

House Engrossed Senate Bill

~~housing trust fund; rural areas~~  
(now: marijuana; licensing; delivery)

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SENATE BILL 1410

AN ACT

AMENDING SECTION 36-2854, ARIZONA REVISED STATUTES; RELATING TO MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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

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

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

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

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

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

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

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

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

1 prominently publicize the random selection on its website and through  
2 other means of general distribution intended to reach as many interested  
3 parties as possible and shall provide notice through an email notification  
4 system to which interested parties can subscribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (iii) The sale and purchase of marijuana and marijuana products  
2 between licensees.

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

5 (v) The disposal of marijuana waste.

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

9 (vii) Any other information that the department determines is  
10 reasonably necessary 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.

1           9. The creation and implementation of a social equity ownership  
2 program to promote the ownership and operation of marijuana establishments  
3 and marijuana testing facilities by individuals from communities  
4 disproportionately impacted by the enforcement of previous marijuana laws.

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

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

21           B. The department may:

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

27           (a) Violates this chapter or any rule adopted pursuant to this  
28 chapter.

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

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

42           3. At any time during regular hours of operation, visit and inspect  
43 a marijuana establishment, marijuana testing facility or dual licensee to  
44 determine if it complies with this chapter and rules adopted pursuant to

1 this chapter. The department shall make at least one unannounced visit  
2 annually to each facility licensed pursuant to this chapter.

3 4. Adopt any other rules that are not expressly stated in this  
4 section and that are necessary to ensure the safe and responsible  
5 cultivation, sale, processing, manufacture, testing and transport of  
6 marijuana and marijuana products.

7 C. Until the department adopts rules ~~permitting~~ ALLOWING and  
8 regulating delivery by marijuana establishments pursuant to subsection D  
9 of this section, delivery is unlawful under this chapter.

10 D. On or after January 1, 2023, the department may, and not later  
11 than January 1, 2025 the department shall, adopt rules to ~~permit~~ ALLOW and  
12 regulate delivery by marijuana establishments. The rules shall:

13 1. Require that delivery and the marijuana and marijuana products  
14 to be delivered originate from a designated retail location of a marijuana  
15 establishment and only after an order is made with the marijuana  
16 establishment by a consumer. ~~THE RULES MAY NOT LIMIT THE DISTANCE BETWEEN~~  
17 ~~THE DELIVERY LOCATION AND THE ORIGINATING DESIGNATED RETAIL LOCATION OF~~  
18 ~~THE MARIJUANA ESTABLISHMENT.~~

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

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

25 4. Prohibit extra or unallocated marijuana or marijuana products in  
26 delivery vehicles.

27 5. Require that deliveries be made only by marijuana facility  
28 agents in unmarked vehicles that are equipped with a global positioning  
29 system or similar location tracking system and video surveillance and  
30 recording equipment, and that contain a locked compartment in which  
31 marijuana and marijuana products must be stored. ~~THE RULES MAY NOT LIMIT~~  
32 ~~THE NUMBER OF VEHICLES THAT A MARIJUANA ESTABLISHMENT MAY USE FOR~~  
33 ~~DELIVERY.~~

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

36 7. Require inspections to ensure compliance with this subsection  
37 and rules adopted pursuant to this subsection.

38 8. Include any other provisions necessary to ensure safe and  
39 restricted delivery.

40 9. Require dual licensees to comply with the rules adopted pursuant  
41 to this subsection.

1 E. Except as provided in subsection D of this section, the  
2 department may not ~~permit~~ ALLOW delivery of marijuana or marijuana  
3 products under this chapter by any individual or entity. In addition to  
4 any other penalty imposed by law, an individual or entity that delivers  
5 marijuana or marijuana products in a manner that is not authorized by this  
6 chapter shall pay a civil penalty of \$20,000 per violation to the smart  
7 and safe Arizona fund established by section 36-2856. This subsection may  
8 be enforced by the attorney general.

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

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

12 1. Prohibits the operation of marijuana establishments, either  
13 expressly or through requirements that make the operation of a marijuana  
14 establishment unduly burdensome.

15 2. Prohibits or interferes with the ability of a dual licensee to  
16 operate a marijuana establishment and a nonprofit medical marijuana  
17 dispensary at shared locations.

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

21 1. Defending this chapter or rules adopted pursuant to this  
22 chapter.

23 2. Defending chapter 28.1 of this title or rules adopted pursuant  
24 to chapter 28.1 of this title.

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

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

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

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

35 2. Operate a marijuana testing facility.

36 L. The department shall maintain and publish a current list of all  
37 marijuana establishments and marijuana testing facilities by name and  
38 license number.

39 M. Notwithstanding any other law, the issuance of an occupational,  
40 professional or other regulatory license or certification to a person by a  
41 jurisdiction or regulatory authority outside this state does not entitle  
42 that person to be issued a marijuana establishment license, a marijuana  
43 testing facility license, or any other license, registration or  
44 certification under this chapter.

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

3 1. A marijuana testing facility is prohibited from having any  
4 direct or indirect familial relationship with or financial ownership  
5 interest in a marijuana establishment or related marijuana business entity  
6 or management company.

7 2. A marijuana establishment is prohibited from having any direct  
8 or indirect familial relationship with or financial ownership interest in  
9 a marijuana testing facility or related marijuana business entity or  
10 management company.

11 Sec. 2. Requirements for enactment; three-fourths vote

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