

REFERENCE TITLE: department of marijuana regulation

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2828

Introduced by
Representative Bowers

AN ACT

AMENDING SECTIONS 36-2801, 36-2803, 36-2817, 36-2821, 36-2850 AND 36-2856, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.3; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3030.04; APPROPRIATING MONIES; 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 36-2801, Arizona Revised
4 Statutes, is amended to read:

5 36-2801. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Allowable amount of marijuana":

8 (a) With respect to a qualifying patient, means:

9 (i) Two and one-half ounces of usable marijuana.

10 (ii) If the qualifying patient's registry identification card
11 states that the qualifying patient is authorized to cultivate marijuana,
12 twelve marijuana plants contained in an enclosed, locked facility, except
13 that the plants are not required to be in an enclosed, locked facility if
14 the plants are being transported because the qualifying patient is moving.

15 (b) With respect to a designated caregiver, for each patient
16 assisted by the designated caregiver under this chapter, means:

17 (i) Two and one-half ounces of usable marijuana.

18 (ii) If the designated caregiver's registry identification card
19 provides that the designated caregiver is authorized to cultivate
20 marijuana, twelve marijuana plants contained in an enclosed, locked
21 facility, except that the plants are not required to be in an enclosed,
22 locked facility if the plants are being transported because the designated
23 caregiver is moving.

24 (c) Does not include marijuana that is incidental to medical use,
25 but is not usable marijuana.

26 2. "Cardholder" means a qualifying patient, a designated caregiver,
27 a nonprofit medical marijuana dispensary agent or a independent
28 third-party laboratory agent who has been issued and possesses a valid
29 registry identification card.

30 3. "Debilitating medical condition" means one or more of the
31 following:

32 (a) Cancer, glaucoma, positive status for human immunodeficiency
33 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic
34 lateral sclerosis, Crohn's disease or agitation of Alzheimer's disease or
35 the treatment of these conditions.

36 (b) A chronic or debilitating disease or medical condition or its
37 treatment that produces one or more of the following:

38 (i) Cachexia or wasting syndrome.

39 (ii) Severe and chronic pain.

40 (iii) Severe nausea.

41 (iv) Seizures, including those characteristic of epilepsy.

42 (v) Severe and persistent muscle spasms, including those
43 characteristic of multiple sclerosis.

44 (c) Any other medical condition or its treatment added by the
45 department pursuant to section 36-2801.01.

- 1 4. "Department" means the department of ~~health services~~ MARIJUANA
2 REGULATION or its successor agency.
- 3 5. "Designated caregiver" means a person who:
4 (a) Is at least twenty-one years of age.
5 (b) Has agreed to assist with a patient's medical use of marijuana.
6 (c) Has not been convicted of an excluded felony offense.
7 (d) Assists not more than five qualifying patients with the medical
8 use of marijuana.
9 (e) May receive reimbursement for actual costs incurred in
10 assisting a registered qualifying patient's medical use of marijuana if
11 the registered designated caregiver is connected to the registered
12 qualifying patient through the department's registration process. The
13 designated caregiver may not be paid any fee or compensation for service
14 as a caregiver. Payment for costs under this subdivision does not
15 constitute an offense under title 13, chapter 34 or under title 36,
16 chapter 27, article 4.
- 17 6. "Enclosed, locked facility" means a closet, room, greenhouse or
18 other enclosed area that is equipped with locks or other security devices
19 that ~~permit~~ ALLOW access only by a cardholder.
- 20 7. "Excluded felony offense" means:
21 (a) A violent crime as defined in section 13-901.03, subsection B,
22 that was classified as a felony in the jurisdiction where the person was
23 convicted.
24 (b) A violation of a state or federal controlled substance law that
25 was classified as a felony in the jurisdiction where the person was
26 convicted but does not include:
27 (i) An offense for which the sentence, including any term of
28 probation, incarceration or supervised release, was completed ten or more
29 years earlier.
30 (ii) An offense involving conduct that would be immune from arrest,
31 prosecution or penalty under section 36-2811, except that the conduct
32 occurred before December 14, 2010 or was prosecuted by an authority other
33 than the state of Arizona.
- 34 8. "Independent third-party laboratory" means an entity that has a
35 national or international accreditation and that is certified by the
36 department to analyze marijuana cultivated for medical use.
- 37 9. "Independent third-party laboratory agent" means an owner,
38 employee or volunteer of a certified independent third-party laboratory
39 who is at least twenty-one years of age and who has not been convicted of
40 an excluded felony offense.
- 41 10. "Marijuana" means all parts of any plant of the genus cannabis,
42 whether growing or not, and the seeds of such plant.
- 43 11. "Medical use" means the acquisition, possession, cultivation,
44 manufacture, use, administration, delivery, transfer or transportation of
45 marijuana or paraphernalia relating to the administration of marijuana to

1 treat or alleviate a registered qualifying patient's debilitating medical
2 condition or symptoms associated with the patient's debilitating medical
3 condition.

4 12. "Nonprofit medical marijuana dispensary" means a not-for-profit
5 entity that acquires, possesses, cultivates, manufactures, delivers,
6 transfers, transports, supplies, sells or dispenses marijuana or related
7 supplies and educational materials to cardholders. A nonprofit medical
8 marijuana dispensary may receive payment for all expenses incurred in its
9 operation.

10 13. "Nonprofit medical marijuana dispensary agent" means a
11 principal officer, board member, employee or volunteer of a nonprofit
12 medical marijuana dispensary who is at least twenty-one years of age and
13 has not been convicted of an excluded felony offense.

14 14. "Physician" means a doctor of medicine who holds a valid and
15 existing license to practice medicine pursuant to title 32, chapter 13 or
16 its successor, a doctor of osteopathic medicine who holds a valid and
17 existing license to practice osteopathic medicine pursuant to title 32,
18 chapter 17 or its successor, a naturopathic physician who holds a valid
19 and existing license to practice naturopathic medicine pursuant to title
20 32, chapter 14 or its successor or a homeopathic physician who holds a
21 valid and existing license to practice homeopathic medicine pursuant to
22 title 32, chapter 29 or its successor.

23 15. "Qualifying patient" means a person who has been diagnosed by a
24 physician as having a debilitating medical condition.

25 16. "Registry identification card" means a document issued by the
26 department that identifies a person as a registered qualifying patient, a
27 registered designated caregiver, a registered nonprofit medical marijuana
28 dispensary agent or a registered independent third-party laboratory agent.

29 17. "Usable marijuana":

30 (a) Means the dried flowers of the marijuana plant, and any mixture
31 or preparation thereof.

32 (b) Does not include:

33 (i) The seeds, stalks and roots of the plant.

34 (ii) The weight of any non-marijuana ingredients combined with
35 marijuana and prepared for consumption as food or drink.

36 18. "Verification system" means a secure, password-protected,
37 web-based system that is established and maintained by the department and
38 that is available to law enforcement personnel and nonprofit medical
39 marijuana dispensary agents on a twenty-four-hour basis for verifying
40 registry identification cards.

41 19. "Visiting qualifying patient" means a person:

42 (a) Who is not a resident of Arizona or who has been a resident of
43 Arizona less than thirty days.

1 (b) Who has been diagnosed with a debilitating medical condition by
2 a person who is licensed with authority to prescribe drugs to humans in
3 the state of the person's residence or, in the case of a person who has
4 been a resident of Arizona less than thirty days, the state of the
5 person's former residence.

6 20. "Written certification" means a document dated and signed by a
7 physician, stating that in the physician's professional opinion the
8 patient is likely to receive therapeutic or palliative benefit from the
9 medical use of marijuana to treat or alleviate the patient's debilitating
10 medical condition or symptoms associated with the debilitating medical
11 condition. The physician must:

12 (a) Specify the qualifying patient's debilitating medical condition
13 in the written certification.

14 (b) Sign and date the written certification only in the course of a
15 physician-patient relationship after the physician has completed a full
16 assessment of the qualifying patient's medical history.

17 Sec. 2. Subject to the requirements of article IV, part 1,
18 section 1, Constitution of Arizona, section 36-2803, Arizona Revised
19 Statutes, is amended to read:

20 36-2803. Rulemaking; notice; testing of marijuana and
21 marijuana products; fees

22 A. The department shall adopt rules:

23 1. Governing the manner in which the department considers petitions
24 from the public to add debilitating medical conditions or treatments to
25 the list of debilitating medical conditions set forth in section 36-2801,
26 paragraph 3, including public notice of, and an opportunity to comment in
27 a public hearing on, petitions.

28 2. Establishing the form and content of registration and renewal
29 applications submitted under this chapter.

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

32 4. Governing nonprofit medical marijuana dispensaries to protect
33 against diversion and theft without imposing an undue burden on nonprofit
34 medical marijuana dispensaries or compromising the confidentiality of
35 cardholders, including:

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

38 (b) Minimum oversight requirements for nonprofit medical marijuana
39 dispensaries.

40 (c) Minimum recordkeeping requirements for nonprofit medical
41 marijuana dispensaries.

42 (d) Minimum security requirements for nonprofit medical marijuana
43 dispensaries, including requirements to protect each registered nonprofit
44 medical marijuana dispensary location by a fully operational security
45 alarm system.

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

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

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

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

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

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

22 (e) The department may establish a sliding scale of patient
23 application and renewal fees that are based on a qualifying patient's
24 household income and that are reasonable and related to the actual costs
25 of processing applications and renewals.

26 (f) The department may consider private donations under section
27 36-2817 to reduce application and renewal fees.

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

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

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

10 E. Before selling or dispensing marijuana or marijuana products to
11 registered qualified patients or registered designated caregivers,
12 nonprofit medical marijuana dispensaries shall test marijuana and
13 marijuana products for medical use to determine unsafe levels of
14 contamination, including unsafe levels of microbial contamination, heavy
15 metals, pesticides, fungicides, growth regulators and residual solvents
16 and confirm the potency of the marijuana to be dispensed. The dried
17 flowers of the marijuana plant are not required to be tested for residual
18 solvents. If a nonprofit medical marijuana dispensary's test results for
19 heavy metals comply with the prescribed requirements for a period of six
20 consecutive months, heavy metal testing for that dispensary's marijuana
21 and marijuana products is required only on a quarterly basis.

22 F. Nonprofit medical marijuana dispensaries shall:

23 1. Provide test results to a registered qualifying patient or
24 designated caregiver immediately on request.

25 2. Display in a conspicuous location a sign that notifies patients
26 of their right to receive the certified independent third-party laboratory
27 test results for marijuana and marijuana products for medical use.

28 G. The department shall adopt rules to certify and regulate
29 independent third-party laboratories that analyze marijuana cultivated for
30 medical use. The department shall establish certification fees for
31 laboratories pursuant to subsection A of this section. In order to be
32 certified as an independent third-party laboratory that is allowed to test
33 marijuana and marijuana products for medical use pursuant to this chapter,
34 an independent third-party laboratory:

35 1. Must meet requirements established by the department, including
36 reporting and health and safety requirements.

37 2. May not have any direct or indirect familial or financial
38 relationship with or interest in a nonprofit medical marijuana dispensary
39 or related medical marijuana business entity or management company, or any
40 direct or indirect familial or financial relationship with a designated
41 caregiver for whom the laboratory is testing marijuana and marijuana
42 products for medical use in this state.

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

2 4. Must have an adequate chain of custody and sample requirement
3 policies.

4 5. Must have an adequate records retention process to preserve
5 records.

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

8 7. Must be accredited by a national or international accreditation
9 association or other similar accrediting entity, as determined by the
10 department.

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

13 H. Through December 31, 2022, the department may conduct
14 proficiency testing and remediate problems with independent third-party
15 laboratories that are certified and regulated pursuant to this chapter and
16 marijuana testing facilities that are licensed and regulated pursuant to
17 chapter 28.2 of this title.

18 I. Beginning January 1, 2023, the department shall conduct
19 proficiency testing and remediate problems with independent third-party
20 laboratories that are certified and regulated pursuant to this chapter and
21 marijuana testing facilities that are licensed and regulated pursuant to
22 chapter 28.2 of this title. The department may contract for proficiency
23 testing with laboratories that have a national or international
24 accreditation.

25 J. For the purposes of subsections H and I of this section,
26 remediation may include assessing civil penalties and suspending or
27 revoking a laboratory's certification or a marijuana testing facility's
28 license.

29 K. The department shall adopt rules that prescribe reasonable time
30 frames for testing marijuana and marijuana products.

31 Sec. 3. Subject to the requirements of article IV, part 1,
32 section 1, Constitution of Arizona, section 36-2817, Arizona Revised
33 Statutes, is amended to read:

34 36-2817. Medical marijuana fund; private donations; fund
35 transfers; use of monies

36 A. The medical marijuana fund is established consisting of fees
37 collected, civil penalties imposed and private donations received under
38 this chapter. The department shall administer the fund. Monies in the
39 fund are continuously appropriated.

40 B. The director of the department may accept and spend private
41 grants, gifts, donations, contributions and devises to assist in carrying
42 out this chapter.

1 C. Monies in the medical marijuana fund may be used to provide
2 grants for marijuana clinical trials conducted pursuant to section
3 36-2822.

4 D. Monies in the medical marijuana fund do not revert to the state
5 general fund at the end of a fiscal year.

6 E. On November 30, 2020, the director of the department shall
7 transfer the following sums from the medical marijuana fund for the
8 following purposes:

9 1. \$15,000,000 to the Arizona teachers academy fund established by
10 section 15-1655.

11 2. \$10,000,000 to the department OF HEALTH SERVICES to fund the
12 formation and operation of councils, commissions and programs dedicated to
13 improving public health, including teen suicide prevention, the maternal
14 mortality review program, improving youth health, substance abuse
15 prevention, addressing adverse childhood experiences, the Arizona poison
16 control system established pursuant to section 36-1161, the Arizona health
17 improvement plan, the child fatality review team established pursuant to
18 section 36-3501 and the chronic pain self management program.

19 3. \$10,000,000 to the governor's office of highway safety to
20 distribute grants for the following purposes:

21 (a) Reducing impaired driving, including conducting training
22 programs and purchasing equipment for detecting, testing and enforcing
23 laws against driving, flying or boating while impaired.

24 (b) Equipment, training and personnel costs for dedicated traffic
25 enforcement.

26 4. \$2,000,000 to the department to implement, carry out and enforce
27 chapter 28.2 of this title.

28 5. \$4,000,000 to the department OF MARIJUANA REGULATION to
29 distribute grants to qualified nonprofit entities that will provide
30 outreach to individuals who may be eligible to file petitions for
31 expungement pursuant to section 36-2862 and will assist with the
32 expungement petition process. The department OF MARIJUANA REGULATION
33 shall distribute grants pursuant to this paragraph on or before June 30,
34 2021.

35 6. \$2,000,000 to the department of ~~health services~~ MARIJUANA
36 REGULATION to develop and implement, in conjunction with the department of
37 economic security and other state agencies, a social equity ownership
38 program to promote the ownership and operation of marijuana establishments
39 and marijuana testing facilities by individuals from communities
40 disproportionately impacted by the enforcement of previous marijuana laws.
41 For the purposes of this paragraph, "marijuana establishment" and
42 "marijuana testing facility" have the same meanings prescribed in section
43 36-2850.

1 7. \$1,000,000 to the department to fund programs and grants to
2 qualified nonprofit organizations for education and community outreach
3 related to chapter 28.2 of this title.

4 8. \$1,000,000 to the smart and safe Arizona fund established by
5 section 36-2856.

6 F. After all costs incurred to implement, carry out and enforce
7 this chapter and the rules adopted pursuant to this chapter are paid for
8 fiscal year 2021-2022, the department shall transfer from the medical
9 marijuana fund the following sums for the following purposes:

10 1. \$1,250,000 to the department OF HEALTH SERVICES for suicide
11 prevention.

12 2. \$1,250,000 to the Arizona health care cost containment system
13 for suicide prevention.

14 3. \$2,000,000 to the institute for mental health research for
15 research to improve mental health services, research and education in this
16 state.

17 4. \$2,000,000 to the department OF HEALTH SERVICES for the primary
18 care provider loan repayment program and the rural private primary care
19 provider loan repayment program established by chapter 21 of this title.
20 The department OF HEALTH SERVICES shall prioritize rural providers in the
21 areas of mental health care and behavioral health care if feasible and
22 appropriate.

23 5. \$2,000,000 to the board of medical student loans for the
24 purposes of title 15, chapter 13, article 7. The board shall prioritize
25 students who intend to practice in the area of psychiatry or other areas
26 of practice that treat mental illness if feasible and appropriate.

27 6. \$5,000,000 to county public health departments, in proportion to
28 the population of each county, for the purposes of addressing important
29 public health issues and communities affected by drug addiction and
30 incarceration.

31 7. \$1,000,000 to the department OF HEALTH SERVICES for the health
32 care directives registry established pursuant to section 36-3291.

33 G. Monies transferred pursuant to subsection F of this section do
34 not revert to the state general fund.

35 H. The director shall make a onetime transfer of \$250,000 from the
36 medical marijuana fund to the department to provide grants for marijuana
37 research studies pursuant to section 36-2812.

38 I. The director may use monies in the medical marijuana fund to
39 contract with laboratories pursuant to section 36-2803, subsection I to
40 comply with the proficiency testing requirements of this chapter for
41 independent third-party laboratories and marijuana testing facilities. On
42 or before July 1 of each year, the department shall report to the joint
43 legislative budget committee expenditures made pursuant to this subsection
44 for the preceding fiscal year.

1 Sec. 4. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2821, Arizona Revised
3 Statutes, is amended to read:

4 36-2821. Medical marijuana testing advisory council;
5 membership; duties; report; definitions

6 A. The director shall establish a medical marijuana testing
7 advisory council to assist and make recommendations to the director
8 regarding administering and implementing this chapter. The director or
9 the director's designee shall serve as the chairperson of the advisory
10 council and shall appoint the following additional members to the council:

11 1. The president or executive director of a statewide nonprofit
12 association representing the marijuana dispensaries, or the person's
13 designee.

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

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

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

22 5. A representative of an Arizona-based nonprofit medical marijuana
23 dispensary that produces medical marijuana concentrates and that has been
24 regularly sending products for testing who has at least three years of
25 medical marijuana extraction experience.

26 6. A representative of an Arizona-based nonprofit medical marijuana
27 dispensary that is primarily focused on producing medical marijuana
28 edibles who has at least three years of medical marijuana edible
29 production experience.

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

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

34 9. A registered qualifying patient.

35 10. A registered designated caregiver.

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

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

39 13. One university faculty member from each university under the
40 jurisdiction of the Arizona board of regents who ~~is~~ HAS an academic
41 appointment in the chemistry department or another related analytical lab
42 testing area to function as AN independent subject matter ~~experts~~ EXPERT.

43 14. A representative of a laboratory that conducts proficiency
44 testing for laboratories in this state.

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

- 3 1. Establishing a required testing program.
- 4 2. Testing and potency standards for medical marijuana.
- 5 3. Procedural requirements for collecting, storing and testing
6 samples of medical marijuana.
- 7 4. Reporting results to patients and the department.
- 8 5. Remediation and disposal requirements for medical marijuana that
9 fails to meet testing standards.
- 10 6. Additional items as necessary.

11 C. The advisory council shall annually review the marijuana testing
12 programs under this chapter and chapter 28.2 of this title and, on or
13 before the second Monday in January of each year, shall submit to the
14 president of the senate, the speaker of the house of representatives, the
15 health and human services committee chairpersons of the senate and the
16 house of representatives, **OR THEIR SUCCESSOR COMMITTEES**, and the **DIRECTOR**
17 **OF THE** department of ~~health services~~ **MARIJUANA REGULATION** a report that
18 does not disclose any identifying information and that includes at least
19 the following:

- 20 1. An assessment as to whether an analyte should be removed from
21 the required statutory testing panel.
- 22 2. The number of statements of deficiencies relating to testing
23 that were issued to each nonprofit medical marijuana dispensary,
24 third-party independent laboratory, marijuana establishment and marijuana
25 testing facility in the preceding year, the remediation efforts made to
26 address each deficiency and the resolution of each statement of
27 deficiency. The information may not disclose any identifying information
28 but shall delineate the information by entity.
- 29 3. Any other recommendations on improving the testing programs.

30 D. Members of the advisory council are not eligible to receive
31 compensation but are eligible for reimbursement of expenses pursuant to
32 title 38, chapter 4, article 2.

33 E. For the purposes of this section, "marijuana establishment" and
34 "marijuana testing facility" have the same meanings prescribed in section
35 36-2850.

36 Sec. 5. Subject to the requirements of article IV, part 1,
37 section 1, Constitution of Arizona, section 36-2850, Arizona Revised
38 Statutes, is amended to read:

39 **36-2850. Definitions**

40 In this chapter, unless the context requires otherwise:

- 41 1. "Advertise," "advertisement" and "advertising" mean any public
42 communication in any medium that offers or solicits a commercial
43 transaction involving the sale, purchase or delivery of marijuana or
44 marijuana products.

- 1 2. "Child-resistant" means designed or constructed to be
2 significantly difficult for children under five years of age to open, and
3 not difficult for normal adults to use properly.
- 4 3. "Consume," "consuming" and "consumption" mean the act of
5 ingesting, inhaling or otherwise introducing marijuana into the human
6 body.
- 7 4. "Consumer" means an individual who is at least twenty-one years
8 of age and who purchases marijuana or marijuana products.
- 9 5. "Cultivate" and "cultivation" mean to propagate, breed, grow,
10 prepare and package marijuana.
- 11 6. "Deliver" and "delivery" mean the transportation, transfer or
12 provision of marijuana or marijuana products to a consumer at a location
13 other than the designated retail location of a marijuana establishment.
- 14 7. "Department" means the department of ~~health services~~ MARIJUANA
15 REGULATION or its successor agency.
- 16 8. "Designated caregiver" has the same meaning prescribed in
17 section 36-2801.
- 18 9. "Dual licensee" means an entity that holds both a nonprofit
19 medical marijuana dispensary registration and a marijuana establishment
20 license.
- 21 10. "Early applicant" means either of the following:
22 (a) An entity seeking to operate a marijuana establishment in a
23 county with fewer than two registered nonprofit medical marijuana
24 dispensaries.
25 (b) A nonprofit medical marijuana dispensary that is registered and
26 in good standing with the department.
- 27 11. "Employee," "employer," "health care facility," and "places of
28 employment" have the same meanings prescribed in the smoke-free Arizona
29 act, section 36-601.01.
- 30 12. "Excluded felony offense" has the same meaning prescribed in
31 section 36-2801.
- 32 13. "Good standing" means that a nonprofit medical marijuana
33 dispensary is not the subject of a pending notice of intent to revoke
34 issued by the department.
- 35 14. "Independent third-party laboratory" has the same meaning
36 prescribed in section 36-2801.
- 37 15. "Industrial hemp" has the same meaning prescribed in section
38 3-311.
- 39 16. "Licensee" means a person that obtains a license pursuant to
40 section 36-2854.
- 41 17. "Locality" means a city, town or county.
- 42 18. "Manufacture" and "manufacturing" mean to compound, blend,
43 extract, infuse or otherwise make or prepare a marijuana product.

1 19. "Marijuana":

2 (a) Means all parts of the plant of the genus cannabis, whether
3 growing or not, as well as the seeds from the plant, the resin extracted
4 from any part of the plant, and every compound, manufacture, salt,
5 derivative, mixture or preparation of the plant or its seeds or resin.

6 (b) Includes cannabis as defined in 13-3401.

7 (c) Does not include industrial hemp, the fiber produced from the
8 stalks of the plant of the genus cannabis, oil or cake made from the seeds
9 of the plant, sterilized seeds of the plant that are incapable of
10 germination, or the weight of any other ingredient combined with marijuana
11 to prepare topical or oral administrations, food, drink or other products.

12 20. "Marijuana concentrate":

13 (a) Means resin extracted from any part of a plant of the genus
14 cannabis and every compound, manufacture, salt, derivative, mixture or
15 preparation of that resin or tetrahydrocannabinol.

16 (b) Does not include industrial hemp or the weight of any other
17 ingredient combined with cannabis to prepare topical or oral
18 administrations, food, drink or other products.

19 21. "Marijuana establishment" means an entity that is licensed by
20 the department to operate all of the following:

21 (a) A single retail location at which the licensee may sell
22 marijuana and marijuana products to consumers, cultivate marijuana and
23 manufacture marijuana products.

24 (b) A single off-site cultivation location at which the licensee
25 may cultivate marijuana, process marijuana and manufacture marijuana
26 products, but from which marijuana and marijuana products may not be
27 transferred or sold to consumers.

28 (c) A single off-site location at which the licensee may
29 manufacture marijuana products and package and store marijuana and
30 marijuana products, but from which marijuana and marijuana products may
31 not be transferred or sold to consumers.

32 22. "Marijuana facility agent" means a principal officer, board
33 member or employee of a marijuana establishment or marijuana testing
34 facility who is at least twenty-one years of age and who has not been
35 convicted of an excluded felony offense.

36 23. "Marijuana products" means marijuana concentrate and products
37 that are composed of marijuana and other ingredients and that are intended
38 for use or consumption, including edible products, ointments and
39 tinctures.

40 24. "Marijuana testing facility" means the department or another
41 entity that is licensed by the department to analyze the potency of
42 marijuana and test marijuana for harmful contaminants.

43 25. "Nonprofit medical marijuana dispensary" has the same meaning
44 prescribed in section 36-2801.

1 C. The state treasurer may prescribe forms necessary to make
2 transfers from the smart and safe Arizona fund pursuant to subsection B of
3 this section.

4 D. On or before June 30 and December 31 of each year, the state
5 treasurer shall transfer all monies in the smart and safe Arizona fund in
6 excess of the amounts paid pursuant to subsection B of this section as
7 follows:

8 1. ~~33~~ THIRTY-THREE percent to community college districts and
9 provisional community college districts, but not to community college
10 tuition financing districts established pursuant to section 15-1409, for
11 the purposes of investing in and providing workforce development programs,
12 job training, career and technical education, and science, technology,
13 engineering and ~~math~~ MATHEMATICS programs, as follows:

14 (a) ~~15~~ FIFTEEN percent of the ~~33~~ THIRTY-THREE percent divided
15 equally between each community college district.

16 (b) 0.5 percent of the ~~33~~ THIRTY-THREE percent divided equally
17 between each provisional community college district, if one or more
18 provisional community college districts exist.

19 (c) The remainder to community college districts and provisional
20 community colleges districts in proportion to each district's full-time
21 equivalent student enrollment percentage of the total statewide audited
22 full-time equivalent student enrollment in the preceding fiscal year
23 prescribed in section 15-1466.01.

24 2. 31.4 percent to municipal police departments, municipal fire
25 departments, fire districts established pursuant to title 48, chapter 5,
26 ~~and~~ county sheriffs' departments AND THE DEPARTMENT OF PUBLIC SAFETY in
27 proportion to the number of enrolled members for each such agency in the
28 public safety personnel retirement system established by title 38, chapter
29 5, article 4 and the public safety personnel defined contribution
30 RETIREMENT plan established ~~by~~ PURSUANT TO title 38, chapter 5, article
31 4.1, for personnel costs.

32 3. 25.4 percent to the Arizona highway user revenue fund
33 established by section 28-6533.

34 4. ~~10~~ TEN percent to the justice reinvestment fund established by
35 section 36-2863.

36 5. 0.2 percent to the attorney general to use to enforce this
37 chapter, ~~or~~ or to grant to localities to enforce this chapter.

38 E. The monies transferred and received pursuant to this section:

39 1. Are in addition to any other appropriation, transfer or other
40 allocation of monies and may not supplant, replace or cause a reduction in
41 other funding sources.

42 2. Are not considered local revenues for the purposes of article
43 IX, sections 20 and 21, Constitution of Arizona.

1 Sec. 7. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, title 36, Arizona Revised Statutes, is
3 amended by adding chapter 28.3, to read:

4 CHAPTER 28.3

5 DEPARTMENT OF MARIJUANA REGULATION

6 ARTICLE 1. GENERAL PROVISIONS

7 36-2891. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 9 1. "DEPARTMENT" MEANS THE DEPARTMENT OF MARIJUANA REGULATION.
10 2. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

11 36-2892. Department of marijuana regulation; director
12 appointment

13 A. THE DEPARTMENT OF MARIJUANA REGULATION IS ESTABLISHED FOR THE
14 PURPOSE OF ADMINISTERING CHAPTERS 28.1 AND 28.2 OF THIS TITLE.

15 B. THE OPERATION AND CONTROL OF THE DEPARTMENT ARE THE
16 RESPONSIBILITY OF THE DIRECTOR.

17 C. THE GOVERNOR SHALL APPOINT THE DIRECTOR WITH THE ADVICE AND
18 CONSENT OF THE SENATE. THE DIRECTOR SERVES AT THE PLEASURE OF THE
19 GOVERNOR. THE DIRECTOR IS ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO
20 SECTION 38-611.

21 36-2893. Director's duties

22 A. THE DIRECTOR IS DIRECTLY RESPONSIBLE TO THE GOVERNOR FOR THE
23 OPERATION AND CONTROL OF THE DEPARTMENT.

24 B. THE DIRECTOR SHALL:

25 1. ADOPT RULES AS NECESSARY TO CARRY OUT THE DUTIES AND
26 REQUIREMENTS OF CHAPTERS 28.1 AND 28.2 OF THIS TITLE.

27 2. EMPLOY, DETERMINE THE CONDITIONS OF EMPLOYMENT AND PRESCRIBE THE
28 DUTIES AND POWERS OF ADMINISTRATIVE, PROFESSIONAL, TECHNICAL, SECRETARIAL,
29 CLERICAL AND OTHER PERSONS AS NECESSARY TO PERFORM THE DEPARTMENT'S DUTIES
30 AND CONTRACT FOR THE SERVICES OF OUTSIDE ADVISORS, CONSULTANTS AND AIDES
31 AS REASONABLY NECESSARY.

32 3. CONTRACT WITH OR ASSIST OTHER DEPARTMENTS, AGENCIES AND
33 INSTITUTIONS OF THE STATE AND LOCAL GOVERNMENTS TO FURTHER THE
34 DEPARTMENT'S PURPOSES, OBJECTIVES AND PROGRAMS.

35 4. ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE
36 LEGISLATURE ON ALL MATTERS CONCERNING THE DEPARTMENT'S OBJECTIVES.

37 5. DELEGATE THE ADMINISTRATIVE FUNCTIONS, DUTIES AND POWERS AS THE
38 DIRECTOR DEEMS NECESSARY TO CARRY OUT THE EFFICIENT OPERATION OF THE
39 DEPARTMENT.

40 Sec. 8. Title 41, chapter 27, article 2, Arizona Revised Statutes,
41 is amended by adding section 41-3030.04, to read:

42 41-3030.04. Department of marijuana regulation; termination
43 July 1, 3030

44 A. THE DEPARTMENT OF MARIJUANA REGULATION TERMINATES ON JULY 1,
45 2030.

1 B. TITLE 36, CHAPTER 28.3 AND THIS SECTION ARE REPEALED ON JANUARY
2 1, 2031.

3 Sec. 9. Succession; transfer; effect

4 A. As provided by this act, the department of marijuana regulation
5 succeeds to the authority, powers, duties and responsibilities of the
6 department of health services relating to the regulation of marijuana
7 pursuant to title 36, chapters 28.1 and 28.2, Arizona Revised Statutes.

8 B. This act does not alter the effect of any actions that were
9 taken or impair the valid obligations of the department of health services
10 relating to the regulation of marijuana pursuant to title 36, chapters
11 28.1 and 28.2, Arizona Revised Statutes, in existence before January 1,
12 2023.

13 C. Administrative rules and orders that were adopted by the
14 department of health services relating to the regulation of marijuana
15 pursuant to title 36, chapters 28.1 and 28.2, Arizona Revised Statutes,
16 continue in effect until superseded by administrative action by the
17 department of marijuana regulation.

18 D. All administrative matters, contracts and judicial and
19 quasi-judicial actions, whether completed, pending or in process, of the
20 department of health services relating to the regulation of marijuana
21 pursuant to title 36, chapters 28.1 and 28.2, Arizona Revised Statutes, on
22 January 1, 2023 are transferred to and retain the same status with the
23 department of marijuana regulation.

24 E. All certificates, licenses, registrations, permits and other
25 indicia of qualification and authority that were issued by the department
26 of health services relating to the regulation of marijuana pursuant to
27 title 36, chapters 28.1 and 28.2, Arizona Revised Statutes, retain their
28 validity for the duration of their terms of validity as provided by law.

29 F. All equipment, records, furnishings and other property, all data
30 and investigative findings, all obligations and all appropriated monies
31 that remain unexpended and unencumbered on January 1, 2023 of the
32 department of health services relating to the regulation of marijuana
33 pursuant to title 36, chapters 28.1 and 28.2, Arizona Revised Statutes,
34 are transferred to the department of marijuana regulation.

35 G. All personnel who are under the state personnel system and
36 employed by the department of health services relating to the regulation
37 of marijuana pursuant to title 36, chapters 28.1 and 28.2, Arizona Revised
38 Statutes, are transferred to comparable positions and pay classifications
39 in the respective administrative units of the department of marijuana
40 regulation on January 1, 2023.

41 Sec. 10. Conforming legislation

42 The legislative council staff shall prepare proposed legislation
43 conforming the Arizona Revised Statutes to the provisions of this act for
44 consideration in the fifty-sixth legislature, first regular session.

1 Sec. 11. Purpose

2 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
3 the legislature establishes the department of marijuana regulation to
4 promote the safe use of marijuana in this state.

5 Sec. 12. Effective date

6 This act is effective from and after December 31, 2022.

7 Sec. 13. Requirements for enactment; three-fourths vote

8 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
9 sections 36-2801, 36-2803, 36-2817, 36-2821, 36-2850 and 36-2856, Arizona
10 Revised Statutes, as amended by this act, and title 36, chapter 28.3,
11 Arizona Revised Statutes, as added by this act, are effective only on the
12 affirmative vote of at least three-fourths of the members of each house of
13 the legislature.