

REFERENCE TITLE: **medical conditions; medical marijuana**

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

## **SB 1349**

Introduced by  
Senators Mendez: Fernandez, Gonzales, Hernandez; Representative Salman

**AN ACT**

**AMENDING SECTION 36-2801, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2823; 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 36-2801, Arizona Revised  
4 Statutes, is amended to read:

5 36-2801. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Allowable amount of marijuana":

8 (a) With respect to a qualifying patient, means:

9 (i) Two and one-half ounces of usable marijuana.

10 (ii) If the qualifying patient's registry identification card  
11 states that the qualifying patient is authorized to cultivate marijuana,  
12 twelve marijuana plants contained in an enclosed, locked facility, except  
13 that the plants are not required to be in an enclosed, locked facility if  
14 the plants are being transported because the qualifying patient is moving.

15 (b) With respect to a designated caregiver, for each patient  
16 assisted by the designated caregiver under this chapter, means:

17 (i) Two and one-half ounces of usable marijuana.

18 (ii) If the designated caregiver's registry identification card  
19 provides that the designated caregiver is authorized to cultivate  
20 marijuana, twelve marijuana plants contained in an enclosed, locked  
21 facility, except that the plants are not required to be in an enclosed,  
22 locked facility if the plants are being transported because the designated  
23 caregiver is moving.

24 (c) Does not include marijuana that is incidental to medical use,  
25 but is not usable marijuana.

26 2. "Cardholder" means a qualifying patient, a designated caregiver,  
27 a nonprofit medical marijuana dispensary agent or a independent  
28 third-party laboratory agent who has been issued and possesses a valid  
29 registry identification card.

30 3. "Debilitating medical condition" means one or more of the  
31 following:

32 (a) Cancer, glaucoma, positive status for human immunodeficiency  
33 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic  
34 lateral sclerosis, Crohn's disease, **ANY DEBILITATING CONDITION OF AUTISM  
35 SPECTRUM DISORDER INCLUDING AGITATION, RAGE ATTACKS OR SELF-INJURIOUS  
36 BEHAVIOR**, or agitation of Alzheimer's disease or the treatment of these  
37 conditions.

38 (b) A chronic or debilitating disease or medical condition or its  
39 treatment that produces one or more of the following:

40 (i) Cachexia or wasting syndrome.

41 (ii) Severe and chronic pain.

42 (iii) Severe nausea.

43 (iv) Seizures, including those characteristic of epilepsy.

44 (v) Severe and persistent muscle spasms, including those  
45 characteristic of multiple sclerosis.

1 (c) Any other medical condition or its treatment added by the  
2 department pursuant to section 36-2801.01.

3 4. "Department" means the department of health services or its  
4 successor agency.

5 5. "Designated caregiver" means a person who:

6 (a) Is at least twenty-one years of age.

7 (b) Has agreed to assist with a patient's medical use of marijuana.

8 (c) Has not been convicted of an excluded felony offense.

9 (d) Assists not more than five qualifying patients with the medical  
10 use of marijuana.

11 (e) May receive reimbursement for actual costs incurred in  
12 assisting a registered qualifying patient's medical use of marijuana if  
13 the registered designated caregiver is connected to the registered  
14 qualifying patient through the department's registration process. The  
15 designated caregiver may not be paid any fee or compensation for service  
16 as a caregiver. Payment for costs under this subdivision does not  
17 constitute an offense under title 13, chapter 34 or under title 36,  
18 chapter 27, article 4.

19 6. "Enclosed, locked facility" means a closet, room, greenhouse or  
20 other enclosed area that is equipped with locks or other security devices  
21 that ~~permit~~ ALLOW access only by a cardholder.

22 7. "Excluded felony offense" means:

23 (a) A violent crime as defined in section 13-901.03, subsection B,  
24 that was classified as a felony in the jurisdiction where the person was  
25 convicted.

26 (b) A violation of a state or federal controlled substance law that  
27 was classified as a felony in the jurisdiction where the person was  
28 convicted but does not include:

29 (i) An offense for which the sentence, including any term of  
30 probation, incarceration or supervised release, was completed ten or more  
31 years earlier.

32 (ii) An offense involving conduct that would be immune from arrest,  
33 prosecution or penalty under section 36-2811, except that the conduct  
34 occurred before December 14, 2010 or was prosecuted by an authority other  
35 than the state of Arizona.

36 8. "Independent third-party laboratory" means an entity that has a  
37 national or international accreditation and that is certified by the  
38 department to analyze marijuana cultivated for medical use.

39 9. "Independent third-party laboratory agent" means an owner,  
40 employee or volunteer of a certified independent third-party laboratory  
41 who is at least twenty-one years of age and who has not been convicted of  
42 an excluded felony offense.

43 10. "Marijuana" means all parts of any plant of the genus cannabis,  
44 whether growing or not, and the seeds of such A plant.

1           11. "Medical use" means the acquisition, possession, cultivation,  
2 manufacture, use, administration, delivery, transfer or transportation of  
3 marijuana or paraphernalia relating to the administration of marijuana to  
4 treat or alleviate a registered qualifying patient's debilitating medical  
5 condition or symptoms associated with the patient's debilitating medical  
6 condition.

7           12. "Nonprofit medical marijuana dispensary" means a not-for-profit  
8 entity that acquires, possesses, cultivates, manufactures, delivers,  
9 transfers, transports, supplies, sells or dispenses marijuana or related  
10 supplies and educational materials to cardholders. A nonprofit medical  
11 marijuana dispensary may receive payment for all expenses incurred in its  
12 operation.

13           13. "Nonprofit medical marijuana dispensary agent" means a  
14 principal officer, board member, employee or volunteer of a nonprofit  
15 medical marijuana dispensary who is at least twenty-one years of age and  
16 has not been convicted of an excluded felony offense.

17           14. "Physician" means a doctor of medicine who holds a valid and  
18 existing license to practice medicine pursuant to title 32, chapter 13 or  
19 its successor, a doctor of osteopathic medicine who holds a valid and  
20 existing license to practice osteopathic medicine pursuant to title 32,  
21 chapter 17 or its successor, a naturopathic physician who holds a valid  
22 and existing license to practice naturopathic medicine pursuant to title  
23 32, chapter 14 or its successor or a homeopathic physician who holds a  
24 valid and existing license to practice homeopathic medicine pursuant to  
25 title 32, chapter 29 or its successor.

26           15. "Qualifying patient" means a person who has been diagnosed by a  
27 physician as having a debilitating medical condition.

28           16. "Registry identification card" means a document issued by the  
29 department that identifies a person as a registered qualifying patient, a  
30 registered designated caregiver, a registered nonprofit medical marijuana  
31 dispensary agent or a registered independent third-party laboratory agent.

32           17. "Usable marijuana":

33           (a) Means the dried flowers of the marijuana plant, and any mixture  
34 or preparation thereof.

35           (b) Does not include:

36           (i) The seeds, stalks and roots of the plant.

37           (ii) The weight of any non-marijuana ingredients combined with  
38 marijuana and prepared for consumption as food or drink.

39           18. "Verification system" means a secure, password-protected,  
40 web-based system that is established and maintained by the department and  
41 that is available to law enforcement personnel and nonprofit medical  
42 marijuana dispensary agents on a twenty-four-hour basis for verifying  
43 registry identification cards.

1 19. "Visiting qualifying patient" means a person:

2 (a) Who is not a resident of Arizona or who has been a resident of  
3 Arizona less than thirty days.

4 (b) Who has been diagnosed with a debilitating medical condition by  
5 a person who is licensed with authority to prescribe drugs to humans in  
6 the state of the person's residence or, in the case of a person who has  
7 been a resident of Arizona less than thirty days, the state of the  
8 person's former residence.

9 20. "Written certification" means a document dated and signed by a  
10 physician, stating that in the physician's professional opinion the  
11 patient is likely to receive therapeutic or palliative benefit from the  
12 medical use of marijuana to treat or alleviate the patient's debilitating  
13 medical condition or symptoms associated with the debilitating medical  
14 condition. The physician must:

15 (a) Specify the qualifying patient's debilitating medical condition  
16 in the written certification.

17 (b) Sign and date the written certification only in the course of a  
18 physician-patient relationship after the physician has completed a full  
19 assessment of the qualifying patient's medical history.

20 (c) BE A PEDIATRICIAN IF THE QUALIFYING PATIENT IS UNDER EIGHTEEN  
21 YEARS OF AGE AND THE QUALIFYING PATIENT'S DEBILITATING MEDICAL CONDITION  
22 IS AUTISM.

23 Sec. 2. Subject to the requirements of article IV, part 1,  
24 section 1, Constitution of Arizona, title 36, chapter 28.1, Arizona  
25 Revised Statutes, is amended by adding section 36-2823, to read:

26 36-2823. Autism; physician requirements

27 A PHYSICIAN WHO PROVIDES WRITTEN CERTIFICATION FOR A QUALIFYING  
28 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHOSE DEBILITATING MEDICAL  
29 CONDITION IS AUTISM SHALL:

30 1. RECOMMEND TO THE QUALIFYING PATIENT'S DESIGNATED CAREGIVER THE  
31 MARIJUANA'S POTENCY AND QUANTITY AND THE FREQUENCY OF USE.

32 2. ASSESS THE QUALIFYING PATIENT ON A MONTHLY BASIS UNTIL THE  
33 PHYSICIAN IS SATISFIED THAT THE QUALIFYING PATIENT IS TAKING A STABLE DOSE  
34 OF MARIJUANA FOR THE MOST BENEFICIAL RESULTS AND CONTINUE TO MONITOR THE  
35 QUALIFYING PATIENT EVERY SIX MONTHS.

36 3. REPORT THE RESULTS ANNUALLY TO THE DEPARTMENT.

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

38 Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
39 section 36-2801, Arizona Revised Statutes, as amended by this act, and  
40 section 36-2823, Arizona Revised Statutes, as added by this act, are  
41 effective only on the affirmative vote of at least three-fourths of the  
42 members of each house of the legislature.