

Senate Engrossed

marijuana; inspections; licensing; financial ownership.

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1834

AN ACT

AMENDING SECTIONS 36-2806 AND 36-2854, ARIZONA REVISED STATUTES; RELATING TO 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 TO~~
17 **OVERSEE** the registered nonprofit medical marijuana dispensary and
18 procedures to ensure 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 or an independent third-party laboratory
29 agent or a certified independent third-party laboratory for the purposes
30 prescribed in this chapter and department rule.

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

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

41 G. A nonprofit medical marijuana dispensary shall not allow any
42 person to consume marijuana on the property of the nonprofit medical
43 marijuana dispensary.

1 H. Registered nonprofit medical marijuana dispensaries are subject
2 to reasonable inspection by the department. The department ~~shall give~~
3 ~~reasonable notice of an inspection under this subsection~~ MAY VISIT AND
4 INSPECT A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT ANY TIME DURING
5 REGULAR HOURS OF OPERATION AS NECESSARY TO DETERMINE WHETHER THE
6 DISPENSARY COMPLIES WITH THIS CHAPTER AND THE RULES ADOPTED PURSUANT TO
7 THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT
8 ANNUALLY TO EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED
9 PURSUANT TO THIS CHAPTER.

10 I. ~~Beginning November 1, 2020,~~ Registered nonprofit medical
11 marijuana dispensaries are subject to product testing by certified
12 independent third-party laboratories pursuant to this chapter and rules
13 adopted pursuant to this chapter.

14 J. Notwithstanding title 13, chapter 34, an employee of the
15 department or an independent third-party laboratory agent may not be
16 charged with or prosecuted for possession of marijuana that is cultivated
17 for medical use as required by this chapter and the rules adopted pursuant
18 to this chapter.

19 Sec. 2. Subject to the requirements of article IV, part 1,
20 section 1, Constitution of Arizona, section 36-2854, Arizona Revised
21 Statutes, is amended to read:

22 36-2854. Rules; licensing; early applicants; fees; civil
23 penalty; legal counsel

24 A. The department shall adopt rules to implement and enforce this
25 chapter and regulate marijuana, marijuana products, marijuana
26 establishments and marijuana testing facilities. Those rules shall
27 include requirements for:

28 1. Licensing marijuana establishments and marijuana testing
29 facilities, including conducting investigations and background checks to
30 determine eligibility for licensing for marijuana establishment and
31 marijuana testing facility applicants, except that:

32 (a) An application for a marijuana establishment license or
33 marijuana testing facility license may not require the disclosure of the
34 identity of any person who is entitled to a share of less than ten percent
35 of the profits of an applicant that is a publicly traded corporation.

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

40 (c) Notwithstanding subdivision (b) of this paragraph, the
41 department may issue a marijuana establishment license to not more than
42 two marijuana establishments per county that contains no registered
43 nonprofit medical marijuana dispensaries, or one marijuana establishment
44 license per county that contains one registered nonprofit medical
45 marijuana dispensary. Any license issued pursuant to this subdivision

1 shall be for a fixed county and may not be relocated outside of that
2 county.

3 (d) The department shall accept applications for marijuana
4 establishment licenses from early applicants beginning January 19, 2021
5 through March 9, 2021. Not later than sixty days after receiving an
6 application pursuant to this subdivision, the department shall issue a
7 marijuana establishment license to each qualified early applicant. If the
8 department has not adopted final rules pursuant to this section at the
9 time marijuana establishment licenses are issued pursuant to this
10 subdivision, licensees shall comply with the rules adopted by the
11 department to implement chapter 28.1 of this title except those that are
12 inconsistent with this chapter.

13 (e) After issuing marijuana establishment licenses to qualified
14 early applicants, the department shall issue marijuana establishment
15 licenses available under subdivisions (b) and (c) of this paragraph by
16 random selection and according to rules adopted pursuant to this section.
17 At least sixty days ~~prior to~~ BEFORE any random selection, the department
18 shall prominently publicize the random selection on its website and
19 through other means of general distribution intended to reach as many
20 interested parties as possible and shall provide notice through an email
21 notification system to which interested parties can subscribe.

22 (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and
23 no later than six months after the department adopts final rules to
24 implement a social equity ownership program pursuant to paragraph 9 of
25 this subsection, the department shall issue twenty-six additional
26 marijuana establishment licenses to entities that are qualified pursuant
27 to the social equity ownership program.

28 (g) Licenses issued by the department to marijuana establishments
29 and marijuana testing facilities shall be valid for a period of two years.
30 A DUAL LICENSEE'S INITIAL RENEWAL DATE, WHICH WILL BE THE ONGOING RENEWAL
31 DATE FOR BOTH THE DUAL LICENSEE'S MARIJUANA ESTABLISHMENT LICENSE AND
32 NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, IS THE EARLIER OF:

- 33 (i) THE DATE OF THE MARIJUANA ESTABLISHMENT LICENSE RENEWAL.
34 (ii) THE DATE OF THE NONPROFIT MEDICAL MARIJUANA DISPENSARY
35 REGISTRATION RENEWAL.

36 2. Licensing fees and renewal fees for marijuana establishments and
37 marijuana testing facilities in amounts that are reasonable and related to
38 the actual cost of processing applications for licenses and renewals and
39 that do not exceed five times the fees prescribed by the department to
40 register or renew a nonprofit medical marijuana dispensary.

41 3. The security of marijuana establishments and marijuana testing
42 facilities.

43 4. Marijuana establishments to safely cultivate, process and
44 manufacture marijuana and marijuana products.

1 5. Tracking, testing, labeling and packaging marijuana and
2 marijuana products, including requirements that marijuana and marijuana
3 products be:

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

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

9 6. Forms of government-issued identification that are acceptable by
10 a marijuana establishment verifying a consumer's age and procedures
11 related to verifying a consumer's age consistent with section 4-241.
12 Until the department adopts final rules related to verifying a consumer's
13 age, marijuana establishments shall comply with the proof of legal age
14 requirements prescribed in section 4-241.

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

18 (a) Shall limit the strength of edible marijuana products to ~~no~~ NOT
19 more than ten milligrams of tetrahydrocannabinol per serving or one
20 hundred milligrams of tetrahydrocannabinol per package.

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

25 8. Ensuring the health, safety and training of employees of
26 marijuana establishments and marijuana testing facilities.

27 9. The creation and implementation of a social equity ownership
28 program to promote the ownership and operation of marijuana establishments
29 and marijuana testing facilities by individuals from communities
30 disproportionately impacted by the enforcement of previous marijuana laws.

31 10. PROHIBITING A MARIJUANA TESTING FACILITY FROM HAVING ANY DIRECT
32 OR INDIRECT FAMILIAL RELATIONSHIP WITH OR FINANCIAL OWNERSHIP INTEREST IN
33 A MARIJUANA ESTABLISHMENT OR RELATED MARIJUANA BUSINESS ENTITY OR
34 MANAGEMENT COMPANY.

35 B. The department may:

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

41 (a) Violates this chapter or any rule adopted pursuant to this
42 chapter.

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

1 2. Subject to title 41, chapter 6, article 10, and unless another
2 penalty is provided elsewhere in this chapter, assess a civil penalty
3 against a person that violates this chapter or any rule adopted pursuant
4 to this chapter in an amount not to exceed \$1,000 for each violation.
5 Each day a violation occurs constitutes a separate violation. The maximum
6 amount of any assessment is \$25,000 for any thirty-day period. In
7 determining the amount of a civil penalty assessed against a person, the
8 department shall consider all of the factors set forth in section 36-2816,
9 subsection H. All civil penalties collected by the department pursuant to
10 this paragraph shall be deposited in the smart and safe Arizona fund
11 established by section 36-2856.

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

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

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

24 D. On or after January 1, 2023, the department may, and ~~it~~ **NOT**
25 later than January 1, 2025 the department shall, adopt rules to permit and
26 regulate delivery by marijuana establishments. The rules shall:

27 1. Require that delivery and the marijuana and marijuana products
28 to be delivered originate from a designated retail location of a marijuana
29 establishment and only after an order is made with the marijuana
30 establishment by a consumer.

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

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

37 4. Prohibit extra or unallocated marijuana or marijuana products in
38 delivery vehicles.

39 5. Require that deliveries be made only by marijuana facility
40 agents in unmarked vehicles that are equipped with a global positioning
41 system or similar location tracking system and video surveillance and
42 recording equipment, and that contain a locked compartment in which
43 marijuana and marijuana products must be stored.

- 1 6. Require delivery logs necessary to ensure compliance with this
2 subsection and rules adopted pursuant to this subsection.
- 3 7. Require inspections to ensure compliance with this subsection
4 and rules adopted pursuant to this subsection.
- 5 8. Include any other provisions necessary to ensure safe and
6 restricted delivery.
- 7 9. Require dual licensees to comply with the rules adopted pursuant
8 to this subsection.
- 9 E. Except as provided in subsection D of this section, the
10 department may not permit delivery of marijuana or marijuana products
11 under this chapter by any individual or entity. In addition to any other
12 penalty imposed by law, an individual or entity that delivers marijuana or
13 marijuana products in a manner that is not authorized by this chapter
14 shall pay a civil penalty of \$20,000 per violation to the smart and safe
15 Arizona fund established by section 36-2856. This subsection may be
16 enforced by the attorney general.
- 17 F. All rules adopted by the department pursuant to this section
18 shall be consistent with the purpose of this chapter.
- 19 G. The department may not adopt any rule that:
- 20 1. Prohibits the operation of marijuana establishments, either
21 expressly or through requirements that make the operation of a marijuana
22 establishment unduly burdensome.
- 23 2. Prohibits or interferes with the ability of a dual licensee to
24 operate a marijuana establishment and a nonprofit medical marijuana
25 dispensary at shared locations.
- 26 H. Notwithstanding section 41-192, the department may employ legal
27 counsel and make an expenditure or incur an indebtedness for legal
28 services for the purposes of:
- 29 1. Defending this chapter or rules adopted pursuant to this
30 chapter.
- 31 2. Defending chapter 28.1 of this title or rules adopted pursuant
32 to chapter 28.1 of this title.
- 33 I. The department shall deposit all license fees, application fees
34 and renewal fees paid to the department pursuant to this chapter in the
35 smart and safe Arizona fund established by section 36-2856.
- 36 J. On request, the department shall share with the department of
37 revenue information regarding a marijuana establishment, marijuana testing
38 facility or dual licensee, including its name, physical address,
39 cultivation site and transaction privilege tax license number.
- 40 K. Notwithstanding any other law, the department may:
- 41 1. License an independent third-party laboratory to also operate as
42 a marijuana testing facility.
- 43 2. Operate a marijuana testing facility.

1 L. The department shall maintain and publish a current list of all
2 marijuana establishments and marijuana testing facilities by name and
3 license number.

4 M. Notwithstanding any other law, the issuance of an occupational,
5 professional or other regulatory license or certification to a person by a
6 jurisdiction or regulatory authority outside this state does not entitle
7 that person to be issued a marijuana establishment license, a marijuana
8 testing facility license, or any other license, registration or
9 certification under this chapter.

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

11 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
12 sections 36-2806 and 36-2854, Arizona Revised Statutes, as amended by this
13 act, are effective only on the affirmative vote of at least three-fourths
14 of the members of each house of the legislature.