

PROPOSED
SENATE AMENDMENTS TO H.B. 2050
(Reference to House 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 36-2803.01, Arizona Revised
4 Statutes, is amended to read:

5 36-2803.01. New dispensary registration certificates:
6 issuance; priority; requirements; definition

7 A. ~~Beginning on April 1, 2020,~~ The department shall issue all new
8 nonprofit medical marijuana dispensary registration certificates in the
9 following order of priority based on the dispensary's geographic area as
10 described in the registration certificate application:

11 1. The geographic area had a registered nonprofit medical marijuana
12 dispensary move from the geographic area and the geographic area is at
13 least twenty-five miles from another dispensary that has been issued a
14 dispensary registration certificate.

15 2. The geographic area is at least twenty-five miles from another
16 dispensary that has been issued a dispensary registration certificate.

17 3. According to rule, ~~if~~ there are no dispensary registration
18 certificate applications as described in paragraph 1 or 2 of this
19 subsection.

20 B. If the department receives multiple applications as described in
21 subsection A, paragraph 1 of this section from previously approved
22 nonprofit medical marijuana dispensary locations, the department shall
23 approve the certificate for the application that serves the most qualifying
24 patients within five miles of the proposed dispensary location. If the
25 department receives multiple applications as described in subsection A,

1 paragraph 2 of this section or if there are no applications from previously
2 approved dispensary locations, the department may issue the registration
3 certificate by random drawing.

4 C. A nonprofit medical marijuana dispensary that receives a
5 registration certificate pursuant to subsection A, paragraph 1 or 2 of this
6 section ~~on or after April 1, 2020~~ must open the dispensary at the approved
7 location within eighteen months after the application is approved or the
8 registration certificate becomes invalid.

9 D. A nonprofit medical marijuana dispensary that is issued a
10 registration certificate pursuant to subsection A, paragraph 1 or 2 of this
11 section may relocate only as follows:

12 1. If the dispensary is located within a city or town, only within
13 that city or town.

14 2. If the dispensary is located within an unincorporated area, only
15 within the unincorporated area of the county where the dispensary is
16 located but not within twenty-five miles from another dispensary that has
17 been issued a dispensary registration certificate.

18 E. ON OR BEFORE JUNE 1, 2022, THE DEPARTMENT SHALL DETERMINE BOTH:

19 1. THE NUMBER OF MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO
20 SECTION 36-2854 THAT ARE AVAILABLE TO BE ISSUED.

21 2. WHETHER THERE ARE ANY COUNTIES IN THIS STATE IN WHICH THERE ARE
22 NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES OPERATING.

23 F. DURING THE PERIOD BEGINNING JULY 1, 2022 THROUGH JULY 31, 2022,
24 THE DEPARTMENT SHALL ACCEPT AND PROCESS APPLICATIONS FOR NEW NONPROFIT
25 MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES FROM APPLICANTS THAT
26 MEET BOTH OF THE FOLLOWING REQUIREMENTS:

27 1. THE DEPARTMENT STIPULATED THAT THE APPLICANT DELIVERED AN
28 APPLICATION TO THE DEPARTMENT FOR A NONPROFIT MEDICAL MARIJUANA DISPENSARY
29 REGISTRATION CERTIFICATE DURING THE PERIOD BEGINNING JANUARY 1, 2017
30 THROUGH DECEMBER 31, 2020.

31 2. THE APPLICANT SOUGHT A REGISTRATION CERTIFICATE FOR A FACILITY
32 LOCATED IN EITHER:

1 (a) A COUNTY WHERE, AT THE TIME OF APPLICATION, THERE WAS NO
2 REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3 (b) A LOCATION WHERE, AT THE TIME OF APPLICATION, THERE WAS NOT A
4 REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY LOCATED WITHIN
5 TWENTY-FIVE MILES.

6 G. A REGISTRATION CERTIFICATE ISSUED PURSUANT TO SUBSECTION F OF
7 THIS SECTION:

8 1. MAY BE ISSUED ONLY TO A MARIJUANA FACILITY AGENT OR A NONPROFIT
9 MEDICAL MARIJUANA DISPENSARY AGENT.

10 2. NOTWITHSTANDING THE TIME PERIOD IN SECTION 36-2854, SUBSECTION A,
11 PARAGRAPH 1, SUBDIVISION (d), SHALL BE CONSIDERED ISSUED TO AN EARLY
12 APPLICANT AS DEFINED IN SECTION 36-2850 WHO MAY APPLY FOR AND BE ISSUED A
13 MARIJUANA ESTABLISHMENT LICENSE PURSUANT TO SECTION 36-2854 AND THE RULES
14 ADOPTED PURSUANT TO THAT SECTION.

15 H. IF THERE ARE ANY REMAINING COUNTIES IN THIS STATE WITHOUT AN
16 OPERATING REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY AFTER THE
17 IMPLEMENTATION OF THIS SECTION AND SECTION 36-2854, DURING THE PERIOD
18 BEGINNING NOVEMBER 1, 2022 THROUGH NOVEMBER 30, 2022, THE DEPARTMENT SHALL
19 ACCEPT APPLICATIONS TO REGISTER NONPROFIT MEDICAL MARIJUANA DISPENSARIES
20 AND ISSUE REGISTRATION CERTIFICATES IN THOSE REMAINING COUNTIES.

21 ~~F.~~ I. For the purposes of this section, "geographic area" means a
22 city, town or unincorporated area of a county.

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

26 36-2854. Rules; licensing; early applicants; fees; civil
27 penalty; legal counsel

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

1 1. Licensing marijuana establishments and marijuana testing
2 facilities, including conducting investigations and background checks to
3 determine eligibility for licensing for marijuana establishment and
4 marijuana testing facility applicants, except that:

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

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

13 (c) Notwithstanding:

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

21 (ii) ANY OTHER LAW, A LICENSEE MAY APPLY FOR A NONPROFIT MEDICAL
22 MARIJUANA DISPENSARY REGISTRATION CERTIFICATE OR A MARIJUANA ESTABLISHMENT
23 LICENSE. THE DEPARTMENT SHALL ISSUE A NONPROFIT MEDICAL MARIJUANA
24 DISPENSARY REGISTRATION CERTIFICATE OR A MARIJUANA ESTABLISHMENT LICENSE TO
25 EACH QUALIFIED APPLICANT ON SUBMITTAL OF A COMPLETE APPLICATION AND THE
26 APPLICATION FEE.

27 (d) The department shall accept applications for marijuana
28 establishment licenses from early applicants beginning January 19, 2021
29 through March 9, 2021. Not later than sixty days after receiving an
30 application pursuant to this subdivision, the department shall issue a
31 marijuana establishment license to each qualified early applicant. If the
32 department has not adopted final rules pursuant to this section at the time

1 marijuana establishment licenses are issued pursuant to this subdivision,
2 licensees shall comply with the rules adopted by the department to
3 implement chapter 28.1 of this title except those that are inconsistent
4 with this chapter.

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

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

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

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

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

28 (h) Beginning September 29, 2021, the department may not issue a
29 marijuana establishment or marijuana testing facility license to an
30 applicant who has an ownership interest in an out-of-state marijuana
31 establishment or marijuana testing facility, or the other state's
32 equivalent, that has had its license revoked by the other state.

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

6 3. The security of marijuana establishments and marijuana testing
7 facilities.

8 4. Marijuana establishments to safely cultivate, process and
9 manufacture marijuana and marijuana products. Not later than December 31,
10 2023, the department shall require licensees to procure, develop, acquire
11 and maintain a system to track marijuana and marijuana products at all
12 points of cultivation, manufacturing and sale. The system developed and
13 maintained pursuant to this paragraph shall:

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

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

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

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

20 (ii) The processing of marijuana and marijuana products by a
21 marijuana establishment.

22 (iii) The sale and purchase of marijuana and marijuana products
23 between licensees.

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

26 (v) The disposal of marijuana waste.

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

30 (vii) Any other information that the department determines is
31 reasonably necessary to accomplish the duties, functions and powers of the
32 department.

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

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

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

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

12 6. Forms of government-issued identification that are acceptable by
13 a marijuana establishment verifying a consumer's age and procedures related
14 to verifying a consumer's age consistent with section 4-241. Until the
15 department adopts final rules related to verifying a consumer's age,
16 marijuana establishments shall comply with the proof of legal age
17 requirements prescribed in section 4-241.

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

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

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

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

30 9. The creation and implementation of a social equity ownership
31 program to promote the ownership and operation of marijuana establishments

1 and marijuana testing facilities by individuals from communities
2 disproportionately impacted by the enforcement of previous marijuana laws.

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

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

18 B. The department may:

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

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

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

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

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

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

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

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

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

22 1. Require that delivery and the marijuana and marijuana products to
23 be delivered originate from a designated retail location of a marijuana
24 establishment and only after an order is made with the marijuana
25 establishment by a consumer.

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

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

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

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

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

10 7. Require inspections to ensure compliance with this subsection and
11 rules adopted pursuant to this subsection.

12 8. Include any other provisions necessary to ensure safe and
13 restricted delivery.

14 9. Require dual licensees to comply with the rules adopted pursuant
15 to this subsection.

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

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

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

27 1. Prohibits the operation of marijuana establishments, either
28 expressly or through requirements that make the operation of a marijuana
29 establishment unduly burdensome.

30 2. Prohibits or interferes with the ability of a dual licensee to
31 operate a marijuana establishment and a nonprofit medical marijuana
32 dispensary at shared locations..

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

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

5 2. Defending chapter 28.1 of this title or rules adopted pursuant to
6 chapter 28.1 of this title.

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

10 J. On request, the department shall share with the department of
11 revenue information regarding a marijuana establishment, marijuana testing
12 facility or dual licensee, including its name, physical address,
13 cultivation site and transaction privilege tax license number.

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

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

17 2. Operate a marijuana testing facility.

18 L. The department shall maintain and publish a current list of all
19 marijuana establishments and marijuana testing facilities by name and
20 license number.

21 M. Notwithstanding any other law, the issuance of an occupational,
22 professional or other regulatory license or certification to a person by a
23 jurisdiction or regulatory authority outside this state does not entitle
24 that person to be issued a marijuana establishment license, a marijuana
25 testing facility license, or any other license, registration or
26 certification under this chapter.

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

29 1. A marijuana testing facility is prohibited from having any direct
30 or indirect familial relationship with or financial ownership interest in a
31 marijuana establishment or related marijuana business entity or management
32 company.

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

5 Sec. 3. Rulemaking exemption

6 Notwithstanding any other law, for the purposes of this act, the
7 department of health services is exempt from the rulemaking requirements of
8 title 41, chapter 6, Arizona Revised Statutes, for one year after the
9 effective date of this act.

10 Sec. 4. Requirements for enactment; three-fourths vote

11 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
12 sections 36-2803.01 and 36-2854, Arizona Revised Statutes, as amended by
13 this act, are effective only on the affirmative vote of at least
14 three-fourths of the members of each house of the legislature.

15 Sec. 5. Emergency

16 This act is an emergency measure that is necessary to preserve the
17 public peace, health or safety and is operative immediately as provided by
18 law."

19 Amend title to conform

DAVID GOWAN

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C: MH