



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

FACT SHEET FOR S.B. 1709

marijuana testing; complaints; disclosure

Purpose

Requires DHS to contract with and require certified independent third-party laboratories to conduct marijuana proficiency testing. Requires DHS to adopt rules governing marijuana batches. Contains requirements for enactment for initiatives and referendums (Proposition 105).

Background

In 2010, Arizona voters approved the Arizona Medical Marijuana Act to establish a regulatory system, overseen by the Department of Health Services (DHS), that allows a dispensary to dispense a permissible amount of medical marijuana to a qualifying patient or the qualifying patient's designated caregiver with a medical marijuana registry identification card. DHS is required to adopt rules and regulations relating to medical marijuana, including testing requirements. Monies collected from the sale of medical marijuana must be deposited in the Medical Marijuana Fund before being allocated to outlined entities ([A.R.S. Title 36, Chapter 28.1](#)).

In 2020, Arizona voters approved the Smart and Safe Arizona Act which legalized the sale and use of recreational marijuana to Arizonans who are at least 21 years of age, to be regulated and overseen by DHS. Statute prescribes requirements and regulations relating to the sale, packaging, labeling, tracking, advertising and testing of recreational marijuana and marijuana products ([A.R.S. Title 36, Chapter 28.2](#)).

Statute requires DHS to conduct proficiency testing and remediate problems with licensed or certified independent third-party laboratories and marijuana testing facilities. DHS may contract for proficiency testing with laboratories that are nationally or internationally accredited ([A.R.S. § 36-2803](#)). By December 31, 2023, any recreational marijuana packaging labeled for sale must include a consumer scannable quick response code linking to a webpage that displays: 1) the date of the harvest of the marijuana; 2) the tetrahydrocannabinol (THC) strain of the marijuana; 3) the THC extraction method used; 4) a laboratory report of all impurities containing at least heavy metals and agrochemicals; 5) the date of manufacture; 6) the distribution chain; and 7) a warning that using marijuana during pregnancy can lead to birth defects or other else issues in the unborn child ([A.R.S. § 36-2854.01](#)).

If there is a cost associated with the state contracting with third-party laboratories for marijuana testing, there may be a fiscal impact to the state General Fund associated with this legislation.

Provisions

Marijuana Proficiency Testing

1. Eliminates the requirement that DHS conduct marijuana proficiency testing and remediate problems in collaboration with independent third-party laboratories.

2. Directs DHS to require certified independent third-party laboratories to conduct marijuana proficiency testing that is commercially available by contracting with a proficiency testing provider that is nationally or internationally accredited.
3. Requires DHS to supervise remediation and take corrective action as needed for problems identified through marijuana testing.
4. Requires independent third-party laboratories that conduct marijuana testing to upload to the DHS online portal, within five calendar days of completing the testing, the laboratory-approved certificate of analysis that provides the details of the results.
5. Directs DHS to adopt a standard form and require independent third-party laboratories to submit the form as the final certificate of analysis of test results.
6. Requires the standard form of marijuana test results to contain mandatory testing requirements.
7. Requires the quick response code on a marijuana product to link to a webpage that includes the complete independent third-party laboratory certificate of analysis submitted to DHS or the complete marijuana testing facility certificate of analysis.
8. Requires, beginning January 1, 2025, DHS to contract with a third-party, which may include independent third-party laboratories and marijuana testing facilities, to collect random samples of marijuana and marijuana products for sale at medical and recreational marijuana dispensaries to confirm that the certified test results of the product match the marijuana product being sold.
9. Allows a third-party contractor to collect, possess and test samples of marijuana and marijuana products
10. Prohibits a third-party contractor from being charged or prosecuted for possession of marijuana or marijuana products that are collected for purposes of contracting with DHS.

Marijuana Batches

11. Requires DHS to adopt rules:
 - a) that define what constitutes a marijuana batch in a manner that appropriately balances the need for ensuring qualifying patients' safety and precise potency information with the added cost that stricter requirements would impose on qualifying patients;
 - b) concerning unique batch numbers to ensure that batch numbers are not reused and to allow qualifying patients to adequately match a certificate of analysis to a specific product;
 - c) regarding sampling procedures that appropriately balance the need for ensuring qualifying patients' safety and precise potency information with the added cost that stricter requirements would impose on qualifying patients; and
 - d) based on national or international standards, to standardize how independent third-party laboratories test samples of marijuana and marijuana products to ensure consistent, reliable and scientifically valid results.

12. Requires, beginning January 1, 2024, DHS rules governing sampling procedures to require:
 - a) independent third-party laboratories to begin collecting samples, perform the collection and maintain sampling records for one year; and
 - b) medical marijuana dispensaries to maintain any video surveillance records that depict samples being collected for six months.
13. Prohibits a batch of cultivated marijuana from exceeding 50 pounds.
14. Requires all cultivated marijuana in one batch to be planted within 72 hours and harvested within 72 hours.
15. Authorizes DHS to narrow the scope of a batch but not expand it.

Marijuana Testing Complaints

16. Requires a complaint submitted to DHS that is related to compliance with marijuana testing laws regarding an independent third-party laboratory, a marijuana testing facility or a medical or recreational marijuana dispensary to be made publicly available after DHS determines there is a reasonable basis to proceed to investigate the complaint.
17. Requires names of complainants to remain confidential, if requested by the complainant.
18. Allows DHS, unless otherwise prohibited by federal or state law, to disclose complaint information to each of the following if the information is necessary and pertinent to an investigation or hearing:
 - a) a court officer under a court order;
 - b) a state department or agency;
 - c) the federal government;
 - d) a law enforcement agency; or
 - e) a county medical examiner.
19. Requires a recipient of disclosed complaint information to maintain confidentiality of the complainant's name.

Miscellaneous

20. Makes conforming changes.
21. Requires for enactment the affirmative vote of at least three-fourths of the members of each house of the Legislature (Proposition 105).
22. Becomes effective on the general effective date.