

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1410

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Subject to the requirements of article IV, part 1,  
3 section 1, Constitution of Arizona, section 36-2850, Arizona Revised  
4 Statutes, is amended to read:

5 36-2850. Definitions

6 In this chapter, unless the context requires otherwise:

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 2. "Child-resistant" means designed or constructed to be  
12 significantly difficult for children under five years of age to open, ~~and~~ and  
13 not difficult for normal adults to use properly.

14 3. "Consume," "consuming" and "consumption" mean the act of  
15 ingesting, inhaling or otherwise introducing marijuana into the human body.

16 4. "Consumer" means an individual who is at least twenty-one years  
17 of age and who purchases marijuana or marijuana products.

18 5. "Cultivate" and "cultivation" mean to propagate, breed, grow,  
19 prepare and package marijuana.

20 6. "Deliver" and "delivery" mean the transportation, transfer or  
21 provision of marijuana or marijuana products to a consumer at a location  
22 other than the designated retail location of a marijuana establishment.

1           7. "Department" means the department of health services or its  
2 successor agency.

3           8. "Designated caregiver" has the same meaning prescribed in section  
4 36-2801.

5           9. "Dual licensee" means an entity that holds both a nonprofit  
6 medical marijuana dispensary registration and a marijuana establishment  
7 license.

8           10. "Early applicant" means either of the following:

9           (a) An entity seeking to operate a marijuana establishment in a  
10 county with fewer than two registered nonprofit medical marijuana  
11 dispensaries.

12           (b) A nonprofit medical marijuana dispensary that is registered and  
13 in good standing with the department.

14           11. "Employee," "employer," "health care facility," and "places of  
15 employment" have the same meanings prescribed in ~~the smoke-free Arizona~~  
16 ~~act~~, section 36-601.01.

17           12. "Excluded felony offense" has the same meaning prescribed in  
18 section 36-2801.

19           13. "Good standing" means that a nonprofit medical marijuana  
20 dispensary is not the subject of a pending notice of intent to revoke  
21 issued by the department.

22           14. "Independent third-party laboratory" has the same meaning  
23 prescribed in section 36-2801.

24           15. "Industrial hemp" has the same meaning prescribed in section  
25 3-311.

26           16. "Licensee" means a person that obtains a license pursuant to  
27 section 36-2854.

28           17. "Locality" means a city, town or county.

1           18. "Manufacture" and "manufacturing" mean to compound, blend,  
2 extract, infuse or otherwise make or prepare a marijuana product.

3           19. "Marijuana":

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

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

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

14           20. "Marijuana concentrate":

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

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

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

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

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

1 (c) A single off-site location at which the licensee may manufacture  
2 marijuana products and package and store marijuana and marijuana products,  
3 but from which marijuana and marijuana products may not be ~~transferred or~~  
4 sold to consumers.

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

9 23. "Marijuana ~~products~~ PRODUCT" means marijuana concentrate and  
10 ~~products~~ ANY PRODUCT that ~~are~~ IS composed of marijuana and other  
11 ingredients and that ~~are~~ IS intended for use or consumption, including  
12 edible products, ointments and tinctures.

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

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

18 26. "Nonprofit medical marijuana dispensary agent" has the same  
19 meaning prescribed in section 36-2801.

20 27. "Open space" means a public park, public sidewalk, public  
21 walkway or public pedestrian thoroughfare.

22 28. "Process" and "processing" mean to harvest, dry, cure, trim or  
23 separate parts of the marijuana plant.

24 29. "Public place" has the same meaning prescribed in section  
25 36-601.01.

26 30. "Qualifying patient" has the same meaning prescribed in section  
27 36-2801.

28 31. "Smoke" means to inhale, exhale, burn, carry or possess any  
29 lighted marijuana or lighted marijuana products, whether natural or  
30 synthetic.

1           Sec. 2. 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 include  
9 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 two  
24 marijuana establishments per county that contains no registered nonprofit  
25 medical marijuana dispensaries, or one marijuana establishment license per  
26 county that contains one registered nonprofit medical marijuana dispensary.  
27 Any license issued pursuant to this subdivision shall be for a fixed county  
28 and may not be relocated outside of that county.

29           (d) The department shall accept applications for marijuana  
30 establishment licenses from early applicants beginning January 19, 2021  
31 through March 9, 2021. Not later than sixty days after receiving an  
32 application pursuant to this subdivision, the department shall issue a

1 marijuana establishment license to each qualified early applicant. If the  
2 department has not adopted final rules pursuant to this section at the time  
3 marijuana establishment licenses are issued pursuant to this subdivision,  
4 licensees shall comply with the rules adopted by the department to  
5 implement chapter 28.1 of this title except those that are inconsistent  
6 with this chapter.

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

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

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

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

28 (ii) The date of the nonprofit medical marijuana dispensary  
29 registration renewal.

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

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

11 3. The security of marijuana establishments and marijuana testing  
12 facilities.

13 4. Marijuana establishments to safely cultivate, process and  
14 manufacture marijuana and marijuana products. ~~Not later than December 31,~~  
15 ~~2023,~~ The department shall require licensees to procure, develop, acquire  
16 and maintain a system to track marijuana and marijuana products at all  
17 points of cultivation, manufacturing and sale. The system developed and  
18 maintained pursuant to this paragraph shall:

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

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

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

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

25 (ii) The processing of marijuana and marijuana products by a  
26 marijuana establishment.

27 (iii) The sale and purchase of marijuana and marijuana products  
28 between licensees.

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

1 (v) The disposal of marijuana waste.

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

5 (vii) Any other information that the department determines is  
6 reasonably necessary to accomplish the duties, functions and powers of the  
7 department.

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

11 5. Tracking, testing, labeling consistent with section 36-2854.01  
12 and packaging marijuana and marijuana products, including requirements that  
13 marijuana and marijuana products be:

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

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

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

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

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



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

5 8. Ensuring the health, safety and training of employees of  
6 marijuana establishments and marijuana testing facilities.

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

11 10. Prohibiting a marijuana testing facility from having any direct  
12 or indirect familial relationship with or financial ownership interest in a  
13 marijuana establishment or related marijuana business entity or management  
14 company. The rules shall include prohibiting a marijuana establishment  
15 from having any direct or indirect familial relationship with or financial  
16 ownership interest in a marijuana testing facility or related marijuana  
17 business entity or management company.

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

26 B. The department may:

27 1. Subject to title 41, chapter 6, article 10, deny any application  
28 submitted or deny, suspend or revoke, in whole or in part, any  
29 registration or license issued under this chapter if the registered or  
30 licensed party or an officer, agent or employee of the registered or  
31 licensed party does any of the following:

1 (a) Violates this chapter or any rule adopted pursuant to this  
2 chapter.

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

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

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

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

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

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

31 1. Require that delivery and the marijuana and marijuana products to  
32 be delivered originate from a designated retail location of a marijuana

1 establishment and only after an order is made with the marijuana  
2 establishment by a consumer. **THE RULES MAY NOT LIMIT THE DISTANCE BETWEEN**  
3 **THE DELIVERY LOCATION AND THE ORIGINATING DESIGNATED RETAIL LOCATION OF THE**  
4 **MARIJUANA ESTABLISHMENT.**

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

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

11 4. Prohibit extra or unallocated marijuana or marijuana products in  
12 delivery vehicles.

13 5. Require that deliveries be made only by marijuana facility agents  
14 in unmarked vehicles that are equipped with a global positioning system or  
15 similar location tracking system and video surveillance and recording  
16 equipment, and that contain a locked compartment in which marijuana and  
17 marijuana products must be stored. **THE RULES MAY NOT LIMIT THE NUMBER OF**  
18 **VEHICLES THAT A MARIJUANA ESTABLISHMENT MAY USE FOR DELIVERY.**

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

21 7. Require inspections to ensure compliance with this subsection and  
22 rules adopted pursuant to this subsection.

23 8. Include any other provisions necessary to ensure safe and  
24 restricted delivery.

25 9. Require dual licensees to comply with the rules adopted pursuant  
26 to this subsection.

27 E. Except as provided in subsection D of this section, the  
28 department may not ~~permit~~ **ALLOW** delivery of marijuana or marijuana products  
29 under this chapter by any individual or entity. In addition to any other  
30 penalty imposed by law, an individual or entity that delivers marijuana or  
31 marijuana products in a manner that is not authorized by this chapter shall  
32 pay a civil penalty of \$20,000 per violation to the smart and safe Arizona

1 fund established by section 36-2856. This subsection may be enforced by  
2 the attorney general.

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

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

6 1. Prohibits the operation of marijuana establishments, either  
7 expressly or through requirements that make the operation of a marijuana  
8 establishment unduly burdensome.

9 2. Prohibits or interferes with the ability of a dual licensee to  
10 operate a marijuana establishment and a nonprofit medical marijuana  
11 dispensary at shared locations.

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

15 1. Defending this chapter or rules adopted pursuant to this chapter.

16 2. Defending chapter 28.1 of this title or rules adopted pursuant to  
17 chapter 28.1 of this title.

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

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

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

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

28 2. Operate a marijuana testing facility.

29 L. The department shall maintain and publish a current list of all  
30 marijuana establishments and marijuana testing facilities by name and  
31 license number.

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

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

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

13 2. A marijuana establishment is prohibited from having any direct or  
14 indirect familial relationship with or financial ownership interest in a  
15 marijuana testing facility or related marijuana business entity or  
16 management company.

17 Sec. 3. Subject to the requirements of article IV, part 1,  
18 section 1, Constitution of Arizona, title 41, chapter 1, article 1, Arizona  
19 Revised Statutes, is amended by adding section 41-116, to read:

20 41-116. Marijuana: cross-jurisdictional coordination  
21 agreements; definitions

22 A. THE GOVERNOR MAY ENTER INTO AN AGREEMENT WITH ANOTHER STATE FOR  
23 THE PURPOSES OF BOTH OF THE FOLLOWING:

24 1. CROSS-JURISDICTIONAL COORDINATION AND ENFORCEMENT OF  
25 MARIJUANA-RELATED BUSINESSES AUTHORIZED TO CONDUCT BUSINESS IN EITHER THIS  
26 STATE OR THE OTHER STATE.

27 2. CROSS-JURISDICTIONAL DELIVERY OF MARIJUANA AND MARIJUANA PRODUCTS  
28 BETWEEN THIS STATE AND THE OTHER STATE.

29 B. AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION:

30 1. MUST ENSURE ENFORCEABLE PUBLIC HEALTH AND SAFETY STANDARDS AND  
31 INCLUDE A SYSTEM TO REGULATE AND TRACK THE INTERSTATE DELIVERY OF MARIJUANA  
32 AND MARIJUANA PRODUCTS.

1           2. MUST ENSURE THAT ANY MARIJUANA AND MARIJUANA PRODUCTS DELIVERED  
2 INTO THIS STATE, BEFORE SALE TO A CONSUMER, ARE:

3           (a) TESTED IN ACCORDANCE PURSUANT TO THIS CHAPTER.

4           (b) PACKAGED AND LABELED IN ACCORDANCE PURSUANT TO THIS CHAPTER.

5           3. MAY AUTHORIZE ONE OR MORE AGENCIES OF THIS STATE TO PROVIDE  
6 POLICY RECOMMENDATIONS AND ASSIST IN IMPLEMENTING AND ENFORCING OF THE  
7 TERMS OF THE AGREEMENT.

8           C. IN ACCORDANCE WITH AN AGREEMENT AS PRESCRIBED IN THIS SECTION:

9           1. A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE MAY DELIVER MARIJUANA  
10 AND MARIJUANA PRODUCTS TO A PERSON LOCATED IN AND AUTHORIZED TO RECEIVE  
11 MARIJUANA AND MARIJUANA PRODUCTS FROM THE OTHER STATE.

12           2. A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE MAY RECEIVE MARIJUANA  
13 AND MARIJUANA PRODUCTS FROM A PERSON LOCATED IN AND AUTHORIZED TO EXPORT  
14 MARIJUANA AND MARIJUANA PRODUCTS BY THE OTHER STATE.

15           D. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE", "MARIJUANA",  
16 "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS  
17 PRESCRIBED IN SECTION 36-2850.

18           Sec. 4. Conditional enactment; notice

19           A. Section 41-116, Arizona Revised Statutes, as added by this act,  
20 does not become effective unless on or before October 1, 2028 either of the  
21 following occurs:

22           1. Federal law is amended to allow for the interstate transfer of  
23 marijuana and marijuana products between authorized marijuana-related  
24 businesses.

25           2. The United States department of justice issues an opinion or  
26 memorandum allowing or tolerating the interstate transfer of marijuana and  
27 marijuana products between authorized marijuana-related businesses.

28           B. The director of the department of health services shall notify  
29 the director of the Arizona legislative council in writing on or before  
30 November 1, 2028 either:

31           1. Of the date on which the condition prescribed in subsection A,  
32 paragraph 1 or 2 of this section was met.

1           2. That neither condition was met.  
2           Sec. 5. Requirements for enactment; three-fourths vote  
3           Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
4           sections 36-2850 and 36-2854, Arizona Revised Statutes, as amended by this  
5           act, and section 41-116, Arizona Revised Statutes, as added by this act,  
6           are effective only on the affirmative vote of at least three-fourths of the  
7           members of each house of the legislature."  
8 Amend title to conform

LUPE DIAZ

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