

REFERENCE TITLE: **medical marijuana; adult-use marijuana**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1466

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 36-2801, 36-2801.01 AND 36-2803, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2803.03; AMENDING SECTIONS 36-2804.02 AND 36-2804.05, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2806.03; AMENDING SECTIONS 36-2817, 36-2822, 36-2854, 36-2854.01, 36-2856 AND 42-5061, 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 36-2801, Arizona Revised
4 Statutes, is amended to read:

5 36-2801. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "ADVERTISE", "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC
8 COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL
9 TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR
10 MARIJUANA PRODUCTS.

11 ~~1~~ 2. "Allowable amount of marijuana":

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

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

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

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

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

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

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

30 ~~2~~ 3. "Cardholder" means a qualifying patient, a designated
31 caregiver, a nonprofit medical marijuana dispensary agent or a independent
32 third-party laboratory agent who has been issued and possesses a valid
33 registry identification card.

34 4. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE
35 SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN AND
36 NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.

37 ~~3~~ 5. "Debilitating medical condition" means one or more of the
38 following:

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

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

45 (i) Cachexia or wasting syndrome.

- 1 (ii) Severe and chronic pain.
- 2 (iii) Severe nausea.
- 3 (iv) Seizures, including those characteristic of epilepsy.
- 4 (v) Severe and persistent muscle spasms, including those
- 5 characteristic of multiple sclerosis.
- 6 (c) POST-TRAUMATIC STRESS DISORDER.
- 7 (d) AUTISM SPECTRUM DISORDER THAT IS DIAGNOSED BY A LICENSED
- 8 PHYSICIAN OR LICENSED PSYCHOLOGIST ACTING WITHIN HIS OR HER SCOPE OF
- 9 PRACTICE.
- 10 ~~(c)~~ (e) Any other medical condition or its treatment added by the
- 11 department pursuant to section 36-2801.01.
- 12 ~~4.~~ 6. "Department" means the department of health services or its
- 13 successor agency.
- 14 ~~5.~~ 7. "Designated caregiver" means a person who:
- 15 (a) Is at least twenty-one years of age.
- 16 (b) Has agreed to assist with a patient's medical use of marijuana.
- 17 (c) Has not been convicted of an excluded felony offense.
- 18 (d) Assists not more than five qualifying patients with the medical
- 19 use of marijuana.
- 20 (e) May receive reimbursement for actual costs incurred in
- 21 assisting a registered qualifying patient's medical use of marijuana if
- 22 the registered designated caregiver is connected to the registered
- 23 qualifying patient through the department's registration process. The
- 24 designated caregiver may not be paid any fee or compensation for service
- 25 as a caregiver. Payment for costs under this subdivision does not
- 26 constitute an offense under title 13, chapter 34 or under title 36,
- 27 chapter 27, article 4.
- 28 ~~6.~~ 8. "Enclosed, locked facility" means a closet, room, greenhouse
- 29 or other enclosed area that is equipped with locks or other security
- 30 devices that ~~permit~~ ALLOW access only by a cardholder.
- 31 ~~7.~~ 9. "Excluded felony offense" means:
- 32 (a) A violent crime as defined in section 13-901.03, subsection B,
- 33 that was classified as a felony in the jurisdiction where the person was
- 34 convicted.
- 35 (b) A violation of a state or federal controlled substance law that
- 36 was classified as a felony in the jurisdiction where the person was
- 37 convicted but does not include:
- 38 (i) An offense for which the sentence, including any term of
- 39 probation, incarceration or supervised release, was completed ten or more
- 40 years earlier.
- 41 (ii) An offense involving conduct that would be immune from arrest,
- 42 prosecution or penalty under section 36-2811, except that the conduct
- 43 occurred before December 14, 2010 or was prosecuted by an authority other
- 44 than the state of Arizona.

1 ~~8.~~ 10. "Independent third-party laboratory" means an entity that
2 has a national or international accreditation and that is certified by the
3 department to analyze marijuana cultivated for medical use.

4 ~~9.~~ 11. "Independent third-party laboratory agent" means an owner,
5 employee or volunteer of a certified independent third-party laboratory
6 who is at least twenty-one years of age and who has not been convicted of
7 an excluded felony offense.

8 ~~10.~~ 12. "Marijuana": ~~means all parts of any plant of the genus~~
9 ~~cannabis whether growing or not, and the seeds of such plant.~~

10 (a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER
11 GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED
12 FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT,
13 DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.

14 (b) INCLUDES CANNABIS AS DEFINED IN SECTION 13-3401.

15 (c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE
16 STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS
17 OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF
18 GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA
19 TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

20 13. "MARIJUANA PRODUCT" MEANS MARIJUANA CONCENTRATE AND ANY PRODUCT
21 THAT IS COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT IS INTENDED
22 FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND
23 TINCTURES.

24 ~~11.~~ 14. "Medical use" means the acquisition, possession,
25 cultivation, manufacture, use, administration, delivery, transfer or
26 transportation of marijuana or paraphernalia relating to the
27 administration of marijuana to treat or alleviate a registered qualifying
28 patient's debilitating medical condition or symptoms associated with the
29 patient's debilitating medical condition.

30 ~~12.~~ 15. "Nonprofit medical marijuana dispensary" means a
31 not-for-profit entity that acquires, possesses, cultivates, manufactures,
32 delivers, transfers, transports, supplies, sells or dispenses marijuana or
33 related supplies and educational materials to cardholders. A nonprofit
34 medical marijuana dispensary may receive payment for all expenses incurred
35 in its operation.

36 ~~13.~~ 16. "Nonprofit medical marijuana dispensary agent" means a
37 principal officer, board member, employee or volunteer of a nonprofit
38 medical marijuana dispensary who is at least twenty-one years of age and
39 has not been convicted of an excluded felony offense.

40 ~~14.~~ 17. "Physician" means a doctor of medicine who holds a valid
41 and existing license to practice medicine pursuant to title 32, chapter 13
42 or its successor, a doctor of osteopathic medicine who holds a valid and
43 existing license to practice osteopathic medicine pursuant to title 32,
44 chapter 17 or its successor, a naturopathic physician who holds a valid
45 and existing license to practice naturopathic medicine pursuant to title

1 32, chapter 14 or its successor or a homeopathic physician who holds a
2 valid and existing license to practice homeopathic medicine pursuant to
3 title 32, chapter 29 or its successor.

4 ~~15.~~ 18. "Qualifying patient" means a person who has been diagnosed
5 by a physician as having a debilitating medical condition.

6 ~~16.~~ 19. "Registry identification card" means a document issued by
7 the department that identifies a person as a registered qualifying
8 patient, a registered designated caregiver, a registered nonprofit medical
9 marijuana dispensary agent or a registered independent third-party
10 laboratory agent.

11 20. "TELEHEALTH" HAS THE SAME MEANING PRESCRIBED IN SECTION
12 36-3601.

13 ~~17.~~ 21. "Usable marijuana":

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

16 (b) Does not include:

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

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

20 ~~18.~~ 22. "Verification system" means a secure, password-protected,
21 web-based system that is established and maintained by the department and
22 that is available to law enforcement personnel and nonprofit medical
23 marijuana dispensary agents on a twenty-four-hour basis for verifying
24 registry identification cards.

25 ~~19.~~ 23. "Visiting qualifying patient" means a person:

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

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

33 ~~20.~~ 24. "Written certification" means a document dated and signed
34 by a physician, stating that in the physician's professional opinion the
35 patient is likely to receive therapeutic or palliative benefit from the
36 medical use of marijuana to treat or alleviate the patient's debilitating
37 medical condition or symptoms associated with the debilitating medical
38 condition. The physician must:

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

41 (b) Sign and date the written certification only in the course of a
42 physician-patient relationship after the physician has completed a full
43 assessment of the qualifying patient's medical history EITHER IN PERSON OR
44 BY THE USE OF TELEHEALTH.

1 Sec. 2. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2801.01, Arizona Revised
3 Statutes, is amended to read:

4 36-2801.01. Addition of debilitating medical conditions

5 The public may petition the department to add debilitating medical
6 conditions or treatments to the list of debilitating medical conditions
7 set forth in section 36-2801, paragraph ~~3~~ 5. The department shall
8 consider petitions in the manner required by department rule, including
9 public notice and hearing. The department shall approve or deny a
10 petition within ~~one-hundred-eighty~~ ONE HUNDRED EIGHTY days ~~of~~ AFTER its
11 submission. The approval or denial of a petition is a final decision of
12 the department subject to judicial review pursuant to title 12, chapter 7,
13 article 6. Jurisdiction and venue are vested in the superior court.

14 Sec. 3. Subject to the requirements of article IV, part 1,
15 section 1, Constitution of Arizona, section 36-2803, Arizona Revised
16 Statutes, is amended to read:

17 36-2803. Rulemaking; notice; testing of marijuana and
18 marijuana products; fees

19 A. The department shall adopt rules:

20 1. Governing the manner in which the department considers petitions
21 from the public to add debilitating medical conditions or treatments to
22 the list of debilitating medical conditions set forth in section 36-2801,
23 paragraph ~~3~~ 5, including public notice of, and an opportunity to comment
24 in a public hearing on, petitions.

25 2. Establishing the form and content of registration and renewal
26 applications submitted under this chapter.

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

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

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

35 (b) Minimum oversight requirements for nonprofit medical marijuana
36 dispensaries.

37 (c) Minimum recordkeeping requirements for nonprofit medical
38 marijuana dispensaries.

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

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

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

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

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

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

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

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

23 (f) The department may consider private donations under section
24 36-2817 to reduce application and renewal fees.

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

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

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

7 E. NOT LATER THAN DECEMBER 31, 2023, ANY MARIJUANA OR MARIJUANA
8 PRODUCT PACKAGING LABELED FOR SALE SHALL INCLUDE A CONSUMER SCANNABLE
9 TETRAHYDROCANNABINOL QUICK RESPONSE CODE OR SIMILAR TECHNOLOGY LINKING TO
10 A WEBPAGE THAT DISPLAYS ALL OF THE FOLLOWING FOR THE SPECIFIC MARIJUANA
11 PRODUCT:

- 12 1. THE DATE OF HARVEST OF THE MARIJUANA.
- 13 2. THE TETRAHYDROCANNABINOL STRAIN OF THE MARIJUANA OR MARIJUANA
14 PRODUCT.
- 15 3. THE TETRAHYDROCANNABINOL EXTRACTION METHOD USED TO EXTRACT THE
16 TETRAHYDROCANNABINOL FROM THE MARIJUANA PRODUCT.
- 17 4. THE TEST RESULTS FOR THE MARIJUANA OR MARIJUANA PRODUCT.
- 18 5. THE DATE OF MANUFACTURE OF THE MARIJUANA PRODUCT.
- 19 6. REQUIRED WARNINGS AS DETERMINED BY THE DEPARTMENT.
- 20 7. A WARNING THAT STATES, "KEEP ALL MARIJUANA PRODUCTS SAFE AND
21 AWAY FROM CHILDREN. IF INGESTED, CALL POISON CONTROL: (800) 222-1222."

22 F. THE DEPARTMENT SHALL DETERMINE AND ADOPT RULES REGARDING
23 REQUIRED INFORMATION FOR THE MARIJUANA OR MARIJUANA PRODUCT LABEL AND THE
24 WEBPAGE LINKED TO THE QUICK RESPONSE CODE INCLUDED ON THE LABEL.
25 INFORMATION ON THE WEBPAGE SHALL SATISFY ANY LABELING REQUIREMENTS
26 PRESCRIBED IN THIS CHAPTER.

27 ~~F.~~ G. Before selling or dispensing marijuana or marijuana products
28 to registered qualified patients or registered designated caregivers,
29 nonprofit medical marijuana dispensaries shall test marijuana and
30 marijuana products for medical use to determine unsafe levels of
31 contamination, including unsafe levels of microbial contamination, heavy
32 metals, pesticides, fungicides, growth regulators and residual solvents
33 and confirm the potency of the marijuana to be dispensed. The dried
34 flowers of the marijuana plant are not required to be tested for residual
35 solvents. If a nonprofit medical marijuana dispensary's test results for
36 heavy metals comply with the prescribed requirements for a period of six
37 consecutive months, heavy metal testing for that dispensary's marijuana
38 and marijuana products is required only on a quarterly basis.

- 39 ~~F.~~ H. Nonprofit medical marijuana dispensaries shall:
- 40 1. Provide test results to a registered qualifying patient or
41 designated caregiver immediately on request.
 - 42 2. Display in a conspicuous location a sign that notifies patients
43 of their right to receive the certified independent third-party laboratory
44 test results for marijuana and marijuana products for medical use.

1 3. NOT LATER THAN DECEMBER 31, 2023, PROCURE, DEVELOP, ACQUIRE AND
2 MAINTAIN A SYSTEM TO TRACK MARIJUANA AND MARIJUANA PRODUCTS AT ALL POINTS
3 OF CULTIVATION, MANUFACTURE AND SALE. THE SYSTEM DEVELOPED AND MAINTAINED
4 PURSUANT TO THIS PARAGRAPH SHALL:

5 (a) ENSURE AN ACCURATE ACCOUNTING AND REPORTING OF THE PRODUCTION,
6 PROCESSING AND SALE OF MARIJUANA AND MARIJUANA PRODUCTS.

7 (b) ENSURE COMPLIANCE WITH RULES ADOPTED BY THE DEPARTMENT.

8 (c) BE CAPABLE OF TRACKING, AT A MINIMUM:

9 (i) THE PROPAGATION OF IMMATURE MARIJUANA PLANTS AND THE PRODUCTION
10 OF MARIJUANA BY A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

11 (ii) THE PROCESSING OF MARIJUANA AND MARIJUANA PRODUCTS BY A
12 NONPROFIT MEDICAL MARIJUANA DISPENSARY.

13 (iii) THE SALE AND PURCHASE OF MARIJUANA AND MARIJUANA PRODUCTS.

14 (iv) THE DISPOSAL OF MARIJUANA WASTE.

15 (v) THE IDENTITY OF THE PERSON MAKING THE ENTRY IN THE SYSTEM AND
16 THE TIME, DATE AND LOCATION OF EACH ENTRY INTO THE SYSTEM, INCLUDING ANY
17 CORRECTIONS OR CHANGES TO THAT INFORMATION.

18 (vi) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS
19 REASONABLY NECESSARY TO ENSURE ACCURACY, PROVIDE FOR CHAIN OF CUSTODY OF
20 THE INFORMATION AND FORECLOSE DATA TAMPERING, HUMAN ERROR OR INTENTIONAL
21 MISREPORTING AND TO ACCOMPLISH THE DUTIES, FUNCTIONS AND POWERS OF THE
22 DEPARTMENT.

23 4. TRACK, TEST, LABEL AND PACKAGE MARIJUANA AND MARIJUANA PRODUCTS
24 AND ENFORCE REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

25 (a) SOLD TO QUALIFYING PATIENTS IN CLEARLY AND CONSPICUOUSLY
26 LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF
27 MARIJUANA OR MARIJUANA PRODUCTS.

28 (b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM THE NONPROFIT
29 MEDICAL MARIJUANA DISPENSARY.

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

37 1. Must meet requirements established by the department, including
38 reporting and health and safety requirements.

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

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

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

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

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

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

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

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

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

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

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

30 Sec. 4. Subject to the requirements of article IV, part 1,
31 section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona
32 Revised Statutes, is amended by adding section 36-2803.03, to read:

33 36-2803.03. Packaging; restrictions

34 A. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY NOT:

35 1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR
36 MISLEADING MANNER.

37 2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF
38 A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.

39 3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES
40 THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETED TO CHILDREN.

41 4. OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.

42 B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS
43 SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO
44 THIS CHAPTER.

1 Sec. 5. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2804.02, Arizona Revised
3 Statutes, is amended to read:

4 36-2804.02. Registration of qualifying patients and
5 designated caregivers

6 A. A qualifying patient may apply to the department for a registry
7 identification card by submitting:

8 1. Written certification issued by a physician within the ninety
9 days immediately preceding the date of application.

10 2. The application fee. **THE DEPARTMENT MAY NOT CHARGE MORE THAN \$50**
11 **FOR THE APPLICATION FEE.**

12 3. An application, including:

13 (a) **THE** name, mailing address, residence address and date of birth
14 of the qualifying patient, except that if the applicant is homeless no
15 address is required.

16 (b) **THE** name, address and telephone number of the qualifying
17 patient's physician.

18 (c) **THE** name, address and date of birth of the qualifying patient's
19 designated caregiver, if any.

20 (d) A statement signed by the qualifying patient pledging not to
21 divert marijuana to anyone who is not allowed to possess marijuana
22 pursuant to this chapter.

23 (e) A signed statement from the designated caregiver, if any,
24 agreeing to be the patient's designated caregiver and pledging not to
25 divert marijuana to anyone who is not allowed to possess marijuana
26 pursuant to this chapter.

27 (f) A designation as to who will be allowed to cultivate marijuana
28 plants for the qualifying patient's medical use if a registered nonprofit
29 medical marijuana dispensary is not operating within twenty-five miles of
30 the qualifying patient's home.

31 B. The application for a qualifying patient's registry
32 identification card shall ask whether the patient would like the
33 department to notify him of any clinical studies needing human subjects
34 for research on the medical use of marijuana. The department shall notify
35 interested patients if it is notified of studies that will be conducted in
36 the United States.

37 Sec. 6. Subject to the requirements of article IV, part 1,
38 section 1, Constitution of Arizona, section 36-2804.05, Arizona Revised
39 Statutes, is amended to read:

40 36-2804.05. Denial of registry identification card; notice

41 A. The department may deny an application or renewal of a
42 qualifying patient's registry identification card only if the applicant:

43 1. Does not meet the requirements of section 36-2801,
44 paragraph ~~15~~ 18.

45 2. Does not provide the information required.

1 3. Previously had a registry identification card revoked for
2 violating this chapter.

3 4. Provides false information.

4 B. The department may deny an application or renewal of a
5 designated caregiver's registry identification card if the applicant:

6 1. Does not meet the requirements of section 36-2801,
7 paragraph ~~5~~ 7.

8 2. Does not provide the information required.

9 3. Previously had a registry identification card revoked for
10 violating this chapter.

11 4. Provides false information.

12 C. The department may deny a registry identification card to a
13 nonprofit medical marijuana dispensary agent if:

14 1. The agent applicant does not meet the requirements of section
15 36-2801, paragraph ~~15~~ 16.

16 2. The applicant or dispensary did not provide the required
17 information.

18 3. The agent applicant previously had a registry identification
19 card revoked for violating this chapter.

20 4. The applicant or dispensary provides false information.

21 D. The department may conduct a criminal records check of each
22 designated caregiver or nonprofit medical marijuana dispensary agent
23 applicant to carry out this section.

24 E. The department shall notify the registered nonprofit medical
25 marijuana dispensary in writing of the reason for denying a registry
26 identification card to a nonprofit medical marijuana dispensary agent.

27 F. The department shall notify the qualifying patient in writing of
28 the reason for denying a registry identification card to the qualifying
29 patient's designated caregiver.

30 G. Denial of an application or renewal is considered a final
31 decision of the department subject to judicial review pursuant to title
32 12, chapter 7, article 6. Jurisdiction and venue for judicial review are
33 vested in the superior court.

34 Sec. 7. Subject to the requirements of article IV, part 1,
35 section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona
36 Revised Statutes, is amended by adding section 36-2806.03, to read:

37 36-2806.03. Advertising

38 A. A NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN
39 ADVERTISING PURSUANT TO SECTION 36-2859.

40 B. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT,
41 INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE
42 AFFIRMATION TO VERIFY THAT THE RECIPIENT IS AT LEAST TWENTY-ONE YEARS OF
43 AGE BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES
44 OF THIS SUBSECTION, THE METHOD OF AGE AFFIRMATION MAY INCLUDE USER
45 CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.

1 Sec. 8. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2817, Arizona Revised
3 Statutes, is amended to read:

4 36-2817. Medical marijuana fund; private donations; fund
5 transfers; use of monies

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

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

13 C. Monies in the medical marijuana fund may be used to provide
14 grants for marijuana clinical trials conducted pursuant to section
15 36-2822.

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

18 E. On November 30, 2020, the director of the department shall
19 transfer the following sums from the medical marijuana fund for the
20 following purposes:

21 1. \$15,000,000 to the Arizona teachers academy fund established by
22 section 15-1655.

23 2. \$10,000,000 to the department to fund the formation and
24 operation of councils, commissions and programs dedicated to improving
25 public health, including teen suicide prevention, the maternal mortality
26 review program, improving youth health, substance abuse prevention,
27 addressing adverse childhood experiences, the Arizona poison control
28 system established pursuant to section 36-1161, the Arizona health
29 improvement plan, the child fatality review team established pursuant to
30 section 36-3501 and the chronic pain self management program.

31 3. \$10,000,000 to the governor's office of highway safety to
32 distribute grants for the following purposes:

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

36 (b) Equipment, training and personnel costs for dedicated traffic
37 enforcement.

38 4. \$2,000,000 to the department to implement, carry out and enforce
39 chapter 28.2 of this title.

40 5. \$4,000,000 to the department to distribute grants to qualified
41 nonprofit entities that will provide outreach to individuals who may be
42 eligible to file petitions for expungement pursuant to section 36-2862 and
43 will assist with the expungement petition process. The department shall
44 distribute grants pursuant to this paragraph on or before June 30, 2021.

1 6. \$2,000,000 to the department of health services to develop and
2 implement, in conjunction with the department of economic security and
3 other state agencies, a social equity ownership program to promote the
4 ownership and operation of marijuana establishments and marijuana testing
5 facilities by individuals from communities disproportionately impacted by
6 the enforcement of previous marijuana laws. For the purposes of this
7 paragraph, "marijuana establishment" and "marijuana testing facility" have
8 the same meanings prescribed in section 36-2850.

9 7. \$1,000,000 to the department to fund programs and grants to
10 qualified nonprofit organizations for education and community outreach
11 related to chapter 28.2 of this title.

12 8. \$1,000,000 to the smart and safe Arizona fund established by
13 section 36-2856.

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

18 1. \$1,250,000 to the department for suicide prevention.

19 2. \$1,250,000 to the Arizona health care cost containment system
20 for suicide prevention.

21 3. \$2,000,000 to the institute for mental health research for
22 research to improve mental health services, research and education in this
23 state.

24 4. \$2,000,000 to the department for the primary care provider loan
25 repayment program and the rural private primary care provider loan
26 repayment program established by chapter 21 of this title. The department
27 shall prioritize rural providers in the areas of mental health care and
28 behavioral health care if feasible and appropriate.

29 5. \$2,000,000 to the board of medical student loans for the
30 purposes of title 15, chapter 13, article 7. The board shall prioritize
31 students who intend to practice in the area of psychiatry or other areas
32 of practice that treat mental illness if feasible and appropriate.

33 6. \$5,000,000 to county public health departments, in proportion to
34 the population of each county, for the purposes of addressing important
35 public health issues and communities affected by drug addiction and
36 incarceration.

37 7. \$1,000,000 to the department for the health care directives
38 registry established pursuant to section 36-3291.

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

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

1 I. The director may use monies in the medical marijuana fund to
2 contract with laboratories pursuant to section 36-2803, subsection ~~K~~ to
3 comply with the proficiency testing requirements of this chapter for
4 independent third-party laboratories and marijuana testing facilities. On
5 or before July 1 of each year, the department shall report to the joint
6 legislative budget committee expenditures made pursuant to this subsection
7 for the preceding fiscal year.

8 J. MONIES IN THE MEDICAL MARIJUANA FUND ESTABLISHED BY THIS SECTION
9 AND THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 MAY BE
10 USED INTERCHANGEABLY TO IMPLEMENT AND ENFORCE THIS CHAPTER AND
11 CHAPTER 28.2.

12 Sec. 9. Subject to the requirements of article IV, part 1,
13 section 1, Constitution of Arizona, section 36-2822, Arizona Revised
14 Statutes, is amended to read:

15 36-2822. Arizona biomedical research centre; medical
16 marijuana fund; grants; marijuana clinical trials;
17 requirements; exemption

18 A. The Arizona biomedical research centre in the department shall
19 provide competitive grants from monies in the medical marijuana fund
20 established by section 36-2817 AND THE SMART AND SAFE ARIZONA FUND
21 ESTABLISHED BY SECTION 36-2856 for marijuana clinical trials that are
22 approved by the United States food and drug administration for evaluating
23 both the safety and efficacy of using marijuana in humans and researching
24 the impacts of marijuana interactions with prescription drugs,
25 nonprescription drugs and illicit drugs.

26 B. Clinical trials funded pursuant to subsection A of this section
27 shall be conducted by Arizona-based researchers from nonprofit
28 organizations or universities, be approved by the United States food and
29 drug administration, the United States drug enforcement administration and
30 an institutional review board and be publishable in peer-reviewed medical
31 and public health journals. The centre shall prioritize randomized
32 controlled clinical trials that study the treatment of autism, epilepsy,
33 post-traumatic stress disorder and pain.

34 C. Notwithstanding title 13, chapter 34, a person who receives a
35 grant for a marijuana clinical trial pursuant to this section and any of
36 the person's employees working on the clinical trial may not be charged
37 with or prosecuted for possession of marijuana that is cultivated for
38 medical use when the person is working on the clinical trial.

39 D. The Arizona biomedical research centre may provide up to
40 ~~\$5,000,000~~ \$10,000,000 annually for five consecutive years from A
41 COMBINATION OF the medical marijuana fund established by section 36-2817
42 AND THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 to
43 administer and award competitive grants pursuant to this section. The
44 centre may not use more than five percent of these monies for
45 administrative purposes.

1 Sec. 10. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2854, Arizona Revised
3 Statutes, is amended to read:

4 36-2854. Rules; licensing; early applicants; fees; civil
5 penalty; legal counsel

6 A. The department shall adopt rules to implement and enforce this
7 chapter and regulate marijuana, marijuana products, marijuana
8 establishments and marijuana testing facilities. Those rules shall
9 include requirements for:

10 1. Licensing marijuana establishments and marijuana testing
11 facilities, including conducting investigations and background checks to
12 determine eligibility for licensing for marijuana establishment and
13 marijuana testing facility applicants, except that:

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

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

22 (c) Notwithstanding subdivision (b) of this paragraph, the
23 department may issue a marijuana establishment license to not more than
24 two marijuana establishments per county that contains no registered
25 nonprofit medical marijuana dispensaries, or one marijuana establishment
26 license per county that contains one registered nonprofit medical
27 marijuana dispensary. Any license issued pursuant to this subdivision
28 shall be for a fixed county and may not be relocated outside of that
29 county.

30 (d) The department shall accept applications for marijuana
31 establishment licenses from early applicants beginning January 19, 2021
32 through March 9, 2021. Not later than sixty days after receiving an
33 application pursuant to this subdivision, the department shall issue a
34 marijuana establishment license to each qualified early applicant. If the
35 department has not adopted final rules pursuant to this section at the
36 time marijuana establishment licenses are issued pursuant to this
37 subdivision, licensees shall comply with the rules adopted by the
38 department to implement chapter 28.1 of this title except those that are
39 inconsistent with this chapter.

40 (e) After issuing marijuana establishment licenses to qualified
41 early applicants, the department shall issue marijuana establishment
42 licenses available under subdivisions (b) and (c) of this paragraph by
43 random selection and according to rules adopted pursuant to this section.
44 At least sixty days before any random selection, the department shall
45 prominently publicize the random selection on its website and through

1 other means of general distribution intended to reach as many interested
2 parties as possible and shall provide notice through an email notification
3 system to which interested parties can subscribe.

4 (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and
5 not later than six months after the department adopts final rules to
6 implement a social equity ownership program pursuant to paragraph 9 of
7 this subsection, the department shall issue twenty-six additional
8 marijuana establishment licenses to entities that are qualified pursuant
9 to the social equity ownership program.

10 (g) Licenses issued by the department to marijuana establishments
11 and marijuana testing facilities shall be valid for a period of two years.
12 A dual licensee's initial renewal date, which will be the ongoing renewal
13 date for both the dual licensee's marijuana establishment license and
14 nonprofit medical marijuana dispensary registration, is the earlier of:

15 (i) The date of the marijuana establishment license renewal.

16 (ii) The date of the nonprofit medical marijuana dispensary
17 registration renewal.

18 (h) ~~Beginning September 29, 2021,~~ The department may not issue a
19 marijuana establishment or marijuana testing facility license to an
20 applicant who has an ownership interest in an out-of-state marijuana
21 establishment or marijuana testing facility, or the other state's
22 equivalent, that has had its license revoked by the other state.

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

28 3. The security of marijuana establishments and marijuana testing
29 facilities.

30 4. Marijuana establishments to safely cultivate, process and
31 manufacture marijuana and marijuana products. Not later than December 31,
32 2023, the department shall require licensees to procure, develop, acquire
33 and maintain a system to track marijuana and marijuana products at all
34 points of cultivation, manufacturing and sale. The system developed and
35 maintained pursuant to this paragraph shall:

36 (a) Ensure an accurate accounting and reporting of the production,
37 processing and sale of marijuana and marijuana products.

38 (b) Ensure compliance with rules adopted by the department.

39 (c) Be capable of tracking, at a minimum:

40 (i) The propagation of immature marijuana plants and the production
41 of marijuana by a marijuana establishment.

42 (ii) The processing of marijuana and marijuana products by a
43 marijuana establishment.

44 (iii) The sale and purchase of marijuana and marijuana products
45 between licensees.

1 (iv) The transfer of marijuana and marijuana products between
2 premises for which licenses have been issued.

3 (v) The disposal of marijuana waste.

4 (vi) The identity of the person making the entry in the system and
5 the time, date and location of each entry into the system, including any
6 corrections or changes to that information.

7 (vii) Any other information that the department determines is
8 reasonably necessary to ENSURE ACCURACY, PROVIDE FOR CHAIN OF CUSTODY OF
9 THE INFORMATION AND FORECLOSE DATA TAMPERING, HUMAN ERROR OR INTENTIONAL
10 MISREPORTING AND TO accomplish the duties, functions and powers of the
11 department.

12 ~~(d) Contain a transactional stamp to ensure accuracy, provide for~~
13 ~~chain of custody of the information and foreclose tampering of the data,~~
14 ~~human error or intentional misreporting.~~

15 5. Tracking, testing, labeling consistent with section 36-2854.01
16 and packaging marijuana and marijuana products, including requirements
17 that marijuana and marijuana products be:

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

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

23 6. Forms of government-issued identification that are acceptable by
24 a marijuana establishment verifying a consumer's age and procedures
25 related to verifying a consumer's age consistent with section 4-241.
26 Until the department adopts final rules related to verifying a consumer's
27 age, marijuana establishments shall comply with the proof of legal age
28 requirements prescribed in section 4-241.

29 7. The potency of edible marijuana products that may be sold to
30 consumers by marijuana establishments at reasonable levels on
31 consideration of industry standards, except that the rules:

32 (a) Shall limit the strength of edible marijuana products to not
33 more than ten milligrams of tetrahydrocannabinol per serving or one
34 hundred milligrams of tetrahydrocannabinol per package.

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

39 8. Ensuring the health, safety and training of employees of
40 marijuana establishments and marijuana testing facilities.

41 9. The creation and implementation of a social equity ownership
42 program to promote the ownership and operation of marijuana establishments
43 and marijuana testing facilities by individuals from communities
44 disproportionately impacted by the enforcement of previous marijuana laws.

1 10. Prohibiting a marijuana testing facility from having any direct
2 or indirect familial relationship with or financial ownership interest in
3 a marijuana establishment or related marijuana business entity or
4 management company. The rules shall include prohibiting a marijuana
5 establishment from having any direct or indirect familial relationship
6 with or financial ownership interest in a marijuana testing facility or
7 related marijuana business entity or management company.

8 11. Requiring marijuana establishments to display in a conspicuous
9 location a sign that warns pregnant women about the potential dangers to
10 fetuses caused by smoking or ingesting marijuana while pregnant or to
11 infants while breastfeeding and the risk of being reported to the
12 department of child safety during pregnancy or at the birth of the child
13 by persons who are required to report. The rules shall include the
14 specific warning language that must be included on the sign. The cost and
15 display of the sign required by rule shall be borne by the marijuana
16 establishment.

17 B. The department may:

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

23 (a) Violates this chapter or any rule adopted pursuant to this
24 chapter.

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

28 2. Subject to title 41, chapter 6, article 10, and unless another
29 penalty is provided elsewhere in this chapter, assess a civil penalty
30 against a person that violates this chapter or any rule adopted pursuant
31 to this chapter in an amount not to exceed \$2,000 for each violation.
32 Each day a violation occurs constitutes a separate violation. In
33 determining the amount of a civil penalty assessed against a person, the
34 department shall consider all of the factors set forth in section 36-2816,
35 subsection H. All civil penalties collected by the department pursuant to
36 this paragraph shall be deposited in the smart and safe Arizona fund
37 established by section 36-2856.

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

43 4. Adopt any other rules that are not expressly stated in this
44 section and that are necessary to ensure the safe and responsible

1 cultivation, sale, processing, manufacture, testing and transport of
2 marijuana and marijuana products.

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

6 D. On or after January 1, 2023, the department may, and not later
7 than January 1, 2025 the department shall, adopt rules to permit and
8 regulate delivery by marijuana establishments. The rules shall:

9 1. Require that delivery and the marijuana and marijuana products
10 to be delivered originate from a designated retail location of a marijuana
11 establishment and only after an order is made with the marijuana
12 establishment by a consumer.

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

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

19 4. Prohibit extra or unallocated marijuana or marijuana products in
20 delivery vehicles.

21 5. Require that deliveries be made only by marijuana facility
22 agents in unmarked vehicles that are equipped with a global positioning
23 system or similar location tracking system and video surveillance and
24 recording equipment, and that contain a locked compartment in which
25 marijuana and marijuana products must be stored.

26 6. Require delivery logs necessary to ensure compliance with this
27 subsection and rules adopted pursuant to this subsection.

28 7. Require inspections to ensure compliance with this subsection
29 and rules adopted pursuant to this subsection.

30 8. Include any other provisions necessary to ensure safe and
31 restricted delivery.

32 9. Require dual licensees to comply with the rules adopted pursuant
33 to this subsection.

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

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

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

2 1. Prohibits the operation of marijuana establishments, either
3 expressly or through requirements that make the operation of a marijuana
4 establishment unduly burdensome.

5 2. Prohibits or interferes with the ability of a dual licensee to
6 operate a marijuana establishment and a nonprofit medical marijuana
7 dispensary at shared locations.

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

11 1. Defending this chapter or rules adopted pursuant to this
12 chapter.

13 2. Defending chapter 28.1 of this title or rules adopted pursuant
14 to chapter 28.1 of this title.

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

18 J. On request, the department **OF HEALTH SERVICES** shall share with
19 the department of revenue information regarding a marijuana establishment,
20 marijuana testing facility or dual licensee, including its name, physical
21 address, cultivation site and transaction privilege tax license number.

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

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

25 2. Operate a marijuana testing facility.

26 L. The department shall maintain and publish a current list of all
27 marijuana establishments and marijuana testing facilities by name and
28 license number.

29 M. Notwithstanding any other law, the issuance of an occupational,
30 professional or other regulatory license or certification to a person by a
31 jurisdiction or regulatory authority outside this state does not entitle
32 that person to be issued a marijuana establishment license, a marijuana
33 testing facility license, or any other license, registration or
34 certification under this chapter.

35 N. Until the department adopts rules as required by subsection A,
36 paragraph 10 of this section:

37 1. A marijuana testing facility is prohibited from having any
38 direct or indirect familial relationship with or financial ownership
39 interest in a marijuana establishment or related marijuana business entity
40 or management company.

41 2. A marijuana establishment is prohibited from having any direct
42 or indirect familial relationship with or financial ownership interest in
43 a marijuana testing facility or related marijuana business entity or
44 management company.

1 Sec. 11. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2854.01, Arizona Revised
3 Statutes, is amended to read:

4 36-2854.01. Marijuana products; labeling; packaging

5 A. Not later than December 31, 2023, any marijuana product
6 packaging labeled for sale shall include a consumer scannable
7 tetrahydrocannabinol quick response code or similar technology linking to
8 a webpage that displays all of the following for the specific marijuana
9 product:

10 1. The date of harvest of the marijuana.

11 2. The tetrahydrocannabinol strain of the marijuana **OR MARIJUANA**
12 **PRODUCT.**

13 3. The tetrahydrocannabinol extraction method used to extract the
14 tetrahydrocannabinol from the marijuana **PRODUCT.**

15 ~~4. A laboratory report of impurities containing at least heavy~~
16 ~~metals and agrochemicals.~~

17 **4. THE TEST RESULTS FOR THE MARIJUANA OR MARIJUANA PRODUCT.**

18 5. The date of manufacture of the marijuana product.

19 ~~6. The distribution chain, including at least a point of intended~~
20 ~~sale.~~

21 ~~7. A warning that states, "using marijuana during pregnancy could~~
22 ~~cause birth defects or other health issues to your unborn child."~~

23 **6. REQUIRED WARNINGS AS DETERMINED BY THE DEPARTMENT.**

24 **7. A WARNING THAT STATES, "KEEP ALL MARIJUANA PRODUCTS SAFE AND**
25 **AWAY FROM CHILDREN. IF INGESTED, CALL POISON CONTROL: (800) 222-1222."**

26 **B. THE DEPARTMENT SHALL DETERMINE AND ADOPT RULES REGARDING**
27 **REQUIRED INFORMATION FOR THE MARIJUANA OR MARIJUANA PRODUCT LABEL AND THE**
28 **WEBPAGE LINKED TO THE QUICK RESPONSE CODE INCLUDED ON THE LABEL.**
29 **INFORMATION ON THE WEBPAGE SHALL SATISFY ANY LABELING REQUIREMENTS**
30 **PRESCRIBED IN THIS CHAPTER.**

31 Sec. 12. Subject to the requirements of article IV, part 1,
32 section 1, Constitution of Arizona, section 36-2856, Arizona Revised
33 Statutes, is amended to read:

34 36-2856. Smart and safe Arizona fund; disposition of monies;
35 exemption

36 A. The smart and safe Arizona fund is established consisting of all
37 monies deposited pursuant to sections 36-2854, 42-5452 and 42-5503,
38 private donations and interest earned on those monies. Monies in the fund
39 are continuously appropriated. Monies in the fund and its accounts may
40 not be transferred to any other fund except as provided in this section,
41 do not revert to the state general fund and are exempt from the provisions
42 of section 35-190 relating to the lapsing of appropriations. The state
43 treasurer shall administer the fund.

1 B. All monies in the smart and safe Arizona fund must first be
2 spent, and the state treasurer shall transfer monies from the fund, to
3 pay:

4 1. The actual reasonable costs incurred by the department to
5 implement, carry out and enforce this chapter and rules adopted pursuant
6 to this chapter.

7 2. The actual reasonable costs incurred by the department of
8 revenue to impose and enforce the tax authorized and levied by section
9 42-5452.

10 3. The actual reasonable costs incurred by the supreme court and
11 the department of public safety to process petitions for expungement and
12 expungement orders pursuant to section 36-2862 and to otherwise implement
13 section 36-2862.

14 4. The actual reasonable costs incurred by the state treasurer to
15 administer the fund.

16 5. Any other mandatory expenditure of state revenues required by
17 this chapter to implement or enforce the provisions of this chapter.

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

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

25 1. ~~33~~ THIRTY-THREE percent to community college districts and
26 provisional community college districts, but not to community college
27 tuition financing districts established pursuant to section 15-1409, for
28 the purposes of investing in and providing workforce development programs,
29 job training, career and technical education, and science, technology,
30 engineering and ~~math~~ MATHEMATICS programs, as follows:

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

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

36 (c) The remainder to community college districts and provisional
37 community colleges districts in proportion to each district's full-time
38 equivalent student enrollment percentage of the total statewide audited
39 full-time equivalent student enrollment in the preceding fiscal year
40 prescribed in section 15-1466.01.

41 2. 31.4 percent to municipal police departments, municipal fire
42 departments, fire districts established pursuant to title 48, chapter 5
43 and county sheriffs' departments in proportion to the number of enrolled
44 members for each such agency in the public safety personnel retirement
45 system established by title 38, chapter 5, article 4 and the public safety

1 personnel defined contribution RETIREMENT plan established by PURSUANT TO
2 title 38, chapter 5, article 4.1, for personnel costs.

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

5 4. ~~10~~ TEN percent to the justice reinvestment fund established by
6 section 36-2863.

7 5. 0.2 percent to the attorney general to use to enforce this
8 chapter, or to grant to localities to enforce this chapter.

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

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

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

15 F. MONIES IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY THIS
16 SECTION AND THE MEDICAL MARIJUANA FUND ESTABLISHED BY SECTION 36-2817 MAY
17 BE USED INTERCHANGEABLY TO IMPLEMENT AND ENFORCE THIS CHAPTER AND
18 CHAPTER 28.1.

19 Sec. 13. Section 42-5061, Arizona Revised Statutes, is amended to
20 read:

21 42-5061. Retail classification; definitions

22 A. The retail classification is comprised of the business of
23 selling tangible personal property at retail. The tax base for the retail
24 classification is the gross proceeds of sales or gross income derived from
25 the business. The tax imposed on the retail classification does not apply
26 to the gross proceeds of sales or gross income from:

27 1. Professional or personal service occupations or businesses that
28 involve sales or transfers of tangible personal property only as
29 inconsequential elements.

30 2. Services rendered in addition to selling tangible personal
31 property at retail.

32 3. Sales of warranty or service contracts. The storage, use or
33 consumption of tangible personal property provided under the conditions of
34 such contracts is subject to tax under section 42-5156.

35 4. Sales of tangible personal property by any nonprofit
36 organization organized and operated exclusively for charitable purposes
37 and recognized by the United States internal revenue service under section
38 501(c)(3) of the internal revenue code.

39 5. Sales to persons engaged in business classified under the
40 restaurant classification of articles used by human beings for food, drink
41 or condiment, whether simple, mixed or compounded.

42 6. Business activity that is properly included in any other
43 business classification that is taxable under this article.

44 7. The sale of stocks and bonds.

- 1 8. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, if prescribed by a member of the medical, dental or
3 veterinarian profession who is licensed by law to administer such
4 substances.
- 5 9. Prosthetic appliances as defined in section 23-501 and as
6 prescribed or recommended by a health professional who is licensed
7 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 8 10. Insulin, insulin syringes and glucose test strips.
- 9 11. Prescription eyeglasses or contact lenses.
- 10 12. Hearing aids as defined in section 36-1901.
- 11 13. Durable medical equipment that has a centers for medicare and
12 medicaid services common procedure code, is designated reimbursable by
13 medicare, is prescribed by a person who is licensed under title 32,
14 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
15 primarily and customarily used to serve a medical purpose, is generally
16 not useful to a person in the absence of illness or injury and is
17 appropriate for use in the home.
- 18 14. Sales of motor vehicles to nonresidents of this state for use
19 outside this state if either of the following ~~apply~~ APPLIES:
20 (a) The motor vehicle dealer ships or delivers the motor vehicle to
21 a destination out of this state.
22 (b) The vehicle, trailer or semitrailer has a gross vehicle weight
23 rating of more than ten thousand pounds, is used or maintained to
24 transport property in the furtherance of interstate commerce and otherwise
25 meets the definition of commercial motor vehicle as defined in section
26 28-5201.
- 27 15. Food, as provided in and subject to the conditions of article 3
28 of this chapter and sections 42-5074 and 42-6017.
- 29 16. Items purchased with United States department of agriculture
30 coupons issued under the supplemental nutrition assistance program
31 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
32 7 United States Code sections 2011 through 2036b) by the United States
33 department of agriculture food and nutrition service or food instruments
34 issued under section 17 of the child nutrition act (P.L. 95-627;
35 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
36 Code section 1786).
- 37 17. Textbooks by any bookstore that are required by any state
38 university or community college.
- 39 18. Food and drink to a person that is engaged in a business that
40 is classified under the restaurant classification and that provides such
41 food and drink without monetary charge to its employees for their own
42 consumption on the premises during the employees' hours of employment.
- 43 19. Articles of food, drink or condiment and accessory tangible
44 personal property to a school district or charter school if such articles
45 and accessory tangible personal property are to be prepared and served to

1 persons for consumption on the premises of a public school within the
2 district or on the premises of the charter school during school hours.

3 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
4 article 1.

5 21. The sale of cash equivalents and the sale of precious metal
6 bullion and monetized bullion to the ultimate consumer, but the sale of
7 coins or other forms of money for manufacture into jewelry or works of art
8 is subject to the tax and the gross proceeds of sales or gross income
9 derived from the redemption of any cash equivalent by the holder as a
10 means of payment for goods or services that are taxable under this article
11 is subject to the tax. For the purposes of this paragraph:

12 (a) "Cash equivalents" means items or intangibles, whether or not
13 negotiable, that are sold to one or more persons, through which a value
14 denominated in money is purchased in advance and may be redeemed in full
15 or in part for tangible personal property, intangibles or services. Cash
16 equivalents include gift cards, stored value cards, gift certificates,
17 vouchers, traveler's checks, money orders or other instruments, orders or
18 electronic mechanisms, such as an electronic code, personal identification
19 number or digital payment mechanism, or any other prepaid intangible right
20 to acquire tangible personal property, intangibles or services in the
21 future, whether from the seller of the cash equivalent or from another
22 person. Cash equivalents do not include either of the following:

23 (i) Items or intangibles that are sold to one or more persons,
24 through which a value is not denominated in money.

25 (ii) Prepaid calling cards or prepaid authorization numbers for
26 telecommunications services made taxable by subsection P of this section.

27 (b) "Monetized bullion" means coins and other forms of money that
28 are manufactured from gold, silver or other metals and that have been or
29 are used as a medium of exchange in this or another state, the United
30 States or a foreign nation.

31 (c) "Precious metal bullion" means precious metal, including gold,
32 silver, platinum, rhodium and palladium, that has been smelted or refined
33 so that its value depends on its contents and not on its form.

34 22. Motor vehicle fuel and use fuel that are subject to a tax
35 imposed under title 28, chapter 16, article 1, sales of use fuel to a
36 holder of a valid single trip use fuel tax permit issued under section
37 28-5739, sales of aviation fuel that are subject to the tax imposed under
38 section 28-8344 and sales of jet fuel that are subject to the tax imposed
39 under article 8 of this chapter.

40 23. Tangible personal property sold to a person engaged in the
41 business of leasing or renting such property under the personal property
42 rental classification if such property is to be leased or rented by such
43 person.

1 24. Tangible personal property sold in interstate or foreign
2 commerce if prohibited from being so taxed by the constitution of the
3 United States or the constitution of this state.

4 25. Tangible personal property sold to:

5 (a) A qualifying hospital as defined in section 42-5001.

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization
8 solely to provide health and medical related educational and charitable
9 services.

10 (c) A qualifying health care organization as defined in section
11 42-5001 if the organization is dedicated to providing educational,
12 therapeutic, rehabilitative and family medical education training for
13 blind and visually impaired children and children with multiple
14 disabilities from the time of birth to age twenty-one.

15 (d) A qualifying community health center as defined in section
16 42-5001.

17 (e) A nonprofit charitable organization that has qualified under
18 section 501(c)(3) of the internal revenue code and that regularly serves
19 meals to the needy and indigent on a continuing basis at no cost.

20 (f) For taxable periods beginning from and after June 30, 2001, a
21 nonprofit charitable organization that has qualified under section
22 501(c)(3) of the internal revenue code and that provides residential
23 apartment housing for low-income persons over sixty-two years of age in a
24 facility that qualifies for a federal housing subsidy, if the tangible
25 personal property is used by the organization solely to provide
26 residential apartment housing for low-income persons over sixty-two years
27 of age in a facility that qualifies for a federal housing subsidy.

28 (g) A qualifying health sciences educational institution as defined
29 in section 42-5001.

30 (h) Any person representing or working on behalf of another person
31 described in subdivisions (a) through (g) of this paragraph if the
32 tangible personal property is incorporated or fabricated into a project
33 described in section 42-5075, subsection 0.

34 26. Magazines or other periodicals or other publications by this
35 state to encourage tourist travel.

36 27. Tangible personal property sold to:

37 (a) A person that is subject to tax under this article by reason of
38 being engaged in business classified under section 42-5075 or to a
39 subcontractor working under the control of a person engaged in business
40 classified under section 42-5075, if the property so sold is any of the
41 following:

42 (i) Incorporated or fabricated by the person into any real
43 property, structure, project, development or improvement as part of the
44 business.

1 (ii) Incorporated or fabricated by the person into any project
2 described in section 42-5075, subsection 0.

3 (iii) Used in environmental response or remediation activities
4 under section 42-5075, subsection B, paragraph 6.

5 (b) A person that is not subject to tax under section 42-5075 and
6 that has been provided a copy of a certificate under section 42-5009,
7 subsection L, if the property so sold is incorporated or fabricated by the
8 person into the real property, structure, project, development or
9 improvement described in the certificate.

10 28. The sale of a motor vehicle to a nonresident of this state if
11 the purchaser's state of residence does not allow a corresponding use tax
12 exemption to the tax imposed by article 1 of this chapter and if the
13 nonresident has secured a special ninety day nonresident registration
14 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

15 29. Tangible personal property purchased in this state by a
16 nonprofit charitable organization that has qualified under section
17 501(c)(3) of the United States internal revenue code and that engages in
18 and uses such property exclusively in programs for persons with mental or
19 physical disabilities if the programs are exclusively for training, job
20 placement, rehabilitation or testing.

21 30. Sales of tangible personal property by a nonprofit organization
22 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
23 501(c)(6) of the internal revenue code if the organization is associated
24 with a major league baseball team or a national touring professional
25 golfing association and no part of the organization's net earnings inures
26 to the benefit of any private shareholder or individual. This paragraph
27 does not apply to an organization that is owned, managed or controlled, in
28 whole or in part, by a major league baseball team, or its owners,
29 officers, employees or agents, or by a major league baseball association
30 or professional golfing association, or its owners, officers, employees or
31 agents, unless the organization conducted or operated exhibition events in
32 this state before January 1, 2018 that were exempt from taxation under
33 section 42-5073.

34 31. Sales of commodities, as defined by title 7 United States Code
35 section 2, that are consigned for resale in a warehouse in this state in
36 or from which the commodity is deliverable on a contract for future
37 delivery subject to the rules of a commodity market regulated by the
38 United States commodity futures trading commission.

39 32. Sales of tangible personal property by a nonprofit organization
40 that is exempt from taxation under section 501(c)(3), 501(c)(4),
41 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
42 organization sponsors or operates a rodeo featuring primarily farm and
43 ranch animals and no part of the organization's net earnings inures to the
44 benefit of any private shareholder or individual.

1 33. Sales of propagative materials to persons who use those items
2 to commercially produce agricultural, horticultural, viticultural or
3 floricultural crops in this state. For the purposes of this paragraph,
4 "propagative materials" ~~is~~

5 ~~(a)~~ includes seeds, seedlings, roots, bulbs, liners, transplants,
6 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
7 and plant substances, micronutrients, fertilizers, insecticides,
8 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
9 adjuvants, plant nutrients and plant growth regulators.

10 ~~(b) Except for use in commercially producing industrial hemp as~~
11 ~~defined in section 3-311, does not include any propagative materials used~~
12 ~~in producing any part, including seeds, of any plant of the genus~~
13 ~~cannabis.~~

14 34. Machinery, equipment, technology or related supplies that are
15 only useful to assist a person with a physical disability as defined in
16 section 46-191 or a person who has a developmental disability as defined
17 in section 36-551 or has a head injury as defined in section 41-3201 to be
18 more independent and functional.

19 35. Sales of natural gas or liquefied petroleum gas used to propel
20 a motor vehicle.

21 36. Paper machine clothing, such as forming fabrics and dryer
22 felts, sold to a paper manufacturer and directly used or consumed in paper
23 manufacturing.

24 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
25 electricity sold to a qualified environmental technology manufacturer,
26 producer or processor as defined in section 41-1514.02 and directly used
27 or consumed in generating or providing on-site power or energy solely for
28 environmental technology manufacturing, producing or processing or
29 environmental protection. This paragraph applies for twenty full
30 consecutive calendar or fiscal years from the date the first paper
31 manufacturing machine is placed in service. In the case of an
32 environmental technology manufacturer, producer or processor that does not
33 manufacture paper, the time period begins with the date the first
34 manufacturing, processing or production equipment is placed in service.

35 38. Sales of liquid, solid or gaseous chemicals used in
36 manufacturing, processing, fabricating, mining, refining, metallurgical
37 operations, research and development and, beginning on January 1, 1999,
38 printing, if using or consuming the chemicals, alone or as part of an
39 integrated system of chemicals, involves direct contact with the materials
40 from which the product is produced for the purpose of causing or allowing
41 a chemical or physical change to occur in the materials as part of the
42 production process. This paragraph does not include chemicals that are
43 used or consumed in activities such as packaging, storage or
44 transportation but does not affect any deduction for such chemicals that
45 is otherwise provided by this section. For the purposes of this

1 paragraph, "printing" means a commercial printing operation and includes
2 job printing, engraving, embossing, copying and bookbinding.

3 39. Through December 31, 1994, personal property liquidation
4 transactions, conducted by a personal property liquidator. From and after
5 December 31, 1994, personal property liquidation transactions shall be
6 taxable under this section provided that nothing in this subsection shall
7 be construed to authorize the taxation of casual activities or
8 transactions under this chapter. For the purposes of this paragraph:

9 (a) "Personal property liquidation transaction" means a sale of
10 personal property made by a personal property liquidator acting solely on
11 behalf of the owner of the personal property sold at the dwelling of the
12 owner or on the death of any owner, on behalf of the surviving spouse, if
13 any, any devisee or heir or the personal representative of the estate of
14 the deceased, if one has been appointed.

15 (b) "Personal property liquidator" means a person who is retained
16 to conduct a sale in a personal property liquidation transaction.

17 40. Sales of food, drink and condiment for consumption within the
18 premises of any prison, jail or other institution under the jurisdiction
19 of the state department of corrections, the department of public safety,
20 the department of juvenile corrections or a county sheriff.

21 41. A motor vehicle and any repair and replacement parts and
22 tangible personal property becoming a part of such motor vehicle sold to a
23 motor carrier that is subject to a fee prescribed in title 28, chapter 16,
24 article 4 and that is engaged in the business of leasing or renting such
25 property.

26 42. Sales of:

27 (a) Livestock and poultry to persons engaging in the businesses of
28 farming, ranching or producing livestock or poultry.

29 (b) Livestock and poultry feed, salts, vitamins and other additives
30 for livestock or poultry consumption that are sold to persons for use or
31 consumption by their own livestock or poultry, for use or consumption in
32 the businesses of farming, ranching and producing or feeding livestock,
33 poultry, or livestock or poultry products or for use or consumption in
34 noncommercial boarding of livestock. For the purposes of this paragraph,
35 "poultry" includes ratites.

36 43. Sales of implants used as growth promotants and injectable
37 medicines, not already exempt under paragraph 8 of this subsection, for
38 livestock or poultry owned by or in possession of persons that are engaged
39 in producing livestock, poultry, or livestock or poultry products or that
40 are engaged in feeding livestock or poultry commercially. For the
41 purposes of this paragraph, "poultry" includes ratites.

42 44. Sales of motor vehicles at auction to nonresidents of this
43 state for use outside this state if the vehicles are shipped or delivered
44 out of this state, regardless of where title to the motor vehicles passes
45 or its free on board point.

1 45. Tangible personal property sold to a person engaged in business
2 and subject to tax under the transient lodging classification if the
3 tangible personal property is a personal hygiene item or articles used by
4 human beings for food, drink or condiment, except alcoholic beverages,
5 that are furnished without additional charge to and intended to be
6 consumed by the transient during the transient's occupancy.

7 46. Sales of alternative fuel, as defined in section 1-215, to a
8 used oil fuel burner who has received a permit to burn used oil or used
9 oil fuel under section 49-426 or 49-480.

10 47. Sales of materials that are purchased by or for publicly funded
11 libraries, including school district libraries, charter school libraries,
12 community college libraries, state university libraries or federal, state,
13 county or municipal libraries, for use by the public as follows:

14 (a) Printed or photographic materials, beginning August 7, 1985.

15 (b) Electronic or digital media materials, beginning July 17, 1994.

16 48. Tangible personal property sold to a commercial airline and
17 consisting of food, beverages and condiments and accessories used for
18 serving the food and beverages, if those items are to be provided without
19 additional charge to passengers for consumption in flight. For the
20 purposes of this paragraph, "commercial airline" means a person holding a
21 federal certificate of public convenience and necessity or foreign air
22 carrier permit for air transportation to transport persons, property or
23 United States mail in intrastate, interstate or foreign commerce.

24 49. Sales of alternative fuel vehicles if the vehicle was
25 manufactured as a diesel fuel vehicle and converted to operate on
26 alternative fuel and equipment that is installed in a conventional diesel
27 fuel motor vehicle to convert the vehicle to operate on an alternative
28 fuel, as defined in section 1-215.

29 50. Sales of any spirituous, vinous or malt liquor by a person that
30 is licensed in this state as a wholesaler by the department of liquor
31 licenses and control pursuant to title 4, chapter 2, article 1.

32 51. Sales of tangible personal property to be incorporated or
33 installed as part of environmental response or remediation activities
34 under section 42-5075, subsection B, paragraph 6.

35 52. Sales of tangible personal property by a nonprofit organization
36 that is exempt from taxation under section 501(c)(6) of the internal
37 revenue code if the organization produces, organizes or promotes cultural
38 or civic related festivals or events and no part of the organization's net
39 earnings inures to the benefit of any private shareholder or individual.

40 53. Application services that are designed to assess or test
41 student learning or to promote curriculum design or enhancement purchased
42 by or for any school district, charter school, community college or state
43 university. For the purposes of this paragraph:

44 (a) "Application services" means software applications provided
45 remotely using hypertext transfer protocol or another network protocol.

1 (b) "Curriculum design or enhancement" means planning, implementing
2 or reporting on courses of study, lessons, assignments or other learning
3 activities.

4 54. Sales of motor vehicle fuel and use fuel to a qualified
5 business under section 41-1516 for off-road use in harvesting, processing
6 or transporting qualifying forest products removed from qualifying
7 projects as defined in section 41-1516.

8 55. Sales of repair parts installed in equipment used directly by a
9 qualified business under section 41-1516 in harvesting, processing or
10 transporting qualifying forest products removed from qualifying projects
11 as defined in section 41-1516.

12 56. Sales or other transfers of renewable energy credits or any
13 other unit created to track energy derived from renewable energy
14 resources. For the purposes of this paragraph, "renewable energy credit"
15 means a unit created administratively by the corporation commission or
16 governing body of a public power utility to track kilowatt hours of
17 electricity derived from a renewable energy resource or the kilowatt hour
18 equivalent of conventional energy resources displaced by distributed
19 renewable energy resources.

20 57. Orthodontic devices dispensed by a dental professional who is
21 licensed under title 32, chapter 11 to a patient as part of the practice
22 of dentistry.

23 58. Sales of tangible personal property incorporated or fabricated
24 into a project described in section 42-5075, subsection 0, that is located
25 within the exterior boundaries of an Indian reservation for which the
26 owner, as defined in section 42-5075, of the project is an Indian tribe or
27 an affiliated Indian. For the purposes of this paragraph:

28 (a) "Affiliated Indian" means an individual Native American Indian
29 who is duly registered on the tribal rolls of the Indian tribe for whose
30 benefit the Indian reservation was established.

31 (b) "Indian reservation" means all lands that are within the limits
32 of areas set aside by the United States for the exclusive use and
33 occupancy of an Indian tribe by treaty, law or executive order and that
34 are recognized as Indian reservations by the United States department of
35 the interior.

36 (c) "Indian tribe" means any organized nation, tribe, band or
37 community that is recognized as an Indian tribe by the United States
38 department of the interior and includes any entity formed under the laws
39 of the Indian tribe.

40 59. Sales of works of fine art, as defined in section 44-1771, at
41 an art auction or gallery in this state to nonresidents of this state for
42 use outside this state if the vendor ships or delivers the work of fine
43 art to a destination outside this state.

1 60. Sales of tangible personal property by a marketplace seller
2 that are facilitated by a marketplace facilitator in which the marketplace
3 facilitator has remitted or will remit the applicable tax to the
4 department pursuant to section 42-5014.

5 B. In addition to the deductions from the tax base prescribed by
6 subsection A of this section, the gross proceeds of sales or gross income
7 derived from sales of the following categories of tangible personal
8 property shall be deducted from the tax base:

9 1. Machinery, or equipment, used directly in manufacturing,
10 processing, fabricating, job printing, refining or metallurgical
11 operations. The terms "manufacturing", "processing", "fabricating", "job
12 printing", "refining" and "metallurgical" as used in this paragraph refer
13 to and include those operations commonly understood within their ordinary
14 meaning. "Metallurgical operations" includes leaching, milling,
15 precipitating, smelting and refining.

16 2. Mining machinery, or equipment, used directly in the process of
17 extracting ores or minerals from the earth for commercial purposes,
18 including equipment required to prepare the materials for extraction and
19 handling, loading or transporting such extracted material to the surface.
20 "Mining" includes underground, surface and open pit operations for
21 extracting ores and minerals.

22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification, including a person
24 representing or working on behalf of such a person in a manner described
25 in section 42-5075, subsection 0, and consisting of central office
26 switching equipment, switchboards, private branch exchange equipment,
27 microwave radio equipment and carrier equipment including optical fiber,
28 coaxial cable and other transmission media that are components of carrier
29 systems.

30 4. Machinery, equipment or transmission lines used directly in
31 producing or transmitting electrical power, but not including
32 distribution. Transformers and control equipment used at transmission
33 substation sites constitute equipment used in producing or transmitting
34 electrical power.

35 5. Machinery and equipment used directly for energy storage for
36 later electrical use. For the purposes of this paragraph:

37 (a) "Electric utility scale" means a person that is engaged in a
38 business activity described in section 42-5063, subsection A or such
39 person's equipment or wholesale electricity suppliers.

40 (b) "Energy storage" means commercially available technology for
41 electric utility scale that is capable of absorbing energy, storing energy
42 for a period of time and thereafter dispatching the energy and that uses
43 mechanical, chemical or thermal processes to store energy.

1 (c) "Machinery and equipment used directly" means all machinery and
2 equipment that are used for electric energy storage from the point of
3 receipt of such energy in order to facilitate storage of the electric
4 energy to the point where the electric energy is released.

5 6. Neat animals, horses, asses, sheep, ratites, swine or goats used
6 or to be used as breeding or production stock, including sales of
7 breedings or ownership shares in such animals used for breeding or
8 production.

9 7. Pipes or valves four inches in diameter or larger used to
10 transport oil, natural gas, artificial gas, water or coal slurry,
11 including compressor units, regulators, machinery and equipment, fittings,
12 seals and any other part that is used in operating the pipes or valves.

13 8. Aircraft, navigational and communication instruments and other
14 accessories and related equipment sold to:

15 (a) A person:

16 (i) Holding, or exempted by federal law from obtaining, a federal
17 certificate of public convenience and necessity for use as, in conjunction
18 with or becoming part of an aircraft to be used to transport persons for
19 hire in intrastate, interstate or foreign commerce.

20 (ii) That is certificated or licensed under federal aviation
21 administration regulations (14 Code of Federal Regulations part 121 or
22 135) as a scheduled or unscheduled carrier of persons for hire for use as
23 or in conjunction with or becoming part of an aircraft to be used to
24 transport persons for hire in intrastate, interstate or foreign commerce.

25 (iii) Holding a foreign air carrier permit for air transportation
26 for use as or in conjunction with or becoming a part of aircraft to be
27 used to transport persons, property or United States mail in intrastate,
28 interstate or foreign commerce.

29 (iv) Operating an aircraft to transport persons in any manner for
30 compensation or hire, or for use in a fractional ownership program that
31 meets the requirements of federal aviation administration regulations
32 (14 Code of Federal Regulations part 91, subpart K), including as an air
33 carrier, a foreign air carrier or a commercial operator or under a
34 restricted category, within the meaning of 14 Code of Federal Regulations,
35 regardless of whether the operation or aircraft is regulated or certified
36 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
37 of Federal Regulations.

38 (v) That will lease or otherwise transfer operational control,
39 within the meaning of federal aviation administration operations
40 specification A008, or its successor, of the aircraft, instruments or
41 accessories to one or more persons described in item (i), (ii), (iii) or
42 (iv) of this subdivision, subject to section 42-5009, subsection Q.

43 (b) Any foreign government.

1 (c) Persons who are not residents of this state and who will not
2 use such property in this state other than in removing such property from
3 this state. This subdivision also applies to corporations that are not
4 incorporated in this state, regardless of maintaining a place of business
5 in this state, if the principal corporate office is located outside this
6 state and the property will not be used in this state other than in
7 removing the property from this state.

8 9. Machinery, tools, equipment and related supplies used or
9 consumed directly in repairing, remodeling or maintaining aircraft,
10 aircraft engines or aircraft component parts by or on behalf of a
11 certificated or licensed carrier of persons or property.

12 10. Railroad rolling stock, rails, ties and signal control
13 equipment used directly to transport persons or property.

14 11. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

17 12. Buses or other urban mass transit vehicles that are used
18 directly to transport persons or property for hire or pursuant to a
19 governmentally adopted and controlled urban mass transportation program
20 and that are sold to bus companies holding a federal certificate of
21 convenience and necessity or operated by any city, town or other
22 governmental entity or by any person contracting with such governmental
23 entity as part of a governmentally adopted and controlled program to
24 provide urban mass transportation.

25 13. Groundwater measuring devices required under section 45-604.

26 14. Machinery and equipment consisting of agricultural aircraft,
27 tractors, off-highway vehicles, tractor-drawn implements, self-powered
28 implements, machinery and equipment necessary for extracting milk, and
29 machinery and equipment necessary for cooling milk and livestock, and drip
30 irrigation lines not already exempt under paragraph 7 of this subsection
31 and that are used for commercial production of agricultural,
32 horticultural, viticultural and floricultural crops and products in this
33 state. For the purposes of this paragraph:

34 (a) "Off-highway vehicles" means off-highway vehicles as defined in
35 section 28-1171 that are modified at the time of sale to function as a
36 tractor or to tow tractor-drawn implements and that are not equipped with
37 a modified exhaust system to increase horsepower or speed or an engine
38 that is more than one thousand cubic centimeters or that have a maximum
39 speed of fifty miles per hour or less.

40 (b) "Self-powered implements" includes machinery and equipment that
41 are electric-powered.

42 15. Machinery or equipment used in research and development. For
43 the purposes of this paragraph, "research and development" means basic and
44 applied research in the sciences and engineering, and designing,
45 developing or testing prototypes, processes or new products, including

1 research and development of computer software that is embedded in or an
2 integral part of the prototype or new product or that is required for
3 machinery or equipment otherwise exempt under this section to function
4 effectively. Research and development do not include manufacturing
5 quality control, routine consumer product testing, market research, sales
6 promotion, sales service, research in social sciences or psychology,
7 computer software research that is not included in the definition of
8 research and development, or other nontechnological activities or
9 technical services.

10 16. Tangible personal property that is used by either of the
11 following to receive, store, convert, produce, generate, decode, encode,
12 control or transmit telecommunications information:

13 (a) Any direct broadcast satellite television or data transmission
14 service that operates pursuant to 47 Code of Federal Regulations part 25.

15 (b) Any satellite television or data transmission facility, if both
16 of the following conditions are met:

17 (i) Over two-thirds of the transmissions, measured in megabytes,
18 transmitted by the facility during the test period were transmitted to or
19 on behalf of one or more direct broadcast satellite television or data
20 transmission services that operate pursuant to 47 Code of Federal
21 Regulations part 25.

22 (ii) Over two-thirds of the transmissions, measured in megabytes,
23 transmitted by or on behalf of those direct broadcast television or data
24 transmission services during the test period were transmitted by the
25 facility to or on behalf of those services. For the purposes of
26 subdivision (b) of this paragraph, "test period" means the three hundred
27 sixty-five day period beginning on the later of the date on which the
28 tangible personal property is purchased or the date on which the direct
29 broadcast satellite television or data transmission service first
30 transmits information to its customers.

31 17. Clean rooms that are used for manufacturing, processing,
32 fabrication or research and development, as defined in paragraph 15 of
33 this subsection, of semiconductor products. For the purposes of this
34 paragraph, "clean room" means all property that comprises or creates an
35 environment where humidity, temperature, particulate matter and
36 contamination are precisely controlled within specified parameters,
37 without regard to whether the property is actually contained within that
38 environment or whether any of the property is affixed to or incorporated
39 into real property. Clean room:

40 (a) Includes the integrated systems, fixtures, piping, movable
41 partitions, lighting and all property that is necessary or adapted to
42 reduce contamination or to control airflow, temperature, humidity,
43 chemical purity or other environmental conditions or manufacturing
44 tolerances, as well as the production machinery and equipment operating in
45 conjunction with the clean room environment.

1 (b) Does not include the building or other permanent, nonremovable
2 component of the building that houses the clean room environment.

3 18. Machinery and equipment used directly in feeding poultry,
4 environmentally controlling housing for poultry, moving eggs within a
5 production and packaging facility or sorting or cooling eggs. This
6 exemption does not apply to vehicles used for transporting eggs.

7 19. Machinery or equipment, including related structural components
8 and containment structures, that is employed in connection with
9 manufacturing, processing, fabricating, job printing, refining, mining,
10 natural gas pipelines, metallurgical operations, telecommunications,
11 producing or transmitting electricity or research and development and that
12 is used directly to meet or exceed rules or regulations adopted by the
13 federal energy regulatory commission, the United States environmental
14 protection agency, the United States nuclear regulatory commission, the
15 Arizona department of environmental quality or a political subdivision of
16 this state to prevent, monitor, control or reduce land, water or air
17 pollution. For the purposes of this paragraph, "containment structure"
18 means a structure that prevents, monitors, controls or reduces noxious or
19 harmful discharge into the environment.

20 20. Machinery and equipment that are sold to a person engaged in
21 commercially producing livestock, livestock products or agricultural,
22 horticultural, viticultural or floricultural crops or products in this
23 state, including a person representing or working on behalf of such a
24 person in a manner described in section 42-5075, subsection 0, if the
25 machinery and equipment are used directly and primarily to prevent,
26 monitor, control or reduce air, water or land pollution.

27 21. Machinery or equipment that enables a television station to
28 originate and broadcast or to receive and broadcast digital television
29 signals and that was purchased to facilitate compliance with the
30 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
31 States Code section 336) and the federal communications commission order
32 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
33 paragraph does not exempt any of the following:

34 (a) Repair or replacement parts purchased for the machinery or
35 equipment described in this paragraph.

36 (b) Machinery or equipment purchased to replace machinery or
37 equipment for which an exemption was previously claimed and taken under
38 this paragraph.

39 (c) Any machinery or equipment purchased after the television
40 station has ceased analog broadcasting, or purchased after November 1,
41 2009, whichever occurs first.

42 22. Qualifying equipment that is purchased from and after June 30,
43 2004 through June 30, 2024 by a qualified business under section 41-1516
44 for harvesting or processing qualifying forest products removed from
45 qualifying projects as defined in section 41-1516. To qualify for this

1 deduction, the qualified business at the time of purchase must present its
2 certification approved by the department.

3 23. Computer data center equipment sold to the owner, operator or
4 qualified colocation tenant of a computer data center that is certified by
5 the Arizona commerce authority under section 41-1519 or an authorized
6 agent of the owner, operator or qualified colocation tenant during the
7 qualification period for use in the qualified computer data center. For
8 the purposes of this paragraph, "computer data center", "computer data
9 center equipment", "qualification period" and "qualified colocation
10 tenant" have the same meanings prescribed in section 41-1519.

11 C. The deductions provided by subsection B of this section do not
12 include sales of:

13 1. Expendable materials. For the purposes of this paragraph,
14 expendable materials do not include any of the categories of tangible
15 personal property specified in subsection B of this section regardless of
16 the cost or useful life of that property.

17 2. Janitorial equipment and hand tools.

18 3. Office equipment, furniture and supplies.

19 4. Tangible personal property used in selling or distributing
20 activities, other than the telecommunications transmissions described in
21 subsection B, paragraph 16 of this section.

22 5. Motor vehicles required to be licensed by this state, except
23 buses or other urban mass transit vehicles specifically exempted pursuant
24 to subsection B, paragraph 12 of this section, without regard to the use
25 of such motor vehicles.

26 6. Shops, buildings, docks, depots and all other materials of
27 whatever kind or character not specifically included as exempt.

28 7. Motors and pumps used in drip irrigation systems.

29 8. Machinery and equipment or other tangible personal property used
30 by a contractor in performing a contract.

31 D. In addition to the deductions from the tax base prescribed by
32 subsection A of this section, there shall be deducted from the tax base
33 the gross proceeds of sales or gross income derived from sales of
34 machinery, equipment, materials and other tangible personal property used
35 directly and predominantly to construct a qualified environmental
36 technology manufacturing, producing or processing facility as described in
37 section 41-1514.02. This subsection applies for ten full consecutive
38 calendar or fiscal years after the start of initial construction.

39 E. In computing the tax base, gross proceeds of sales or gross
40 income from retail sales of heavy trucks and trailers does not include any
41 amount attributable to federal excise taxes imposed by 26 United States
42 Code section 4051.

43 F. If a person is engaged in an occupation or business to which
44 subsection A of this section applies, the person's books shall be kept so
45 as to show separately the gross proceeds of sales of tangible personal

1 property and the gross income from sales of services, and if not so kept
2 the tax shall be imposed on the total of the person's gross proceeds of
3 sales of tangible personal property and gross income from services.

4 G. If a person is engaged in the business of selling tangible
5 personal property at both wholesale and retail, the tax under this section
6 applies only to the gross proceeds of the sales made other than at
7 wholesale if the person's books are kept so as to show separately the
8 gross proceeds of sales of each class, and if the books are not so kept,
9 the tax under this section applies to the gross proceeds of every sale so
10 made.

11 H. A person who engages in manufacturing, baling, crating, boxing,
12 barreling, canning, bottling, sacking, preserving, processing or otherwise
13 preparing for sale or commercial use any livestock, agricultural or
14 horticultural product or any other product, article, substance or
15 commodity and who sells the product of such business at retail in this
16 state is deemed, as to such sales, to be engaged in business classified
17 under the retail classification. This subsection does not apply to:

18 1. Agricultural producers who are owners, proprietors or tenants of
19 agricultural lands, orchards, farms or gardens where agricultural products
20 are grown, raised or prepared for market and who are marketing their own
21 agricultural products.

22 2. Businesses classified under the:

- 23 (a) Transporting classification.
- 24 (b) Utilities classification.
- 25 (c) Telecommunications classification.
- 26 (d) Pipeline classification.
- 27 (e) Private car line classification.
- 28 (f) Publication classification.
- 29 (g) Job printing classification.
- 30 (h) Prime contracting classification.
- 31 (i) Restaurant classification.

32 I. The gross proceeds of sales or gross income derived from the
33 following shall be deducted from the tax base for the retail
34 classification:

35 1. Sales made directly to the United States government or its
36 departments or agencies by a manufacturer, modifier, assembler or
37 repairer.

38 2. Sales made directly to a manufacturer, modifier, assembler or
39 repairer if such sales are of any ingredient or component part of products
40 sold directly to the United States government or its departments or
41 agencies by the manufacturer, modifier, assembler or repairer.

42 3. Overhead materials or other tangible personal property that is
43 used in performing a contract between the United States government and a
44 manufacturer, modifier, assembler or repairer, including property used in
45 performing a subcontract with a government contractor who is a

1 manufacturer, modifier, assembler or repairer, to which title passes to
2 the government under the terms of the contract or subcontract.

3 4. Sales of overhead materials or other tangible personal property
4 to a manufacturer, modifier, assembler or repairer if the gross proceeds
5 of sales or gross income derived from the property by the manufacturer,
6 modifier, assembler or repairer will be exempt under paragraph 3 of this
7 subsection.

8 J. There shall be deducted from the tax base fifty percent of the
9 gross proceeds or gross income from any sale of tangible personal property
10 made directly to the United States government or its departments or
11 agencies that is not deducted under subsection I of this section.

12 K. The department shall require every person claiming a deduction
13 provided by subsection I or J of this section to file on forms prescribed
14 by the department at such times as the department directs a sworn
15 statement disclosing the name of the purchaser and the exact amount of
16 sales on which the exclusion or deduction is claimed.

17 L. In computing the tax base, gross proceeds of sales or gross
18 income does not include:

19 1. A manufacturer's cash rebate on the sales price of a motor
20 vehicle if the buyer assigns the buyer's right in the rebate to the
21 retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 M. There shall be deducted from the tax base the amount received
24 from sales of solar energy devices. The retailer shall register with the
25 department as a solar energy retailer. By registering, the retailer
26 acknowledges that it will make its books and records relating to sales of
27 solar energy devices available to the department for examination.

28 N. In computing the tax base in the case of the sale or transfer of
29 wireless telecommunications equipment as an inducement to a customer to
30 enter into or continue a contract for telecommunications services that are
31 taxable under section 42-5064, gross proceeds of sales or gross income
32 does not include any sales commissions or other compensation received by
33 the retailer as a result of the customer entering into or continuing a
34 contract for the telecommunications services.

35 O. For the purposes of this section, a sale of wireless
36 telecommunications equipment to a person who holds the equipment for sale
37 or transfer to a customer as an inducement to enter into or continue a
38 contract for telecommunications services that are taxable under section
39 42-5064 is considered to be a sale for resale in the regular course of
40 business.

41 P. Retail sales of prepaid calling cards or prepaid authorization
42 numbers for telecommunications services, including sales of
43 reauthorization of a prepaid card or authorization number, are subject to
44 tax under this section.

1 Q. For the purposes of this section, the diversion of gas from a
2 pipeline by a person engaged in the business of:

3 1. Operating a natural or artificial gas pipeline, for the sole
4 purpose of fueling compressor equipment to pressurize the pipeline, is not
5 a sale of the gas to the operator of the pipeline.

6 2. Converting natural gas into liquefied natural gas, for the sole
7 purpose of fueling compressor equipment used in the conversion process, is
8 not a sale of gas to the operator of the compressor equipment.

9 R. For the purposes of this section, the transfer of title or
10 possession of coal from an owner or operator of a power plant to a person
11 in the business of refining coal is not a sale of coal if both of the
12 following apply:

13 1. The transfer of title or possession of the coal is for the
14 purpose of refining the coal.

15 2. The title or possession of the coal is transferred back to the
16 owner or operator of the power plant after completion of the coal refining
17 process. For the purposes of this paragraph, "coal refining process"
18 means the application of a coal additive system that aids in the reduction
19 of power plant emissions during the combustion of coal and the treatment
20 of flue gas.

21 S. If a seller is entitled to a deduction pursuant to subsection B,
22 paragraph 16, subdivision (b) of this section, the department may require
23 the purchaser to establish that the requirements of subsection B,
24 paragraph 16, subdivision (b) of this section have been satisfied. If the
25 purchaser cannot establish that the requirements of subsection B,
26 paragraph 16, subdivision (b) of this section have been satisfied, the
27 purchaser is liable in an amount equal to any tax, penalty and interest
28 that the seller would have been required to pay under article 1 of this
29 chapter if the seller had not made a deduction pursuant to subsection B,
30 paragraph 16, subdivision (b) of this section. Payment of the amount
31 under this subsection exempts the purchaser from liability for any tax
32 imposed under article 4 of this chapter and related to the tangible
33 personal property purchased. The amount shall be treated as transaction
34 privilege tax to the purchaser and as tax revenues collected from the
35 seller to designate the distribution base pursuant to section 42-5029.

36 T. For the purposes of section 42-5032.01, the department shall
37 separately account for revenues collected under the retail classification
38 from businesses selling tangible personal property at retail:

39 1. On the premises of a multipurpose facility that is owned, leased
40 or operated by the tourism and sports authority pursuant to title 5,
41 chapter 8.

42 2. At professional football contests that are held in a stadium
43 located on the campus of an institution under the jurisdiction of the
44 Arizona board of regents.

1 U. In computing the tax base for the sale of a motor vehicle to a
2 nonresident of this state, if the purchaser's state of residence allows a
3 corresponding use tax exemption to the tax imposed by article 1 of this
4 chapter and the rate of the tax in the purchaser's state of residence is
5 lower than the rate prescribed in article 1 of this chapter or if the
6 purchaser's state of residence does not impose an excise tax, and the
7 nonresident has secured a special ninety day nonresident registration
8 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
9 there shall be deducted from the tax base a portion of the gross proceeds
10 or gross income from the sale so that the amount of transaction privilege
11 tax that is paid in this state is equal to the excise tax that is imposed
12 by the purchaser's state of residence on the nonexempt sale or use of the
13 motor vehicle.

14 V. For the purposes of this section:

15 1. "Agricultural aircraft" means an aircraft that is built for
16 agricultural use for the aerial application of pesticides or fertilizer or
17 for aerial seeding.

18 2. "Aircraft" includes:

19 (a) An airplane flight simulator that is approved by the federal
20 aviation administration for use as a phase II or higher flight simulator
21 under appendix H, 14 Code of Federal Regulations part 121.

22 (b) Tangible personal property that is permanently affixed or
23 attached as a component part of an aircraft that is owned or operated by a
24 certificated or licensed carrier of persons or property.

25 3. "Other accessories and related equipment" includes aircraft
26 accessories and equipment such as ground service equipment that physically
27 contact aircraft at some point during the overall carrier operation.

28 4. "Selling at retail" means a sale for any purpose other than for
29 resale in the regular course of business in the form of tangible personal
30 property, but transfer of possession, lease and rental as used in the
31 definition of sale mean only such transactions as are found on
32 investigation to be in lieu of sales as defined without the words lease or
33 rental.

34 W. For the purposes of subsection I of this section:

35 1. "Assembler" means a person who unites or combines products,
36 wares or articles of manufacture so as to produce a change in form or
37 substance without changing or altering the component parts.

38 2. "Manufacturer" means a person who is principally engaged in
39 fabricating, producing or manufacturing products, wares or articles for
40 use from raw or prepared materials, imparting to those materials new
41 forms, qualities, properties and combinations.

42 3. "Modifier" means a person who reworks, changes or adds to
43 products, wares or articles of manufacture.

1 4. "Overhead materials" means tangible personal property, the gross
2 proceeds of sales or gross income derived from that would otherwise be
3 included in the retail classification, and that are used or consumed in
4 performing a contract, the cost of which is charged to an overhead expense
5 account and allocated to various contracts based on generally accepted
6 accounting principles and consistent with government contract accounting
7 standards.

8 5. "Repairer" means a person who restores or renews products, wares
9 or articles of manufacture.

10 6. "Subcontract" means an agreement between a contractor and any
11 person who is not an employee of the contractor for furnishing supplies or
12 services that, in whole or in part, are necessary to perform one or more
13 government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken
15 or assumed and that includes provisions causing title to overhead
16 materials or other tangible personal property used in performing the
17 subcontract to pass to the government or that includes provisions
18 incorporating such title passing clauses in a government contract into the
19 subcontract.

20 Sec. 14. Rulemaking exemption

21 Notwithstanding any other law, for the purposes of this act, the
22 department of health services is exempt from the rulemaking requirements
23 of title 41, chapter 6, Arizona Revised Statutes, for thirty-six months
24 after the effective date of this act.

25 Sec. 15. Requirements for enactment; three-fourths vote

26 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
27 sections 36-2801, 36-2801.01, 36-2803, 36-2804.02, 36-2804.05, 36-2817,
28 36-2822, 36-2854, 36-2854.01 and 36-2856, Arizona Revised Statutes, as
29 amended by this act, and sections 36-2803.03 and 36-2806.03, Arizona
30 Revised Statutes, as added by this act, are effective only on the
31 affirmative vote of at least three-fourths of the members of each house of
32 the legislature.