

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1494

AN ACT

AMENDING SECTIONS 36-2803, 36-2806 AND 36-2816, ARIZONA REVISED STATUTES;
AMENDING TITLE 36, CHAPTER 28.1, ARIZONA REVISED STATUTES, BY ADDING
SECTIONS 36-2820 AND 36-2821; RELATING TO MEDICAL 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 36-2803, Arizona Revised
4 Statutes, is amended to read:

5 36-2803. Rulemaking; notice

6 A. The department shall adopt rules:

7 1. Governing the manner in which the department considers petitions
8 from the public to add debilitating medical conditions or treatments to
9 the list of debilitating medical conditions set forth in section 36-2801,
10 paragraph 3, including public notice of, and an opportunity to comment in
11 a public hearing on, petitions.

12 2. Establishing the form and content of registration and renewal
13 applications submitted under this chapter.

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

16 4. Governing nonprofit medical marijuana dispensaries, ~~for the~~
17 ~~purpose of protecting~~ TO PROTECT against diversion and theft without
18 imposing an undue burden on nonprofit medical marijuana dispensaries or
19 compromising the confidentiality of cardholders, including:

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

22 (b) Minimum oversight requirements for nonprofit medical marijuana
23 dispensaries.

24 (c) Minimum recordkeeping requirements for nonprofit medical
25 marijuana dispensaries.

26 (d) Minimum security requirements for nonprofit medical marijuana
27 dispensaries, including requirements ~~for protection of~~ TO PROTECT each
28 registered nonprofit medical marijuana dispensary location by a fully
29 operational security alarm system.

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

33 5. Establishing application and renewal fees for registry
34 identification cards, ~~and~~ nonprofit medical marijuana dispensary
35 registration certificates AND INDEPENDENT THIRD-PARTY LABORATORY
36 CERTIFICATES, according to the following:

37 (a) The total amount of all fees ~~shall generate revenues~~ MAY NOT
38 EXCEED AN AMOUNT THAT IS sufficient to implement and administer this
39 chapter, except that fee revenue may be offset or supplemented by private
40 donations.

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

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

1 (d) INDEPENDENT THIRD-PARTY LABORATORY APPLICATION FEES MAY NOT
2 EXCEED \$5,000.

3 (e) INDEPENDENT THIRD-PARTY LABORATORY RENEWAL FEES MAY NOT EXCEED
4 \$1,000.

5 ~~(d)~~ (f) The total amount of revenue GENERATED from nonprofit
6 medical marijuana dispensary application and renewal fees, ~~and~~ registry
7 identification card fees for nonprofit medical marijuana dispensary agents
8 ~~shall be~~ AND INDEPENDENT THIRD-PARTY LABORATORY FEES MAY NOT EXCEED AN
9 AMOUNT sufficient to implement and administer the nonprofit medical
10 marijuana dispensary provisions of this chapter, including the
11 verification system, except that the fee revenue may be offset or
12 supplemented by private donations.

13 ~~(e)~~ (g) The department may establish a sliding scale of patient
14 application and renewal fees based on a qualifying patient's household
15 income.

16 ~~(f)~~ (h) The department may consider private donations under
17 section 36-2817 to reduce application and renewal fees.

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

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

37 D. The department shall post prominently on its public website a
38 warning about the potential dangers to fetuses caused by smoking or
39 ingesting marijuana while pregnant or to infants while breastfeeding and
40 the risk of being reported to the department of child safety during
41 pregnancy or at the birth of the child by persons who are required to
42 report.

43 E. THE DEPARTMENT SHALL ADOPT RULES FOR TESTING MARIJUANA FOR
44 MEDICAL USE FROM NONPROFIT MEDICAL MARIJUANA DISPENSARIES BEFORE SELLING
45 OR DISPENSING MARIJUANA TO CARDHOLDERS TO DETERMINE UNSAFE LEVELS OF

1 MICROBIAL CONTAMINATION, PESTICIDES, HERBICIDES, FUNGICIDES, GROWTH
2 REGULATORS AND RESIDUAL SOLVENTS AND CONFIRMING THE POTENCY OF THE
3 MARIJUANA TO BE DISPENSED BEGINNING JUNE 1, 2020. THE RULES SHALL:

4 1. INCLUDE PROCESS REQUIREMENTS FOR COLLECTING, STORING AND TESTING
5 SAMPLES OF MARIJUANA FOR MEDICAL USE.

6 2. ESTABLISH POTENCY STANDARDS WITH THE STANDARD VARIANCE
7 ALLOWANCE.

8 3. ESTABLISH REMEDIATION REQUIREMENTS FOR NONPROFIT MEDICAL
9 MARIJUANA DISPENSARIES IF TESTING IDENTIFIES UNSAFE LEVELS OF MICROBIAL
10 CONTAMINATION, PESTICIDES, HERBICIDES, FUNGICIDES, GROWTH REGULATORS OR
11 RESIDUAL SOLVENTS IN THE MARIJUANA. REMEDIATION MAY INCLUDE DESTROYING
12 CONTAMINATED MEDICAL MARIJUANA PRODUCTS, IMPOSING FINES AND SUSPENDING OR
13 REVOKING A DISPENSARY'S LICENSE.

14 4. ESTABLISH STANDARDS FOR REPORTING TEST RESULTS TO THE DEPARTMENT
15 AND THE DESIGNATED CAREGIVER OR NONPROFIT MEDICAL MARIJUANA DISPENSARY
16 THAT CULTIVATES THE MARIJUANA. THE DEPARTMENT SHALL MAKE THE TEST RESULTS
17 AVAILABLE TO THE GENERAL PUBLIC.

18 F. THE DEPARTMENT SHALL ADOPT RULES TO CERTIFY INDEPENDENT
19 THIRD-PARTY LABORATORIES THAT ANALYZE MARIJUANA CULTIVATED FOR MEDICAL
20 USE. THE DEPARTMENT SHALL ESTABLISH CERTIFICATION FEES FOR LABORATORIES
21 PURSUANT TO SUBSECTION A OF THIS SECTION. IN ORDER TO BE CERTIFIED AS AN
22 INDEPENDENT THIRD-PARTY LABORATORY THAT IS ALLOWED TO TEST MARIJUANA FOR
23 MEDICAL USE PURSUANT TO THIS CHAPTER, AN INDEPENDENT THIRD-PARTY
24 LABORATORY:

25 1. MUST MEET CRITERIA ESTABLISHED BY THE DEPARTMENT.

26 2. MAY NOT HAVE ANY FAMILIAL OR FINANCIAL RELATIONSHIP WITH OR
27 INTEREST IN A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR RELATED MEDICAL
28 MARIJUANA BUSINESS ENTITY OR MANAGEMENT COMPANY, OR ANY FAMILIAL OR
29 FINANCIAL RELATIONSHIP WITH A DESIGNATED CAREGIVER FOR WHICH THE
30 LABORATORY IS TESTING MARIJUANA FOR MEDICAL USE IN THIS STATE.

31 3. MUST HAVE A QUALITY ASSURANCE PROGRAM AND STANDARDS.

32 4. MUST HAVE AN ADEQUATE CHAIN OF CUSTODY AND SAMPLE REQUIREMENT
33 POLICIES.

34 5. MUST HAVE AN ADEQUATE RECORDS RETENTION PROCESS TO PRESERVE
35 RECORDS.

36 6. MUST ESTABLISH PROCEDURES TO ENSURE THAT RESULTS ARE ACCURATE,
37 PRECISE AND SCIENTIFICALLY VALID BEFORE REPORTING THE RESULTS.

38 G. THE DEPARTMENT IS RESPONSIBLE FOR PROFICIENCY TESTING AND
39 REMEDIATING PROBLEMS WITH INDEPENDENT THIRD-PARTY LABORATORIES THAT ARE
40 CERTIFIED AND REGULATED PURSUANT TO THIS CHAPTER. REMEDIATION MAY INCLUDE
41 IMPOSING FINES AND SUSPENDING OR REVOKING A LABORATORY'S CERTIFICATION.

1 Sec. 2. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, section 36-2806, Arizona Revised
3 Statutes, is amended to read:

4 36-2806. Registered nonprofit medical marijuana dispensaries:
5 requirements; rules; inspections; testing

6 A. A registered nonprofit medical marijuana dispensary shall be
7 operated on a not-for-profit basis. The bylaws of a registered nonprofit
8 medical marijuana dispensary shall contain such provisions relative to the
9 disposition of revenues and receipts to establish and maintain its
10 nonprofit character. A registered nonprofit medical marijuana dispensary
11 need not be recognized as tax-exempt by the internal revenue service and
12 is not required to incorporate pursuant to title 10, chapter 19,
13 article 1.

14 B. The operating documents of a registered nonprofit medical
15 marijuana dispensary shall include procedures for the oversight of the
16 registered nonprofit medical marijuana dispensary and procedures to ensure
17 accurate recordkeeping.

18 C. A registered nonprofit medical marijuana dispensary shall have a
19 single secure entrance and shall implement appropriate security measures
20 to deter and prevent the theft of marijuana and unauthorized entrance into
21 areas containing marijuana.

22 D. A registered nonprofit medical marijuana dispensary is
23 prohibited from acquiring, possessing, cultivating, manufacturing,
24 delivering, transferring, transporting, supplying or dispensing marijuana
25 for any purpose except to assist registered qualifying patients with the
26 medical use of marijuana directly or through the registered qualifying
27 patients' designated caregivers.

28 E. All cultivation of marijuana must take place in an enclosed,
29 locked facility at a physical address provided to the department during
30 the registration process, ~~which~~ ~~THAT~~ can ~~only~~ be accessed ~~ONLY~~ by
31 registered nonprofit medical marijuana dispensary agents associated in the
32 registry with the nonprofit medical marijuana dispensary.

33 F. A registered nonprofit medical marijuana dispensary may acquire
34 usable marijuana or marijuana plants from a registered qualifying patient
35 or a registered designated caregiver only if the registered qualifying
36 patient or registered designated caregiver receives no compensation for
37 the marijuana.

38 G. A nonprofit medical marijuana dispensary shall not ~~permit~~ ~~ALLOW~~
39 any person to consume marijuana on the property of ~~a~~ ~~THE~~ nonprofit
40 medical marijuana dispensary.

41 H. Registered nonprofit medical marijuana dispensaries are subject
42 to reasonable inspection by the department. The department shall give
43 reasonable notice of an inspection under this subsection.

44 I. ~~BEGINNING JUNE 1, 2020, REGISTERED NONPROFIT MEDICAL MARIJUANA~~
45 ~~DISPENSARIES ARE SUBJECT TO PRODUCT TESTING BY CERTIFIED INDEPENDENT~~

1 THIRD-PARTY LABORATORIES PURSUANT TO THIS CHAPTER AND RULES ADOPTED
2 PURSUANT TO THIS CHAPTER.

3 J. NOTWITHSTANDING TITLE 13, CHAPTER 34, AN EMPLOYEE OF THE
4 DEPARTMENT OR AN EMPLOYEE OF ANY CERTIFIED INDEPENDENT THIRD-PARTY
5 LABORATORY MAY NOT BE CHARGED WITH OR PROSECUTED FOR POSSESSION OF ANY
6 AMOUNT OF MARIJUANA THAT IS CULTIVATED FOR MEDICAL USE AND THAT THE
7 EMPLOYEE IS USING AS A SAMPLE FOR TESTING AS REQUIRED BY THIS CHAPTER AND
8 THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

9 Sec. 3. Subject to the requirements of article IV, part 1,
10 section 1, Constitution of Arizona, section 36-2816, Arizona Revised
11 Statutes, is amended to read:

12 36-2816. Violations; civil penalty; classification

13 A. A registered qualifying patient may not directly, or through ~~his~~
14 ~~THE PATIENT'S~~ designated caregiver, obtain more than ~~two-and-one-half~~ TWO
15 AND ONE-HALF ounces of marijuana from registered nonprofit medical
16 marijuana dispensaries in any fourteen-day period.

17 B. A registered nonprofit medical marijuana dispensary or agent may
18 not dispense, deliver or otherwise transfer marijuana to a person other
19 than:

20 1. Another registered nonprofit medical marijuana dispensary. ~~;~~

21 2. A registered qualifying patient. ~~or~~

22 3. A registered qualifying patient's registered designated
23 caregiver.

24 4. A CERTIFIED INDEPENDENT THIRD-PARTY LABORATORY FOR PURPOSES
25 PRESCRIBED IN SECTIONS 36-2803 AND 36-2806 AND DEPARTMENT RULE.

26 C. A registered nonprofit medical marijuana dispensary may not
27 acquire usable marijuana or mature marijuana plants from any person other
28 than another registered nonprofit medical marijuana dispensary, a
29 registered qualifying patient or a registered designated caregiver. A
30 knowing violation of this subsection is a class 2 felony.

31 D. It is a class 1 misdemeanor for any person, including an
32 employee or official of the department or another state agency or local
33 government, to breach the confidentiality of information obtained pursuant
34 to this chapter.

35 E. Making false statements to a law enforcement official about any
36 fact or circumstance relating to the medical use of marijuana to avoid
37 arrest or prosecution is subject to a civil penalty of not more than ~~five~~
38 ~~hundred dollars~~ \$500, which shall be in addition to any other penalties
39 that may apply for making a false statement or for the use of marijuana
40 other than use undertaken pursuant to this chapter.

1 Sec. 4. Subject to the requirements of article IV, part 1,
2 section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona
3 Revised Statutes, is amended by adding sections 36-2820 and 36-2821, to
4 read:

5 36-2820. Marijuana laboratory testing reference library

6 A. THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A MARIJUANA LABORATORY
7 TESTING REFERENCE LIBRARY. THE DEPARTMENT SHALL REQUIRE A CERTIFIED
8 LABORATORY TO PROVIDE MATERIALS FOR THE REFERENCE LIBRARY, EXCEPT THAT A
9 CERTIFIED LABORATORY IS NOT REQUIRED TO PROVIDE TESTING PROTOCOLS.

10 B. THE REFERENCE LIBRARY MUST CONTAIN A COLLECTION OF METHODOLOGIES
11 FOR MARIJUANA TESTING IN THE AREAS OF POTENCY, HOMOGENEITY, CONTAMINANTS
12 AND SOLVENTS CONSISTENT WITH THE LABORATORY REQUIREMENTS ADOPTED BY THE
13 DEPARTMENT IN RULE.

14 C. THE DEPARTMENT MAY INCLUDE IN THE REFERENCE LIBRARY STANDARD
15 SAMPLE ATTAINMENT PROCEDURES AND STANDARDS RELATED TO SAMPLE PREPARATION
16 FOR LABORATORY ANALYSIS.

17 D. THE DEPARTMENT MAY SPEND THE NECESSARY MONIES FROM THE MEDICAL
18 MARIJUANA FUND ESTABLISHED BY SECTION 36-2817 TO DEVELOP AND IMPLEMENT THE
19 MEDICAL MARIJUANA TESTING REFERENCE LIBRARY.

20 E. ON OR BEFORE JANUARY 1, 2021, THE DEPARTMENT SHALL MAKE
21 REFERENCE LIBRARY MATERIALS, INCLUDING THE METHODOLOGIES, PUBLICLY
22 AVAILABLE AND MAY CONTINUOUSLY UPDATE THE REFERENCE LIBRARY AS NEW
23 MATERIALS BECOME AVAILABLE.

24 36-2821. Medical marijuana testing advisory council:
25 membership; duties; council termination

26 A. THE DIRECTOR SHALL ESTABLISH A MEDICAL MARIJUANA TESTING
27 ADVISORY COUNCIL TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR
28 REGARDING ADMINISTERING AND IMPLEMENTING THIS CHAPTER. THE DIRECTOR OR
29 THE DIRECTOR'S DESIGNEE SHALL BE MEMBER OF THE ADVISORY COUNCIL AND SHALL
30 APPOINT ELEVEN MEMBERS TO THE COUNCIL, INCLUDING:

31 1. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A STATEWIDE ASSOCIATION
32 REPRESENTING THE MARIJUANA DISPENSARIES, OR THE PERSON'S DESIGNEE.

33 2. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A STATEWIDE CANNABIS
34 TESTING ASSOCIATION, OR THE PERSON'S DESIGNEE.

35 3. THE PRESIDENT OR EXECUTIVE DIRECTOR OF A MEDICAL MARIJUANA TRADE
36 ASSOCIATION THAT DOES NOT PRIMARILY CONSIST OF DISPENSARIES OR CANNABIS
37 LABORATORY TESTING FACILITY OWNERS, OR THE PERSON'S DESIGNEE.

38 4. A BOARD MEMBER OF AN ARIZONA-BASED MEDICAL MARIJUANA DISPENSARY
39 THAT IS FOCUSED PRIMARILY ON CULTIVATION.

40 5. A BOARD MEMBER OF A MEDICAL MARIJUANA DISPENSARY THAT IS FOCUSED
41 ON CONCENTRATE.

42 6. A BOARD MEMBER OF AN ARIZONA-BASED MEDICAL MARIJUANA DISPENSARY
43 THAT IS FOCUSED PRIMARILY ON EDIBLE MANUFACTURING BY UNITS.

44 7. AN OWNER OF AN ARIZONA-BASED CANNABIS TESTING LABORATORY.

1 8. A LABORATORY SCIENTIST WHO HOLDS A DOCTORATE OR WHO HAS AT LEAST
2 THREE YEARS OF EXPERIENCE IN CANNABIS LABORATORY TESTING.

3 9. A PERSON WITH A FINANCE BACKGROUND WHO IS A CERTIFIED PUBLIC
4 ACCOUNTANT AND WHO HAS AT LEAST THREE YEARS OF EXPERIENCE IN FINANCE AND
5 THE MEDICAL MARIJUANA INDUSTRY.

6 10. A REGISTERED QUALIFYING PATIENT.

7 11. A RESIDENT OF THIS STATE WHO IS A VETERAN OF THE UNITED STATES
8 ARMED SERVICES.

9 B. THE MEDICAL MARIJUANA TESTING ADVISORY COUNCIL SHALL:

10 1. MAKE RECOMMENDATIONS AND CONSULT WITH THE DIRECTOR REGARDING
11 TESTING MARIJUANA FOR MEDICAL USE AS REQUIRED BY THIS CHAPTER.

12 2. ADVISE THE DIRECTOR REGARDING EXPENDITURES FROM THE MEDICAL
13 MARIJUANA FUND.

14 3. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

15 C. MEMBERS OF THE ADVISORY COUNCIL ARE NOT ELIGIBLE TO RECEIVE
16 COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO
17 TITLE 38, CHAPTER 4, ARTICLE 2.

18 D. THE COUNCIL ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2027
19 PURSUANT TO SECTION 41-3103.

20 Sec. 5. Requirements for enactment; two-thirds vote

21 Pursuant to article IX, section 22, Constitution of Arizona, this
22 act is effective only on the affirmative vote of at least two-thirds of
23 the members of each house of the legislature and is effective immediately
24 on the signature of the governor or, if the governor vetoes this act, on
25 the subsequent affirmative vote of at least three-fourths of the members
26 of each house of the legislature.

27 Sec. 6. Requirements for enactment; three-fourths vote

28 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
29 sections 36-2803, 36-2806 and 36-2816, Arizona Revised Statutes, as
30 amended by this act, and sections 36-2820 and 36-2821, Arizona Revised
31 Statutes, as added by this act, are effective only on the affirmative vote
32 of at least three-fourths of the members of each house of the legislature.