. Subject to title 41, chapter 6, article 10, the director may
37 deny, suspend or revoke, in whole or in part, any registration issued
38 under this chapter if the registered party or an officer, agent or
39 employee of the registered party is not in substantial compliance with the
40 provisions of this chapter or any rule adopted pursuant to this chapter or
41 if the nature or number of violations revealed by any type of inspection
42 or investigation constitutes a threat, or direct risk, to the life, health
43 or safety of a qualifying patient or the public.

1 G. In addition to any other penalties authorized by this chapter,
2 the director may assess a civil penalty for violations of this chapter or
3 any rule adopted pursuant to this chapter in an amount not to exceed
4 ~~\$1,000~~ \$2,000 for each violation. Each day a violation occurs constitutes
5 a separate violation. ~~The maximum amount of any assessment is \$5,000 for~~
6 ~~any thirty-day period.~~

7 H. The director shall issue a notice of assessment that includes
8 the proposed amount of the assessment. In determining the amount of a
9 civil penalty assessed against a person under subsection G of this
10 section, the department shall consider all of the following:

11 1. Repeated violations of this chapter or the rules adopted
12 pursuant to this chapter.

13 2. Patterns of noncompliance.

14 3. The types of violations.

15 4. The severity of the violations.

16 5. The potential for and occurrences of actual harm.

17 6. Threats to health and safety.

18 7. The number of violations.

19 8. The number of persons affected by the violations.

20 9. The length of time the violations have been occurring.

21 Sec. 4. Subject to the requirements of article IV, part 1,
22 section 1, Constitution of Arizona, section 36-2819, Arizona Revised
23 Statutes, is amended to read:

24 36-2819. Fingerprinting requirements

25 Each person applying as a designated caregiver, a principal officer,
26 agent or employee of a nonprofit medical marijuana dispensary, a **NONPROFIT**
27 medical marijuana dispensary agent or an independent third-party
28 laboratory agent **MAY SUBMIT A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD**
29 **ISSUED PURSUANT TO SECTION 41-1758.07 OR** shall submit a full set of
30 fingerprints to the department for the purpose of obtaining a state and
31 federal criminal records check pursuant to section 41-1750 and Public Law
32 92-544. The department of public safety may exchange this fingerprint
33 data with the federal bureau of investigation without disclosing that the
34 records check is related to the medical marijuana act and acts **permitted**
35 **ALLOWED** by it. The department shall destroy each set of fingerprints
36 after the criminal records check is completed.

37 Sec. 5. Subject to the requirements of article IV, part 1,
38 section 1, Constitution of Arizona, section 36-2821, Arizona Revised
39 Statutes, is amended to read:

40 36-2821. Medical marijuana testing advisory council;
41 membership; duties; report; council termination;
42 definitions

43 A. The director shall establish a medical marijuana testing
44 advisory council to assist and make recommendations to the director
45 regarding administering and implementing this chapter. The director or

1 the director's designee shall serve as the chairperson of the advisory
2 council and shall appoint the following additional members to the council:

3 1. The president or executive director of a statewide nonprofit
4 association representing the marijuana dispensaries, or the person's
5 designee.

6 2. The president or executive director of a statewide nonprofit
7 cannabis testing association, or the person's designee.

8 3. The president or executive director of a medical marijuana trade
9 association that does not primarily consist of dispensaries or cannabis
10 laboratory testing facility owners, or the person's designee.

11 4. A representative of a nonprofit medical marijuana dispensary who
12 is employed by the dispensary to cultivate medical marijuana and who has
13 at least three years of medical marijuana cultivation experience.

14 5. A representative of an Arizona-based nonprofit medical marijuana
15 dispensary that produces medical marijuana concentrates and that has been
16 regularly sending products for testing who has at least three years of
17 medical marijuana extraction experience.

18 6. A representative of an Arizona-based nonprofit medical marijuana
19 dispensary that is primarily focused ~~in~~ ON producing medical marijuana
20 edibles who has at least three years of medical marijuana edible
21 production experience.

22 7. An owner of an Arizona-based cannabis testing laboratory.

23 8. A laboratory scientist who holds a doctorate or a bachelor of
24 science degree and who has at least three years of experience in cannabis
25 laboratory testing.

26 9. A registered qualifying patient.

27 10. A registered designated caregiver.

28 11. A representative of the department of public safety.

29 12. A licensed health care provider who specializes in treating
30 substance use disorders and who has at least five years of experience.

31 ~~13. Any other members deemed necessary by the director.~~

32 13. ONE UNIVERSITY FACULTY MEMBER FROM EACH UNIVERSITY UNDER THE
33 JURISDICTION OF THE ARIZONA BOARD OF REGENTS WHO IS AN ACADEMIC
34 APPOINTMENT IN THE CHEMISTRY DEPARTMENT OR ANOTHER RELATED ANALYTICAL LAB
35 TESTING AREA TO FUNCTION AS INDEPENDENT SUBJECT MATTER EXPERTS.

36 14. A REPRESENTATIVE OF A LABORATORY THAT CONDUCTS PROFICIENCY
37 TESTING FOR LABORATORIES IN THIS STATE.

38 B. The medical marijuana testing advisory council shall make
39 recommendations and consult with the director regarding:

40 1. Establishing a required testing program.

41 2. Testing and potency standards for medical marijuana.

42 3. Procedural requirements for collecting, storing and testing
43 samples of medical marijuana.

44 4. Reporting results to patients and the department.

1 5. Remediation and disposal requirements for medical marijuana that
2 fails to meet testing standards.

3 6. Additional items as necessary.

4 C. THE ADVISORY COUNCIL SHALL ANNUALLY REVIEW THE MARIJUANA TESTING
5 PROGRAMS UNDER THIS CHAPTER AND CHAPTER 28.2 OF THIS TITLE AND, ON OR
6 BEFORE THE SECOND MONDAY IN JANUARY OF EACH YEAR, SHALL SUBMIT TO THE
7 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
8 HEALTH AND HUMAN SERVICES COMMITTEE CHAIRPERSONS OF THE SENATE AND THE
9 HOUSE OF REPRESENTATIVES AND THE DEPARTMENT OF HEALTH SERVICES A REPORT
10 THAT DOES NOT DISCLOSE ANY IDENTIFYING INFORMATION AND THAT INCLUDES AT
11 LEAST THE FOLLOWING:

12 1. AN ASSESSMENT AS TO WHETHER AN ANALYTE SHOULD BE REMOVED FROM
13 THE REQUIRED STATUTORY TESTING PANEL.

14 2. THE NUMBER OF STATEMENTS OF DEFICIENCIES RELATING TO TESTING
15 THAT WERE ISSUED TO EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY,
16 THIRD-PARTY INDEPENDENT LABORATORY, MARIJUANA ESTABLISHMENT AND MARIJUANA
17 TESTING FACILITY IN THE PRECEDING YEAR, THE REMEDIATION EFFORTS MADE TO
18 ADDRESS EACH DEFICIENCY AND THE RESOLUTION OF EACH STATEMENT OF
19 DEFICIENCY. THE INFORMATION MAY NOT DISCLOSE ANY IDENTIFYING INFORMATION
20 BUT SHALL DELINEATE THE INFORMATION BY ENTITY.

21 3. ANY OTHER RECOMMENDATIONS ON IMPROVING THE TESTING PROGRAMS.

22 ~~C.~~ D. 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.~~ E. The council established ~~by~~ PURSUANT TO this section ends on
26 July 1, 2027 pursuant to section 41-3103.

27 F. FOR THE PURPOSES OF THIS SECTION, "MARIJUANA ESTABLISHMENT" AND
28 "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION
29 36-2850.

30 Sec. 6. Subject to the requirements of article IV, part 1,
31 section 1, Constitution of Arizona, section 36-2854, Arizona Revised
32 Statutes, is amended to read:

33 36-2854. Rules; licensing; early applicants; fees; civil
34 penalty; legal counsel

35 A. The department shall adopt rules to implement and enforce this
36 chapter and regulate marijuana, marijuana products, marijuana
37 establishments and marijuana testing facilities. Those rules shall
38 include requirements for:

39 1. Licensing marijuana establishments and marijuana testing
40 facilities, including conducting investigations and background checks to
41 determine eligibility for licensing for marijuana establishment and
42 marijuana testing facility applicants, except that:

43 (a) An application for a marijuana establishment license or
44 marijuana testing facility license may not require the disclosure of the

1 identity of any person who is entitled to a share of less than ten percent
2 of the profits of an applicant that is a publicly traded corporation.

3 (b) The department may not issue more than one marijuana
4 establishment license for every ten pharmacies that have registered under
5 section 32-1929, that have obtained a pharmacy permit from the Arizona
6 board of pharmacy and that operate within this state.

7 (c) Notwithstanding subdivision (b) of this paragraph, the
8 department may issue a marijuana establishment license to not more than
9 two marijuana establishments per county that contains no registered
10 nonprofit medical marijuana dispensaries, or one marijuana establishment
11 license per county that contains one registered nonprofit medical
12 marijuana dispensary. Any license issued pursuant to this subdivision
13 shall be for a fixed county and may not be relocated outside of that
14 county.

15 (d) The department shall accept applications for marijuana
16 establishment licenses from early applicants beginning January 19, 2021
17 through March 9, 2021. Not later than sixty days after receiving an
18 application pursuant to this subdivision, the department shall issue a
19 marijuana establishment license to each qualified early applicant. If the
20 department has not adopted final rules pursuant to this section at the
21 time marijuana establishment licenses are issued pursuant to this
22 subdivision, licensees shall comply with the rules adopted by the
23 department to implement chapter 28.1 of this title except those that are
24 inconsistent with this chapter.

25 (e) After issuing marijuana establishment licenses to qualified
26 early applicants, the department shall issue marijuana establishment
27 licenses available under subdivisions (b) and (c) of this paragraph by
28 random selection and according to rules adopted pursuant to this section.
29 At least sixty days ~~prior to~~ BEFORE any random selection, the department
30 shall prominently publicize the random selection on its website and
31 through other means of general distribution intended to reach as many
32 interested parties as possible and shall provide notice through an email
33 notification system to which interested parties can subscribe.

34 (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and
35 ~~no~~ NOT later than six months after the department adopts final rules to
36 implement a social equity ownership program pursuant to paragraph 9 of
37 this subsection, the department shall issue twenty-six additional
38 marijuana establishment licenses to entities that are qualified pursuant
39 to the social equity ownership program.

40 (g) Licenses issued by the department to marijuana establishments
41 and marijuana testing facilities shall be valid for a period of two years.

42 2. Licensing fees and renewal fees for marijuana establishments and
43 marijuana testing facilities in amounts that are reasonable and related to
44 the actual cost of processing applications for licenses and renewals and

1 that do not exceed five times the fees prescribed by the department to
2 register or renew a nonprofit medical marijuana dispensary.

3 3. The security of marijuana establishments and marijuana testing
4 facilities.

5 4. Marijuana establishments to safely cultivate, process and
6 manufacture marijuana and marijuana products.

7 5. Tracking, testing, labeling and packaging marijuana and
8 marijuana products, including requirements that marijuana and marijuana
9 products be:

10 (a) Sold to consumers in clearly and conspicuously labeled
11 containers that contain accurate warnings regarding the use of marijuana
12 or marijuana products.

13 (b) Placed in child-resistant packaging on exit from a marijuana
14 establishment.

15 6. Forms of government-issued identification that are acceptable by
16 a marijuana establishment verifying a consumer's age and procedures
17 related to verifying a consumer's age consistent with section 4-241.
18 Until the department adopts final rules related to verifying a consumer's
19 age, marijuana establishments shall comply with the proof of legal age
20 requirements prescribed in section 4-241.

21 7. The potency of edible marijuana products that may be sold to
22 consumers by marijuana establishments at reasonable levels ~~upon~~ ON
23 consideration of industry standards, except that the rules:

24 (a) Shall limit the strength of edible marijuana products to ~~to~~ NOT
25 more than ten milligrams of tetrahydrocannabinol per serving or one
26 hundred milligrams of tetrahydrocannabinol per package.

27 (b) Shall require that if a marijuana product contains more than
28 one serving, it must be delineated or scored into standard serving sizes
29 and homogenized to ensure uniform disbursement throughout the marijuana
30 product.

31 8. Ensuring the health, safety and training of employees of
32 marijuana establishments and marijuana testing facilities.

33 9. The creation and implementation of a social equity ownership
34 program to promote the ownership and operation of marijuana establishments
35 and marijuana testing facilities by individuals from communities
36 disproportionately impacted by the enforcement of previous marijuana laws.

37 10. PROHIBITING A MARIJUANA TESTING FACILITY FROM HAVING ANY DIRECT
38 OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP INTEREST IN
39 A MARIJUANA ESTABLISHMENT OR RELATED MARIJUANA BUSINESS ENTITY OR
40 MANAGEMENT COMPANY. THE RULES SHALL INCLUDE PROHIBITING A MARIJUANA
41 ESTABLISHMENT FROM HAVING ANY DIRECT OR INDIRECT FAMILIAL RELATIONSHIP
42 WITH OR FINANCIAL OWNERSHIP INTEREST IN A MARIJUANA TESTING FACILITY OR
43 RELATED MARIJUANA BUSINESS ENTITY OR MANAGEMENT COMPANY.

1 B. The department may:

2 1. Subject to title 41, chapter 6, article 10, deny any application
3 submitted or deny, suspend or revoke, in whole or in part, any
4 registration or license issued under this chapter if the registered or
5 licensed party or an officer, agent or employee of the registered or
6 licensed party does any of the following:

7 (a) Violates this chapter or any rule adopted pursuant to this
8 chapter.

9 (b) Has been, is or may continue to be in substantial violation of
10 the requirements for licensing or registration and, as a result, the
11 health or safety of the general public is in immediate danger.

12 2. Subject to title 41, chapter 6, article 10, and unless another
13 penalty is provided elsewhere in this chapter, assess a civil penalty
14 against a person that violates this chapter or any rule adopted pursuant
15 to this chapter in an amount not to exceed ~~\$1,000~~ \$2,000 for each
16 violation. Each day a violation occurs constitutes a separate violation.

17 ~~The maximum amount of any assessment is \$25,000 for any thirty-day~~
18 ~~period.~~ In determining the amount of a civil penalty assessed against a
19 person, the department shall consider all of the factors set forth in
20 section 36-2816, subsection H. All civil penalties collected by the
21 department pursuant to this paragraph shall be deposited in the smart and
22 safe Arizona fund established by section 36-2856.

23 3. At any time during regular hours of operation, visit and inspect
24 a marijuana establishment, marijuana testing facility or dual licensee to
25 determine if it complies with this chapter and rules adopted pursuant to
26 this chapter. The department shall make at least one unannounced visit
27 annually to each facility licensed pursuant to this chapter.

28 4. Adopt any other rules **THAT ARE** not expressly stated in this
29 section **AND** that are necessary to ensure the safe and responsible
30 cultivation, sale, processing, manufacture, testing and transport of
31 marijuana and marijuana products.

32 C. Until the department adopts rules permitting and regulating
33 delivery by marijuana establishments pursuant to subsection D of this
34 section, delivery is unlawful under this chapter.

35 D. On or after January 1, 2023, the department may, and ~~TO~~ **NOT**
36 later than January 1, 2025 the department shall, adopt rules to permit and
37 regulate delivery by marijuana establishments. The rules shall:

38 1. Require that delivery and the marijuana and marijuana products
39 to be delivered originate from a designated retail location of a marijuana
40 establishment and only after an order is made with the marijuana
41 establishment by a consumer.

42 2. Prohibit delivery to any property owned or leased by the United
43 States, this state, a political subdivision of this state or the Arizona
44 board of regents.

3. Limit the amount of marijuana and marijuana products based on
2 retail price that may be in a delivery vehicle during a single trip from
3 the designated retail location of a marijuana establishment.

4. Prohibit extra or unallocated marijuana or marijuana products in
5 delivery vehicles.

6. Require that deliveries be made only by marijuana facility
7 agents in unmarked vehicles that are equipped with a global positioning
8 system or similar location tracking system and video surveillance and
9 recording equipment, and that contain a locked compartment in which
10 marijuana and marijuana products must be stored.

11. Require delivery logs necessary to ensure compliance with this
12 subsection and rules adopted pursuant to this subsection.

13. Require inspections to ensure compliance with this subsection
14 and rules adopted pursuant to this subsection.

15. Include any other provisions necessary to ensure safe and
16 restricted delivery.

17. Require dual licensees to comply with the rules adopted pursuant
18 to this subsection.

19. E. Except as provided in subsection D of this section, the
20 department may not permit delivery of marijuana or marijuana products
21 under this chapter by any individual or entity. In addition to any other
22 penalty imposed by law, an individual or entity that delivers marijuana or
23 marijuana products in a manner that is not authorized by this chapter
24 shall pay a civil penalty of \$20,000 per violation to the smart and safe
25 Arizona fund established by section 36-2856. This subsection may be
26 enforced by the attorney general.

27. F. All rules adopted by the department pursuant to this section
28 shall be consistent with the purpose of this chapter.

29. G. The department may not adopt any rule that:

30. 1. Prohibits the operation of marijuana establishments, either
31 expressly or through requirements that make the operation of a marijuana
32 establishment unduly burdensome.

33. 2. Prohibits or interferes with the ability of a dual licensee to
34 operate a marijuana establishment and a nonprofit medical marijuana
35 dispensary at shared locations.

36. H. Notwithstanding section 41-192, the department may employ legal
37 counsel and make an expenditure or incur an indebtedness for legal
38 services for the purposes of:

39. 1. Defending this chapter or rules adopted pursuant to this
40 chapter.

41. 2. Defending chapter 28.1 of this title or rules adopted pursuant
42 to chapter 28.1 of this title.

43. I. The department shall deposit all license fees, application fees
44 and renewal fees paid to the department pursuant to this chapter in the
45 smart and safe Arizona fund established by section 36-2856.

1 J. On request, the department shall share with the department of
2 revenue information regarding a marijuana establishment, marijuana testing
3 facility or dual licensee, including its name, physical address,
4 cultivation site and transaction privilege tax license number.

5 K. Notwithstanding any other law, the department may:

6 1. License an independent third-party laboratory to also operate as
7 a marijuana testing facility.

8 2. Operate a marijuana testing facility.

9 L. The department shall maintain and publish a current list of all
10 marijuana establishments and marijuana testing facilities by name and
11 license number.

12 M. Notwithstanding any other law, the issuance of an occupational,
13 professional or other regulatory license or certification to a person by a
14 jurisdiction or regulatory authority outside this state does not entitle
15 that person to be issued a marijuana establishment license, a marijuana
16 testing facility license, or any other license, registration or
17 certification under this chapter.

18 N. UNTIL THE DEPARTMENT ADOPTS RULES AS REQUIRED BY SUBSECTION A,
19 PARAGRAPH 10 OF THIS SECTION:

20 1. A MARIJUANA TESTING FACILITY IS PROHIBITED FROM HAVING ANY
21 DIRECT OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP
22 INTEREST IN A MARIJUANA ESTABLISHMENT OR RELATED MARIJUANA BUSINESS ENTITY
23 OR MANAGEMENT COMPANY.

24 2. A MARIJUANA ESTABLISHMENT IS PROHIBITED FROM HAVING ANY DIRECT
25 OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP INTEREST IN
26 A MARIJUANA TESTING FACILITY OR RELATED MARIJUANA BUSINESS ENTITY OR
27 MANAGEMENT COMPANY.

28 Sec. 7. Section 41-1758.07, Arizona Revised Statutes, is amended to
29 read:

30 41-1758.07. Level I fingerprint clearance cards; definitions

31 A. On receiving the state and federal criminal history record of a
32 person who is required to be fingerprinted pursuant to this section, the
33 fingerprinting division in the department of public safety shall compare
34 the record with the list of criminal offenses that preclude the person
35 from receiving a level I fingerprint clearance card. If the person's
36 criminal history record does not contain any of the offenses listed in
37 subsections B and C of this section, the fingerprinting division shall
38 issue the person a level I fingerprint clearance card.

39 B. A person who is subject to registration as a sex offender in
40 this state or any other jurisdiction or who is awaiting trial on or who
41 has been convicted of committing or attempting, soliciting, facilitating
42 or conspiring to commit one or more of the following offenses in this
43 state or the same or similar offenses in another state or jurisdiction is
44 precluded from receiving a level I fingerprint clearance card:

45 1. Sexual abuse of a vulnerable adult.

- 1 2. Incest.
- 2 3. Homicide, including first or second degree murder, manslaughter
- 3 and negligent homicide.
- 4 4. Sexual assault.
- 5 5. Sexual exploitation of a minor.
- 6 6. Sexual exploitation of a vulnerable adult.
- 7 7. Commercial sexual exploitation of a minor.
- 8 8. Commercial sexual exploitation of a vulnerable adult.
- 9 9. Child sex trafficking as prescribed in section 13-3212.
- 10 10. Child abuse.
- 11 11. Felony child neglect.
- 12 12. Abuse of a vulnerable adult.
- 13 13. Sexual conduct with a minor.
- 14 14. Molestation of a child.
- 15 15. Molestation of a vulnerable adult.
- 16 16. Dangerous crimes against children as defined in section 13-705.
- 17 17. Exploitation of minors involving drug offenses.
- 18 18. Taking a child for the purpose of prostitution as prescribed in
- 19 section 13-3206.
- 20 19. Neglect or abuse of a vulnerable adult.
- 21 20. Sex trafficking.
- 22 21. Sexual abuse.
- 23 22. Production, publication, sale, possession and presentation of
- 24 obscene items as prescribed in section 13-3502.
- 25 23. Furnishing harmful items to minors as prescribed in section
- 26 13-3506.
- 27 24. Furnishing harmful items to minors by internet activity as
- 28 prescribed in section 13-3506.01.
- 29 25. Obscene or indecent telephone communications to minors for
- 30 commercial purposes as prescribed in section 13-3512.
- 31 26. Luring a minor for sexual exploitation.
- 32 27. Enticement of persons for purposes of prostitution.
- 33 28. Procurement by false pretenses of person for purposes of
- 34 prostitution.
- 35 29. Procuring or placing persons in a house of prostitution.
- 36 30. Receiving earnings of a prostitute.
- 37 31. Causing one's spouse to become a prostitute.
- 38 32. Detention of persons in a house of prostitution for debt.
- 39 33. Keeping or residing in a house of prostitution or employment in
- 40 prostitution.
- 41 34. Pandering.
- 42 35. Transporting persons for the purpose of prostitution, polygamy
- 43 and concubinage.
- 44 36. Portraying adult as a minor as prescribed in section 13-3555.

1 37. Admitting minors to public displays of sexual conduct as
2 prescribed in section 13-3558.

3 38. Any felony offense involving contributing to the delinquency of
4 a minor.

5 39. Unlawful sale or purchase of children.

6 40. Child bigamy.

7 41. Any felony offense involving domestic violence as defined in
8 section 13-3601 except for a felony offense only involving criminal damage
9 in an amount of more than ~~two hundred fifty dollars~~ \$250 but less than ~~one~~
10 ~~thousand dollars~~ \$1,000 if the offense was committed before June 29, 2009.

11 42. Any felony offense in violation of title 13, chapter 12 if
12 committed within five years before the date of applying for a level I
13 fingerprint clearance card.

14 43. Felony drug or alcohol related offenses if committed within
15 five years before the date of applying for a level I fingerprint clearance
16 card.

17 44. Felony indecent exposure.

18 45. Felony public sexual indecency.

19 46. Terrorism.

20 47. Any offense involving a violent crime as defined in section
21 13-901.03.

22 48. Trafficking of persons for forced labor or services.

23 C. A person who is awaiting trial on or who has been convicted of
24 committing or attempting, soliciting, facilitating or conspiring to commit
25 one or more of the following offenses in this state or the same or similar
26 offenses in another state or jurisdiction is precluded from receiving a
27 level I fingerprint clearance card, except that the person may petition
28 the board of fingerprinting for a good cause exception pursuant to section
29 41-619.55:

30 1. Any misdemeanor offense in violation of title 13, chapter 12.

31 2. Misdemeanor indecent exposure.

32 3. Misdemeanor public sexual indecency.

33 4. Aggravated criminal damage.

34 5. Theft.

35 6. Theft by extortion.

36 7. Shoplifting.

37 8. Forgery.

38 9. Criminal possession of a forgery device.

39 10. Obtaining a signature by deception.

40 11. Criminal impersonation.

41 12. Theft of a credit card or obtaining a credit card by fraudulent
42 means.

43 13. Receipt of anything of value obtained by fraudulent use of a
44 credit card.

45 14. Forgery of a credit card.

15. Fraudulent use of a credit card.
16. Possession of any machinery, plate or other contrivance or
17. incomplete credit card.
18. False statement as to financial condition or identity to obtain
19. a credit card.
20. Fraud by persons authorized to provide goods or services.
21. Credit card transaction record theft.
22. Misconduct involving weapons.
23. Misconduct involving explosives.
24. Depositing explosives.
25. Misconduct involving simulated explosive devices.
26. Concealed weapon violation.
27. Misdemeanor possession and misdemeanor sale of peyote.
28. Felony possession and felony sale of peyote if committed more
29. than five years before the date of applying for a level I fingerprint
30. clearance card.
31. Misdemeanor possession and misdemeanor sale of a vapor-releasing substance containing a toxic substance.
32. Felony possession and felony sale of a vapor-releasing substance containing a toxic substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
33. Misdemeanor sale of precursor chemicals.
34. Felony sale of precursor chemicals if committed more than five years before the date of applying for a level I fingerprint clearance card.
35. Misdemeanor possession, misdemeanor use or misdemeanor sale of marijuana, dangerous drugs or narcotic drugs.
36. Felony possession, felony use or felony sale of marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.
37. Misdemeanor manufacture or misdemeanor distribution of an imitation controlled substance.
38. Felony manufacture or felony distribution of an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
39. Misdemeanor manufacture or misdemeanor distribution of an imitation prescription-only drug.
40. Felony manufacture or felony distribution of an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
41. Misdemeanor manufacture or misdemeanor distribution of an imitation over-the-counter drug.
42. Felony manufacture or felony distribution of an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.

1 39. Misdemeanor possession or misdemeanor possession with intent to
2 use an imitation controlled substance.

3 40. Felony possession or felony possession with intent to use an
4 imitation controlled substance if committed more than five years before
5 the date of applying for a level I fingerprint clearance card.

6 41. Misdemeanor possession or misdemeanor possession with intent to
7 use an imitation prescription-only drug.

8 42. Felony possession or felony possession with intent to use an
9 imitation prescription-only drug if committed more than five years before
10 the date of applying for a level I fingerprint clearance card.

11 43. Misdemeanor possession or misdemeanor possession with intent to
12 use an imitation over-the-counter drug.

13 44. Felony possession or felony possession with intent to use an
14 imitation over-the-counter drug if committed more than five years before
15 the date of applying for a level I fingerprint clearance card.

16 45. Misdemeanor manufacture of certain substances and drugs by
17 certain means.

18 46. Felony manufacture of certain substances and drugs by certain
19 means if committed more than five years before the date of applying for a
20 level I fingerprint clearance card.

21 47. Adding poison or other harmful substance to food, drink or
22 medicine.

23 48. A criminal offense involving criminal trespass under title 13,
24 chapter 15.

25 49. A criminal offense involving burglary under title 13,
26 chapter 15.

27 50. A criminal offense under title 13, chapter 23, except
28 terrorism.

29 51. Misdemeanor offenses involving child neglect.

30 52. Misdemeanor offenses involving contributing to the delinquency
31 of a minor.

32 53. Misdemeanor offenses involving domestic violence as defined in
33 section 13-3601.

34 54. Felony offenses involving domestic violence if the offense only
35 involved criminal damage in an amount of more than ~~two hundred fifty~~
36 ~~dollars~~ \$250 but less than ~~one thousand dollars~~ \$1,000 and the offense was
37 committed before June 29, 2009.

38 55. Arson.

39 56. Felony offenses involving sale, distribution or transportation
40 of, offer to sell, transport or distribute or conspiracy to sell,
41 transport or distribute marijuana, dangerous drugs or narcotic drugs if
42 committed more than five years before the date of applying for a level I
43 fingerprint clearance card.

44 57. Criminal damage.

1 58. Misappropriation of charter school monies as prescribed in
2 section 13-1818.

3 59. Taking identity of another person or entity.

4 60. Aggravated taking identity of another person or entity.

5 61. Trafficking in the identity of another person or entity.

6 62. Cruelty to animals.

7 63. Prostitution, as prescribed in section 13-3214.

8 64. Sale or distribution of material harmful to minors through
9 vending machines as prescribed in section 13-3513.

10 65. Welfare fraud.

11 66. Any felony offense in violation of title 13, chapter 12 if
12 committed more than five years before the date of applying for a level I
13 fingerprint clearance card.

14 67. Kidnapping.

15 68. Robbery, aggravated robbery or armed robbery.

16 D. A person who is awaiting trial on or who has been convicted of
17 committing or attempting to commit a misdemeanor violation of section
18 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense
19 in another state or jurisdiction within five years from the date of
20 applying for a level I fingerprint clearance card is precluded from
21 driving any vehicle to transport employees or clients of the employing
22 agency as part of the person's employment. The division shall place a
23 notation on the level I fingerprint clearance card that indicates this
24 driving restriction. This subsection does not preclude a person from
25 driving a vehicle alone as part of the person's employment.

26 E. Notwithstanding subsection C of this section, on receiving
27 written notice from the board of fingerprinting that a good cause
28 exception was granted pursuant to section 41-619.55, the fingerprinting
29 division shall issue a level I fingerprint clearance card to the
30 applicant.

31 F. If the fingerprinting division denies a person's application for
32 a level I fingerprint clearance card pursuant to subsection C of this
33 section and a good cause exception is requested pursuant to section
34 41-619.55, the fingerprinting division shall release, on request by the
35 board of fingerprinting, the person's criminal history record to the board
36 of fingerprinting.

37 G. A person shall be granted a level I fingerprint clearance card
38 pursuant to this section if either of the following applies:

39 1. An agency granted a good cause exception before August 16, 1999
40 and no new precluding offense is identified. The fingerprint clearance
41 card shall specify only the program that granted the good cause exception.
42 On the request of the applicant, the agency that granted the prior good
43 cause exception shall notify the fingerprinting division in writing of the
44 date on which the prior good cause exception was granted, the date of the

1 conviction and the name of the offense for which the good cause exception
2 was granted.

3 2. The board granted a good cause exception and no new precluding
4 offense is identified.

5 H. The licensee or contract provider shall assume the costs of
6 fingerprint checks conducted pursuant to this section and may charge these
7 costs to persons who are required to be fingerprinted.

8 I. A person who is under eighteen years of age or who is at least
9 ninety-nine years of age is exempt from the level I fingerprint clearance
10 card requirements of this section. At all times the person shall be under
11 the direct visual supervision of personnel who have valid level I
12 fingerprint clearance cards.

13 J. The fingerprinting division shall conduct periodic state
14 criminal history records checks and may conduct federal criminal history
15 records checks when authorized pursuant to federal law for the purpose of
16 updating the clearance status of current level I fingerprint clearance
17 cardholders pursuant to this section and may notify the board of
18 fingerprinting and the agency of the results of the records check.

19 K. The fingerprinting division shall revoke a person's level I
20 fingerprint clearance card on receipt of a written request for revocation
21 from the board of fingerprinting pursuant to section 41-619.55.

22 L. If a person's criminal history record contains an offense listed
23 in subsection B or C of this section and the final disposition is not
24 recorded on the record, the division shall conduct research to obtain the
25 disposition within thirty business days after receipt of the record. If
26 the division cannot determine, within thirty business days after receipt
27 of the person's state and federal criminal history record information,
28 whether the person is awaiting trial on or has been convicted of
29 committing or attempting, soliciting, facilitating or conspiring to commit
30 any of the offenses listed in subsection B or C of this section in this
31 state or the same or a similar offense in another state or jurisdiction,
32 the division shall not issue a level I fingerprint clearance card to the
33 person. If the division is unable to make the determination required by
34 this section and does not issue a level I fingerprint clearance card to a
35 person, the person may request a good cause exception pursuant to section
36 41-619.55.

37 M. If after conducting a state and federal criminal history records
38 check the fingerprinting division determines that it is not authorized to
39 issue a level I fingerprint clearance card to an applicant, the division
40 shall notify the agency that the fingerprinting division is not authorized
41 to issue a level I fingerprint clearance card. This notice shall include
42 the criminal history information on which the denial was based. This
43 criminal history information is subject to dissemination restrictions
44 pursuant to section 41-1750 and Public Law 92-544.

1 N. The fingerprinting division is not liable for damages resulting
2 from:

3 1. The issuance of a level I fingerprint clearance card to an
4 applicant who is later found to have been ineligible to receive a level I
5 fingerprint clearance card at the time the card was issued.

6 2. The denial of a level I fingerprint clearance card to an
7 applicant who is later found to have been eligible to receive a level I
8 fingerprint clearance card at the time issuance of the card was denied.

9 O. Notwithstanding any law to the contrary, an individual may apply
10 for and receive a level I fingerprint clearance card pursuant to this
11 section to satisfy a requirement that the person have a valid fingerprint
12 clearance card issued pursuant to section 41-1758.03.

13 P. Notwithstanding any law to the contrary, except as prescribed
14 pursuant to subsection Q of this section, an individual who receives a
15 level I fingerprint clearance card pursuant to this section also satisfies
16 a requirement that the individual have a valid fingerprint clearance card
17 issued pursuant to section 41-1758.03.

18 Q. Unless a cardholder commits an offense listed in subsection B or
19 C of this section after June 29, 2009, a fingerprint clearance card issued
20 pursuant to section 41-1758.03 before June 29, 2009 and its renewals are
21 valid for all requirements for a level I fingerprint clearance card except
22 those relating to the requirements of section 8-105 or 8-509. A
23 fingerprint clearance card issued before June 29, 2009 to meet the
24 requirements of section 8-105 or 8-509 and its renewals are valid after
25 June 29, 2009 to meet all requirements for a level I fingerprint clearance
26 card, including the requirements of section 8-105 or 8-509, if the
27 cardholder has been certified by the court to adopt or has been issued a
28 foster home license before June 29, 2009.

29 R. The issuance of a level I fingerprint clearance card does not
30 entitle a person to employment.

31 S. For the purposes of this section:

32 1. "Person" means a person who is fingerprinted pursuant to:

33 (a) Section 3-314, 8-105, 8-463, 8-509, 8-802, 17-215, 36-207,
34 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, **36-2819**,
35 **36-2855**, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or
36 46-141.

37 (b) Subsection O of this section.

38 2. "Renewal" means the issuance of a fingerprint clearance card to
39 an existing fingerprint clearance cardholder who applies before the
40 person's existing fingerprint clearance card expires.

41 Sec. 8. **Rulemaking exemption: department of health services**

42 Subject to the requirements of article IV, part 1, section 1,
43 Constitution of Arizona, for the purposes of this act, the department of
44 health services is exempt from the rulemaking requirements of title 41,
45 chapters 6 and 6.1, Arizona Revised Statutes, until January 1, 2022,

1 except that the department shall provide the public at least thirty days
2 to comment on the proposed rules.

3 Sec. 9. Requirements for enactment; three-fourths vote

4 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
5 sections 36-2803, 36-2804.01, 36-2816, 36-2819, 36-2821 and 36-2854,
6 Arizona Revised Statutes, as amended by this act, and section 8 of this
7 act are effective only on the affirmative vote of at least three-fourths
8 of the members of each house of the legislature.

9 Sec. 10. Emergency

10 This act is an emergency measure that is necessary to preserve the
11 public peace, health or safety and is operative immediately as provided by
12 law.

APPROVED BY THE GOVERNOR JULY 10, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2021.