

REFERENCE TITLE: rural marijuana establishments; dual licensing

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1402**

Introduced by  
Senator Gowan

AN ACT

AMENDING SECTIONS 36-2803.01 AND 36-2854, ARIZONA REVISED STATUTES;  
RELATING TO MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Subject to the requirements of article IV, part 1,  
3 section 1, Constitution of Arizona, section 36-2803.01, Arizona Revised  
4 Statutes, is amended to read:

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

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

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

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

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

21 B. If the department receives multiple applications as described in  
22 subsection A, paragraph 1 of this section from previously approved  
23 nonprofit medical marijuana dispensary locations, the department shall  
24 approve the certificate for the application that serves the most  
25 qualifying patients within five miles of the proposed dispensary location.  
26 If the department receives multiple applications as described in  
27 subsection A, paragraph 2 of this section or if there are no applications  
28 from previously approved dispensary locations, the department may issue  
29 the registration certificate by random drawing.

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

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

38 1. If the dispensary is located within a city or town, only within  
39 that city or town.

40 2. If the dispensary is located within an unincorporated area, only  
41 within the unincorporated area of the county where the dispensary is  
42 located but not within twenty-five miles from another dispensary that has  
43 been issued a dispensary registration certificate.

44 E. **NOTWITHSTANDING ANY OTHER LAW, THIS SECTION DOES NOT APPLY TO**  
45 **NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION CERTIFICATES THAT ARE**

1 ISSUED TO DUAL LICENSEES PURSUANT TO SECTION 36-2854, SUBSECTION A,  
2 PARAGRAPH 1, SUBDIVISION (c), ITEM (ii).

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

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

8 36-2854. Rules; licensing; early applicants; fees; civil  
9 penalty; legal counsel

10  
11 A. The department shall adopt rules to implement and enforce this  
12 chapter and regulate marijuana, marijuana products, marijuana  
13 establishments and marijuana testing facilities. Those rules shall  
14 include requirements for:

15 1. Licensing marijuana establishments and marijuana testing  
16 facilities, including conducting investigations and background checks to  
17 determine eligibility for licensing for marijuana establishment and  
18 marijuana testing facility applicants, except that:

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

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

27 (c) Notwithstanding:

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

35 (ii) ANY OTHER LAW, A LICENSEE THAT IS ISSUED A MARIJUANA  
36 ESTABLISHMENT LICENSE PURSUANT TO THIS SUBDIVISION MAY BECOME A DUAL  
37 LICENSEE AND SHALL BE AUTHORIZED TO SELL MEDICAL MARIJUANA ON REQUEST TO  
38 THE DEPARTMENT. A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION  
39 CERTIFICATE ISSUED UNDER THIS DUAL LICENSE IS NOT COUNTED TOWARD THE TOTAL  
40 NUMBER OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES AUTHORIZED UNDER OR ANY  
41 GEOGRAPHIC CONSIDERATION REQUIRED BY CHAPTER 28.1 OF THIS TITLE. A DUAL  
42 LICENSE ISSUED PURSUANT TO THIS ITEM MAY NOT BE SPLIT FOR LICENSE  
43 OWNERSHIP SALES OR TRANSFERS.

44 (d) The department shall accept applications for marijuana  
45 establishment licenses from early applicants beginning January 19, 2021

1 through March 9, 2021. Not later than sixty days after receiving an  
2 application pursuant to this subdivision, the department shall issue a  
3 marijuana establishment license to each qualified early applicant. If the  
4 department has not adopted final rules pursuant to this section at the  
5 time marijuana establishment licenses are issued pursuant to this  
6 subdivision, licensees shall comply with the rules adopted by the  
7 department to implement chapter 28.1 of this title except those that are  
8 inconsistent with this chapter.

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

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

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

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

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

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

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

42 3. The security of marijuana establishments and marijuana testing  
43 facilities.

44 4. Marijuana establishments to safely cultivate, process and  
45 manufacture marijuana and marijuana products. Not later than December 31,

1 2023, the department shall require licensees to procure, develop, acquire  
2 and maintain a system to track marijuana and marijuana products at all  
3 points of cultivation, manufacturing and sale. The system developed and  
4 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.

11 (ii) The processing of marijuana and marijuana products by a  
12 marijuana establishment.

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 or related marijuana business entity or  
17 management company. The rules shall include prohibiting a marijuana  
18 establishment from having any direct or indirect familial relationship  
19 with or financial ownership interest in a marijuana testing facility or  
20 related marijuana business entity or management company.

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

30 B. The department may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 7. Require inspections to ensure compliance with this subsection  
41 and rules adopted pursuant to this subsection.

42 8. Include any other provisions necessary to ensure safe and  
43 restricted delivery.

44 9. Require dual licensees to comply with the rules adopted pursuant  
45 to this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

35 2. Operate a marijuana testing facility.

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

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



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

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

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

11 Sec. 3. Requirements for enactment; three-fourths vote

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