

REFERENCE TITLE: marijuana producers; licensure

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1641

Introduced by
Senator Payne

AN ACT

AMENDING SECTIONS 36-2850, 36-2854, 36-2857, 36-2858, 36-2859, 36-2860, 36-2861, 36-2864 AND 36-2865, 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 36-2850, 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
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
16 body.

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

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

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

24 7. "Department" means the department of health services or its
25 successor agency.

26 8. "Designated caregiver" has the same meaning prescribed in
27 section 36-2801.

28 9. "Dual licensee" means an entity that holds both a nonprofit
29 medical marijuana dispensary registration and a marijuana establishment
30 license.

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

32 (a) An entity seeking to operate a marijuana establishment in a
33 county with fewer than two registered nonprofit medical marijuana
34 dispensaries.

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

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

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

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

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

3 15. "Industrial hemp" has the same meaning prescribed in section
4 3-311.

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

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

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

10 19. "Marijuana":

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

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

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

21 20. "Marijuana concentrate":

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

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

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

30 (a) A single retail location at which the licensee may sell
31 marijuana and marijuana products to consumers, cultivate marijuana and
32 manufacture marijuana products.

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

37 (c) A single off-site location at which the licensee may
38 manufacture marijuana products and package and store marijuana and
39 marijuana products, but from which marijuana and marijuana products may
40 not be transferred or sold to consumers.

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

23. "MARIJUANA PRODUCER" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT TO OPERATE A SINGLE LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA, MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

~~23.~~ 24. "Marijuana ~~products~~ PRODUCT" means marijuana concentrate and ~~products~~ ANY PRODUCT that ~~are~~ IS composed of marijuana and other ingredients and that ~~are~~ IS intended for use or consumption, including edible products, ointments and tinctures.

~~24.~~ 25. "Marijuana testing facility" means the department or another entity that is licensed by the department to analyze the potency of marijuana and test marijuana for harmful contaminants.

~~25.~~ 26. "Nonprofit medical marijuana dispensary" has the same meaning prescribed in section 36-2801.

~~26.~~ 27. "Nonprofit medical marijuana dispensary agent" has the same meaning prescribed in section 36-2801.

~~27.~~ 28. "Open space" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

~~28.~~ 29. "Process" and "processing" mean to harvest, dry, cure, trim or separate parts of the marijuana plant.

~~29.~~ 30. "Public place" has the same meaning prescribed in section 36-601.01.

~~30.~~ 31. "Qualifying patient" has the same meaning prescribed in section 36-2801.

~~31.~~ 32. "Smoke" means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

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

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

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

1. Licensing marijuana establishments, MARIJUANA PRODUCERS and marijuana testing facilities, including conducting investigations and background checks to determine eligibility for licensing for marijuana

establishment, **MARIJUANA PRODUCER** and marijuana testing facility applicants, except that:

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

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

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

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

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

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

(g) BEGINNING JANUARY 1, 2029, THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA PRODUCER LICENSES. UNTIL JANUARY 1, 2032, THE DEPARTMENT SHALL ACCEPT APPLICATIONS ONLY FROM ENTITIES THAT CONTRACTED ON OR BEFORE JANUARY 1, 2026 WITH A MARIJUANA ESTABLISHMENT, A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MANAGEMENT COMPANY FOR A MARIJUANA ESTABLISHMENT OR A NONPROFIT MEDICAL MARIJUANA DISPENSARY TO HAVE A RIGHT TO CULTIVATE MARIJUANA OR MANUFACTURE MARIJUANA PRODUCTS AND KEEP ALL OR SUBSTANTIALLY ALL OF THE PROFITS GENERATED FROM THAT CULTIVATION. UNTIL JANUARY 1, 2032, THE DEPARTMENT SHALL PROHIBIT THE TRANSFER OR SUBLEASE OF MARIJUANA PRODUCER LICENSES AND PROHIBIT ENTITIES THAT LACK A MARIJUANA PRODUCER LICENSE FROM CULTIVATING MARIJUANA OR MANUFACTURING MARIJUANA PRODUCTS AT MARIJUANA PRODUCER SITES. BEGINNING IN 2030, THE DEPARTMENT SHALL CONDUCT AN ANNUAL REVIEW OF MARKET CONDITIONS TO DETERMINE WHETHER CONSUMERS WOULD BENEFIT FROM THE ISSUANCE OF ADDITIONAL MARIJUANA PRODUCER LICENSES. IF MARKET CONDITIONS ARE SUCH THAT CONSUMERS WOULD BENEFIT FROM THE ISSUANCE OF ADDITIONAL MARIJUANA PRODUCER LICENSES, THE DEPARTMENT SHALL ISSUE AN APPROPRIATE NUMBER OF MARIJUANA PRODUCER LICENSES DURING THE YEAR FOLLOWING THE DEPARTMENT'S REVIEW. UNLESS SPECIFICALLY IDENTIFIED IN THIS CHAPTER, THE DEPARTMENT SHALL NOT IMPOSE ANY RESTRICTIONS OR OBLIGATIONS ON MARIJUANA PRODUCERS THAT ARE NOT IMPOSED ON MARIJUANA ESTABLISHMENTS.

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

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

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

~~(h)~~ (i) The department may not issue a marijuana establishment, MARIJUANA PRODUCER or marijuana testing facility license to an applicant who has an ownership interest in an out-of-state marijuana establishment, MARIJUANA PRODUCER or marijuana testing facility, or the other state's equivalent, that has had its license revoked by the other state.

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

3. The security of marijuana establishments, MARIJUANA PRODUCERS and marijuana testing facilities.

4. Marijuana establishments AND MARIJUANA PRODUCERS to safely cultivate, process and manufacture marijuana and marijuana products. The

1 department shall require licensees to procure, develop, acquire and
2 maintain a system to track marijuana and marijuana products at all points
3 of cultivation, manufacturing and sale, **AS APPLICABLE**. The system
4 developed and maintained 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 marijuana establishment **OR MARIJUANA PRODUCER**.

11 (ii) The processing of marijuana and marijuana products by a
12 marijuana establishment **OR MARIJUANA PRODUCER**.

13 (iii) The sale and purchase of marijuana and marijuana products
14 between licensees.

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

17 (v) The disposal of marijuana waste.

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

21 (vii) Any other information that the department determines is
22 reasonably necessary to accomplish the duties, functions and powers of the
23 department.

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

27 5. Tracking, testing, labeling consistent with section 36-2854.01
28 and packaging marijuana and marijuana products, including requirements
29 that marijuana and marijuana products be:

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

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

35 6. Forms of government-issued identification that are acceptable by
36 a marijuana establishment verifying a consumer's age and procedures
37 related to verifying a consumer's age consistent with section 4-241.
38 Until the department adopts final rules related to verifying a consumer's
39 age, marijuana establishments shall comply with the proof of legal age
40 requirements prescribed in section 4-241.

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

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

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

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

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

14 10. Prohibiting a marijuana testing facility from having any direct
15 or indirect familial relationship with or financial ownership interest in
16 a marijuana establishment, MARIJUANA PRODUCER or related marijuana
17 business entity or management company. The rules shall include
18 prohibiting a marijuana establishment OR MARIJUANA PRODUCER from having
19 any direct or indirect familial relationship with or financial ownership
20 interest in a marijuana testing facility or related marijuana business
21 entity or management company.

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

31 B. The department may:

32 1. Subject to title 41, chapter 6, article 10, deny any application
33 submitted or deny, suspend or revoke, in whole or in part, any
34 registration or license issued under this chapter if the registered or
35 licensed party or an officer, agent or employee of the registered or
36 licensed party does any of the following:

37 (a) Violates this chapter or any rule adopted pursuant to this
38 chapter.

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

42 2. Subject to title 41, chapter 6, article 10, and unless another
43 penalty is provided elsewhere in this chapter, assess a civil penalty
44 against a person that violates this chapter or any rule adopted pursuant
45 to this chapter in an amount not to exceed \$2,000 for each violation.

Each day a violation occurs constitutes a separate violation. In determining the amount of a civil penalty assessed against a person, the department shall consider all of the factors set forth in section 36-2816, subsection H. All civil penalties collected by the department pursuant to this paragraph shall be deposited in the smart and safe Arizona fund established by section 36-2856.

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

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

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

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

1. Require that delivery and the marijuana and marijuana products to be delivered originate from a designated retail location of a marijuana establishment and only after an order is made with the marijuana establishment by a consumer. The rules may not limit the distance between the delivery location and the originating designated retail location of the marijuana establishment.

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

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

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

5. Require that deliveries be made only by marijuana facility agents in unmarked vehicles that are equipped with a global positioning system or similar location tracking system and video surveillance and recording equipment, and that contain a locked compartment in which marijuana and marijuana products must be stored. The rules may not limit the number of vehicles that a marijuana establishment may use for delivery.

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

1 7. Require inspections to ensure compliance with this subsection
2 and rules adopted pursuant to this subsection.

3 8. Include any other provisions necessary to ensure safe and
4 restricted delivery.

5 9. Require dual licensees to comply with the rules adopted pursuant
6 to this subsection.

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

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

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

18 1. Prohibits the operation of marijuana establishments OR MARIJUANA
19 PRODUCERS, either expressly or through requirements that make the
20 operation of a marijuana establishment OR MARIJUANA PRODUCER unduly
21 burdensome.

22 2. Prohibits or interferes with the ability of a dual licensee to
23 operate a marijuana establishment and a nonprofit medical marijuana
24 dispensary at shared locations.

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

28 1. Defending this chapter or rules adopted pursuant to this
29 chapter.

30 2. Defending chapter 28.1 of this title or rules adopted pursuant
31 to chapter 28.1 of this title.

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

35 J. On request, the department of health services shall share with
36 the department of revenue information regarding a marijuana establishment,
37 marijuana testing facility or dual licensee, including its name, physical
38 address, cultivation site and transaction privilege tax license number.

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

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

42 2. Operate a marijuana testing facility.

43 L. The department shall maintain and publish a current list of all
44 marijuana establishments, MARIJUANA PRODUCERS and marijuana testing
45 facilities by name and 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
10 direct or indirect familial relationship with or financial ownership
11 interest in a marijuana establishment, MARIJUANA PRODUCER or related
12 marijuana business entity or management company.

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

17 Sec. 3. Subject to the requirements of article IV, part 1, section
18 1, Constitution of Arizona, section 36-2857, Arizona Revised Statutes, is
19 amended to read:

20 36-2857. Localities; marijuana establishments, marijuana
21 producers and marijuana testing facilities

22 A. A locality may:

23 1. Enact reasonable zoning regulations that limit the use of land
24 for marijuana establishments, MARIJUANA PRODUCERS and marijuana testing
25 facilities to specified areas.

26 2. Limit the number of marijuana establishments, MARIJUANA
27 PRODUCERS or marijuana testing facilities, or ~~both~~ ANY COMBINATION
28 THEREOF.

29 3. Prohibit marijuana establishments, MARIJUANA PRODUCERS or
30 marijuana testing facilities, or ~~both~~ ANY COMBINATION THEREOF.

31 4. Regulate the time, place and manner of marijuana establishment,
32 MARIJUANA PRODUCER and marijuana testing facility operations.

33 5. Establish reasonable restrictions on public signage regarding
34 marijuana, marijuana establishments, MARIJUANA PRODUCERS and marijuana
35 testing facilities.

36 6. Prohibit or restrict delivery within ~~its~~ THE LOCALITY'S
37 jurisdiction.

38 B. A county may exercise its authority pursuant to subsection A of
39 this section only in unincorporated areas of the county.

40 C. A locality may not enact any ordinance, regulation or rule that:

41 1. Is more restrictive than a comparable ordinance, regulation or
42 rule that applies to nonprofit medical marijuana dispensaries.

43 2. Makes the operation of a marijuana establishment, MARIJUANA
44 PRODUCER or marijuana testing facility unduly burdensome if the locality

1 has not prohibited marijuana establishments, MARIJUANA PRODUCERS or
2 marijuana testing facilities.

3 3. Conflicts with this chapter or rules adopted pursuant to this
4 chapter.

5 4. Prohibits the transportation of marijuana by a marijuana
6 establishment, MARIJUANA PRODUCER or marijuana testing facility on public
7 roads.

8 5. Restricts or interferes with the ability of a dual licensee or
9 an entity eligible to become a dual licensee to operate a nonprofit
10 medical marijuana dispensary and a marijuana establishment cooperatively
11 at shared locations.

12 6. Except as expressly authorized by this section or section
13 36-2851, prohibits or restricts any conduct or transaction allowed by this
14 chapter, or imposes any liability or penalty in addition to that
15 prescribed by this chapter for any conduct or transaction constituting a
16 violation of this chapter.

17 7. Allows a marijuana establishment to locate within five hundred
18 feet of a public or private school, a child care facility or a facility
19 that provides preschool programs.

20 Sec. 4. Subject to the requirements of article IV, part 1,
21 section 1, Constitution of Arizona, section 36-2858, Arizona Revised
22 Statutes, is amended to read:

23 36-2858. Lawful operation of marijuana establishments,
24 marijuana producers and marijuana testing
25 facilities

26 A. Except as specifically and expressly provided in section 36-2857
27 and notwithstanding any other law, it is lawful and is not an offense
28 under the laws of this state or any locality, may not constitute the basis
29 for detention, search or arrest, and may not constitute the sole basis for
30 seizure or forfeiture of assets or the basis for imposing penalties under
31 the laws of this state or any locality for:

32 1. A marijuana establishment, or an agent acting on behalf of a
33 marijuana establishment, to:

34 (a) Possess marijuana or marijuana products.

35 (b) Purchase, sell or transport marijuana and marijuana products to
36 or from a marijuana establishment OR MARIJUANA PRODUCER.

37 (c) Sell marijuana and marijuana products to consumers, except that
38 a marijuana establishment may not sell more than one ounce of marijuana to
39 a consumer in a single transaction, not more than five grams of which may
40 be in the form of marijuana concentrate.

41 (d) Cultivate, produce, test or process marijuana or manufacture
42 marijuana or marijuana products by any means, including chemical
43 extraction or chemical synthesis.

44 2. An agent acting on behalf of a marijuana establishment to sell
45 or otherwise transfer marijuana to an individual under twenty-one years of

age, if the agent reasonably verified that the individual appeared to be twenty-one years of age or older by means of a government-issued photographic identification in compliance with rules adopted pursuant to section 36-2854, subsection A, paragraph 6.

3. A MARIJUANA PRODUCER, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA PRODUCER, TO:

- (a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.
- (b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT OR MARIJUANA PRODUCER.
- (c) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS, INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.

~~3.~~ 4. A marijuana testing facility, or an agent acting on behalf of a marijuana testing facility, to obtain, possess, process, repackage, transfer, transport or test marijuana and marijuana products.

~~4.~~ 5. A nonprofit medical marijuana dispensary or a marijuana establishment, or an agent acting on behalf of a nonprofit medical marijuana dispensary or a marijuana establishment, to sell or otherwise transfer marijuana or marijuana products to a nonprofit medical marijuana dispensary, a marijuana establishment or an agent acting on behalf of a nonprofit medical marijuana dispensary or a marijuana establishment.

~~5.~~ 6. Any individual, corporation or other entity to sell, lease or otherwise allow property or goods that are owned, managed or controlled by the individual, corporation or other entity to be used for any activity authorized by this chapter, or to provide services to a marijuana establishment, or marijuana testing facility, or AN agent acting on behalf of a marijuana establishment or marijuana testing facility, in connection with any activity authorized by this chapter.

B. This section does not preclude the department from imposing penalties against a marijuana establishment, MARIJUANA PRODUCER or marijuana testing facility for failing to comply with this chapter or rules adopted pursuant to this chapter.

C. A marijuana establishment OR MARIJUANA PRODUCER may be owned or operated by a publicly traded company.

D. Notwithstanding any other law, a dual licensee:

1. May hold a marijuana establishment license and operate a marijuana establishment pursuant to this chapter.

2. May operate on a for-profit basis if the dual licensee promptly notifies the department and department of revenue and takes any actions necessary to enable its for-profit operation, including converting its corporate form and amending its organizational and operating documents.

3. Must continue to hold both its marijuana establishment license and nonprofit medical marijuana dispensary registration, regardless of any change in ownership of the dual licensee, unless it terminates its status as a dual licensee and forfeits either its marijuana establishment license

1 or nonprofit medical marijuana dispensary registration by notifying the
2 department of such a termination and forfeiture.

3 4. Is not required to:

4 (a) Employ or contract with a medical director.

5 (b) Obtain nonprofit medical marijuana dispensary agent or
6 marijuana facility agent registrations for outside vendors that do not
7 have regular, unsupervised access to the interior of the dual licensee's
8 premises.

9 (c) Have a single secure entrance as required by section 36-2806,
10 subsection C, but may be required to implement appropriate security
11 measures to deter and prevent the theft of marijuana and to reasonably
12 regulate customer access to the premises.

13 (d) Comply with any other provision of chapter 28.1 of this title
14 or any rule adopted pursuant to chapter 28.1 of this title that makes its
15 operation as a dual licensee unduly burdensome.

16 E. Notwithstanding any other law, a dual licensee that elects to
17 operate on a for-profit basis pursuant to subsection D, paragraph 2 of
18 this section:

19 1. Is subject to the taxes imposed pursuant to title 43.

20 2. Is not required to submit its annual financial statements or an
21 audit report to the department for purposes of renewing its nonprofit
22 medical marijuana dispensary registration.

23 F. Notwithstanding any other law, a dual licensee must conduct both
24 of the following operations at a shared location:

25 1. Sell marijuana and marijuana products to consumers pursuant to
26 this chapter.

27 2. Dispense marijuana to registered qualifying patients and
28 registered designated caregivers pursuant to chapter 28.1 of this title.

29 G. Notwithstanding chapter 28.1 of this title or any rule adopted
30 pursuant to chapter 28.1 of this title, a dual licensee may engage in any
31 act, practice, conduct or transaction allowed for a marijuana
32 establishment by this chapter.

33 H. Notwithstanding any other law:

34 1. An individual may be an applicant, principal officer or board
35 member of more than one marijuana establishment or more than one dual
36 licensee regardless of the establishment's location.

37 2. Two or more marijuana establishments, MARIJUANA PRODUCERS or
38 dual licensees may designate a single off-site location as prescribed in
39 section 36-2850, paragraph 21, subdivision (c) to be jointly used by those
40 dual licensees, MARIJUANA PRODUCERS or marijuana establishments.

41 I. Marijuana establishments, MARIJUANA PRODUCERS, marijuana testing
42 facilities and dual licensees that are subject to applicable federal or
43 state antidiscrimination laws may not pay their employees differently
44 based solely on a protected class status such as sex, race, color,
45 religion, national origin, age or disability. This subsection does not

1 expand or modify the jurisdictional reach, provisions or requirements of
2 any applicable antidiscrimination law.

3 Sec. 5. Subject to the requirements of article IV, part 1,
4 section 1, Constitution of Arizona, section 36-2859, Arizona Revised
5 Statutes, is amended to read:

6 36-2859. Advertising; restrictions; warning; enforcement;
7 civil penalty; exception

8 A. A marijuana establishment, **MARIJUANA PRODUCER** or nonprofit
9 medical marijuana dispensary may advertise or authorize advertising for
10 marijuana or marijuana products in accordance with restrictions imposed by
11 this section.

12 B. An individual or entity that sells marijuana paraphernalia may
13 advertise or authorize advertising for marijuana paraphernalia in
14 accordance with restrictions imposed by this section.

15 C. A marijuana establishment, a nonprofit medical marijuana
16 dispensary or an individual or entity that sells marijuana paraphernalia
17 may engage in advertising but may not do any of the following:

18 1. Advertise marijuana or marijuana products, including marijuana
19 paraphernalia, to individuals who are under twenty-one years of age,
20 including advertising:

21 (a) With names that resemble or imitate food or drink brands that
22 are marketed to children.

23 (b) With images or likenesses of toys, cartoons or animated or
24 fictional characters, including Santa Claus, that are designed to appeal
25 to or encourage individuals who are under twenty-one years of age to
26 consume marijuana or marijuana products.

27 (c) With images or visual representations of the consumption of
28 marijuana or marijuana products.

29 (d) With the potency or tetrahydrocannabinol levels of the
30 marijuana or marijuana product.

31 (e) In a medium that specifically appeals to individuals who are
32 under twenty-one years of age such that the advertising has a special
33 attractiveness to individuals who are under twenty-one years of age beyond
34 general attractiveness for individuals who are at least twenty-one years
35 of age.

36 2. Advertise at, on or within public airports, public
37 transportation shelters, public buses, public trains, public shuttles or
38 public trams.

39 3. Advertise electronically, via social media or on a website,
40 unless at least 73.6 percent of the audience is expected to be at least
41 twenty-one years of age.

42 4. Advertise any health-related statement or statement regarding
43 the effects of marijuana consumption on health that is known to be untrue.

44 5. Sponsor any sporting event unless at least 73.6 percent of the
45 audience is expected to be at least twenty-one years of age or the

1 sponsored organization provides written approval. Any sponsorship
2 acknowledgment shall be in accordance with restrictions imposed by this
3 section.

4 D. All advertising pursuant to this section must contain the
5 following conspicuous and legible warning: "Do not use marijuana if you
6 are under twenty-one years of age or pregnant. Keep marijuana out of
7 reach of children." All printed warnings must occupy at least ten percent
8 of the advertising area and must be in black font on a white background,
9 except that billboard advertisement warnings shall be in a type size that
10 is at least ten percent of the largest type used in the advertisement.

11 E. A billboard advertisement under this section is prohibited
12 within one thousand radial feet of any child care center, church,
13 substance abuse recovery facility, public park, public playground or
14 public or private school that provides instruction to students in
15 preschool or kindergarten programs or any of grades one through twelve.
16 An individual or entity that violates this subsection, on notification by
17 the attorney general's office, has thirty days to comply with these
18 requirements. For circumstances beyond the control of the billboard
19 operator that may prevent removal within the prescribed time frame, the
20 advertisement must be removed as soon as safely and legally
21 practicable. An individual or entity that does not comply with this
22 subsection is subject to the civil penalties and disciplinary action
23 prescribed in this section.

24 F. An advertising platform may host advertising only if all of the
25 following apply:

26 1. The advertising is authorized by a marijuana establishment,
27 MARIJUANA PRODUCER or nonprofit medical marijuana dispensary.

28 2. The advertising accurately and legibly identifies the marijuana
29 establishment, MARIJUANA PRODUCER or nonprofit medical marijuana
30 dispensary responsible for the content of the advertising by name and
31 license number or registration number.

32 3. The advertising contains a printed warning that complies with
33 subsection D of this section.

34 G. Any advertising under this chapter involving direct,
35 individualized communication or dialogue shall use a method of age
36 affirmation to verify that the recipient is at least twenty-one years of
37 age before engaging in that communication or dialogue. For the purposes
38 of this subsection, that method of age affirmation may include user
39 confirmation, birth date disclosure or other similar registration methods.

40 H. It is unlawful for an individual or entity other than a
41 marijuana establishment or dual licensee to do any of the following in a
42 manner that is not authorized by this chapter or rules adopted by the
43 department pursuant to this chapter:

44 1. Facilitate the delivery of marijuana or marijuana products.

1 2. Solicit or accept orders for marijuana or marijuana products or
2 operate a platform that solicits or accepts orders for marijuana or
3 marijuana products.

4 3. Operate a listing service related to the sale or delivery of
5 marijuana or marijuana products.

6 I. A marijuana establishment, a nonprofit medical marijuana
7 dispensary or an individual or entity that sells marijuana paraphernalia
8 and that violates this section, on notification by the department or
9 attorney general's office, has fourteen days to comply with the
10 requirements of this section.

11 J. A marijuana establishment OR MARIJUANA PRODUCER that is found to
12 be in violation of this section by the attorney general is subject to
13 disciplinary action by the department pursuant to section 36-2854,
14 subsection B. A nonprofit medical marijuana dispensary that is found to
15 be in violation of this section by the attorney general is subject to
16 disciplinary action by the department pursuant to section 36-2816.

17 K. In addition to any other penalty imposed by law, an individual
18 or entity other than a marijuana establishment, MARIJUANA PRODUCER or
19 nonprofit medical marijuana dispensary that advertises marijuana or
20 marijuana products, including marijuana paraphernalia, in violation of
21 this section or otherwise violates this section shall pay a civil penalty
22 of \$20,000 per violation to the smart and safe Arizona fund established by
23 section 36-2856.

24 L. This section shall be enforced by the attorney general.

25 M. For the purposes of this section, advertising does not include a
26 communication of a marijuana establishment or nonprofit medical marijuana
27 dispensary that is targeted only to the established customer base or that
28 is requested by a customer or potential customer pursuant to an opt-in
29 with an age affirmation.

30 Sec. 6. Subject to the requirements of article IV, part 1,
31 section 1, Constitution of Arizona, section 36-2860, Arizona Revised
32 Statutes, is amended to read:

33 36-2860. Packaging; restrictions on particular marijuana
34 products

35 A. A marijuana establishment OR MARIJUANA PRODUCER may not:

36 1. Package or label marijuana or marijuana products in a false or
37 misleading manner.

38 2. Manufacture or sell marijuana products that resemble the form of
39 a human, animal, insect, fruit, toy or cartoon.

40 3. Sell or advertise marijuana or marijuana products with names
41 that resemble or imitate food or drink brands marketed to children, or
42 otherwise advertise marijuana or marijuana products to children.

43 B. A marijuana establishment OR MARIJUANA PRODUCER that violates
44 this section is subject to disciplinary action by the department pursuant
45 to section 36-2854, subsection B.

1 Sec. 7. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2861, Arizona Revised
3 Statutes, is amended to read:

4 36-2861. Contracts; professional services

5 A. It is the public policy of this state that contracts related
6 to marijuana establishments, **MARIJUANA PRODUCERS** and marijuana testing
7 facilities are enforceable.

8 B. A person that is licensed, certified or registered by any
9 department, agency or regulatory board of this state is not subject to
10 disciplinary action by that entity for providing professional assistance
11 to a prospective or ~~registered~~ **LICENSED** marijuana establishment,
12 **MARIJUANA PRODUCER**, marijuana testing facility or other person for any
13 lawful activity under this chapter.

14 Sec. 8. Subject to the requirements of article IV, part 1,
15 section 1, Constitution of Arizona, section 36-2864, Arizona Revised
16 Statutes, is amended to read:

17 36-2864. Transaction privilege tax; use tax; additional taxes
18 prohibited; exception

19 A. For **THE** purposes of the transaction privilege tax and use tax
20 levied and collected pursuant to title 42, chapters 5 and 6, marijuana and
21 marijuana products are tangible personal property **AS** defined in section
22 42-5001 and are subject to the transaction privilege tax in the retail
23 classification and use tax.

24 B. Except as provided in subsection A of this section and section
25 42-5452, this state and localities may not levy or collect additional
26 taxes of any kind on the sale of marijuana or marijuana products and may
27 not levy or collect any fees or assessments of any kind on the sale of
28 marijuana or marijuana products or on the licensing, operations or
29 activities of marijuana establishments, **MARIJUANA PRODUCERS** or marijuana
30 testing facilities, unless the fee or assessment is of general
31 applicability to individuals or businesses that are not engaged in the
32 sale of marijuana or marijuana products.

33 C. The prohibition imposed by subsection B of this section does not
34 apply to uniform increases to the transaction privilege tax rate for the
35 retail classification or use tax rate by this state or a locality or to
36 uniform increases to fees or assessments allowed by subsection B of this
37 section.

38 Sec. 9. Subject to the requirements of article IV, part 1,
39 section 1, Constitution of Arizona, section 36-2865, Arizona Revised
40 Statutes, is amended to read:

41 36-2865. Enforcement of chapter; special action

42 A. If the department fails to adopt rules necessary to implement
43 this chapter on or before June 1, 2021, or fails to begin accepting
44 applications as provided in section 36-2854, subsection A, paragraph 1,
45 subdivision (d), any citizen may commence a special action in superior

1 court to compel the department to perform the actions mandated under this
2 chapter.

3 B. If the department fails to issue a license or send a notice of
4 denial within sixty days after receiving a complete marijuana
5 establishment application pursuant to section 36-2854, subsection A,
6 paragraph 1, subdivision (d), the applicant may commence a special action
7 in superior court to compel the department to perform the actions mandated
8 under this chapter.

9 C. Notwithstanding chapter 28.1 of this title, if the department
10 fails to issue any marijuana establishment licenses pursuant to section
11 36-2854, subsection A, paragraph 1, subdivision (d) on or before April 5,
12 2021, each nonprofit medical marijuana dispensary in good standing may
13 begin to cultivate, produce, process, manufacture, transport and test
14 marijuana and marijuana products and may sell marijuana and marijuana
15 products to consumers until the department issues licenses to operate
16 marijuana establishments. If this occurs, nonprofit medical marijuana
17 dispensaries in good standing shall:

18 1. Be treated as marijuana establishments for all purposes under
19 this chapter, and their nonprofit medical marijuana establishment agents
20 shall be treated as marijuana facility agents for all purposes under this
21 chapter.

22 2. Comply with the rules adopted by the department to implement
23 chapter 28.1 of this title, except those that are inconsistent with this
24 chapter.

25 D. IF THE DEPARTMENT FAILS TO BEGIN ACCEPTING APPLICATIONS AS
26 PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (g),
27 ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE
28 DEPARTMENT TO PERFORM THE REQUIRED ACTIONS.

29 Sec. 10. Requirements for enactment; three-fourths vote

30 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
31 sections 36-2850, 36-2854, 36-2857, 36-2858, 36-2859, 36-2860, 36-2861,
32 36-2864 and 36-2865, Arizona Revised Statutes, as amended by this act, are
33 effective only on the affirmative vote of at least three-fourths of the
34 members of each house of the legislature.