

REFERENCE TITLE: marijuana testing; complaints; disclosure

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

## **SB 1709**

Introduced by  
Senators Shamp: Borrelli, Gowan, Shope

### AN ACT

AMENDING SECTIONS 36-2803, 36-2817 AND 36-2854.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 28.2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2866 AND 36-2867; 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, Arizona Revised  
4 Statutes, is amended to read:

5 36-2803. Rulemaking; fees; notice; testing of marijuana and  
6 marijuana products

7 A. The department shall adopt rules:

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

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

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

17 4. Governing nonprofit medical marijuana dispensaries to protect  
18 against diversion and theft without imposing an undue burden on nonprofit  
19 medical marijuana dispensaries or compromising the confidentiality of  
20 cardholders, including:

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

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

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

27 (d) Minimum security requirements for nonprofit medical marijuana  
28 dispensaries, including requirements to protect each registered nonprofit  
29 medical marijuana dispensary location by a fully operational security  
30 alarm system.

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

34 5. Establishing application and renewal fees for registry  
35 identification cards, nonprofit medical marijuana dispensary registration  
36 certificates and independent third-party laboratory certificates,  
37 according to the following:

38 (a) The total amount of all fees shall generate revenues that are  
39 sufficient to implement and administer this chapter, except that fee  
40 revenue may be offset or supplemented by private 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) The total amount of revenue generated from nonprofit medical  
2 marijuana dispensary application and renewal fees, registry identification  
3 card fees for nonprofit medical marijuana dispensary agents and  
4 independent third-party laboratory agents and application and renewal fees  
5 for independent third-party laboratories shall be sufficient to implement  
6 and administer this chapter, including the verification system, except  
7 that the fee revenue may be offset or supplemented by private donations.

8 (e) The department may establish a sliding scale of patient  
9 application and renewal fees that are based on a qualifying patient's  
10 household income and that are reasonable and related to the actual costs  
11 of processing applications and renewals.

12 (f) The department may consider private donations under section  
13 36-2817 to reduce application and renewal fees.

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

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

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

39 E. Before selling or dispensing marijuana or marijuana products to  
40 registered qualified patients or registered designated caregivers,  
41 nonprofit medical marijuana dispensaries shall test marijuana and  
42 marijuana products for medical use to determine unsafe levels of  
43 contamination, including unsafe levels of microbial contamination, heavy  
44 metals, pesticides, fungicides, growth regulators and residual solvents  
45 and confirm the potency of the marijuana to be dispensed. The dried

1 flowers of the marijuana plant are not required to be tested for residual  
2 solvents. If a nonprofit medical marijuana dispensary's test results for  
3 heavy metals comply with the prescribed requirements for a period of six  
4 consecutive months, heavy metal testing for that dispensary's marijuana  
5 and marijuana products is required only on a quarterly basis.

6 F. THE DEPARTMENT SHALL ADOPT RULES THAT DEFINE WHAT CONSTITUTES A  
7 BATCH IN A MANNER THAT APPROPRIATELY BALANCES THE NEED FOR ENSURING  
8 QUALIFYING PATIENTS' SAFETY AND PRECISE POTENCY INFORMATION WITH THE ADDED  
9 COST THAT STRICTER REQUIREMENTS WOULD IMPOSE ON QUALIFYING PATIENTS. FOR  
10 CULTIVATED MARIJUANA, THE SIZE OF A BATCH MAY NOT EXCEED FIFTY POUNDS, AND  
11 ALL CULTIVATED MARIJUANA IN ONE BATCH MUST BE PLANTED WITHIN SEVENTY-TWO  
12 HOURS AND HARVESTED WITHIN SEVENTY-TWO HOURS. THE DEPARTMENT MAY NARROW  
13 THE SCOPE OF A BATCH BUT MAY NOT EXPAND IT.

14 G. THE DEPARTMENT SHALL ADOPT RULES CONCERNING UNIQUE BATCH NUMBERS  
15 TO ENSURE THAT BATCH NUMBERS ARE NOT REUSED AND TO ALLOW QUALIFYING  
16 PATIENTS TO ADEQUATELY MATCH A CERTIFICATE OF ANALYSIS TO A SPECIFIC  
17 PRODUCT.

18 H. THE DEPARTMENT SHALL ADOPT RULES REGARDING SAMPLING PROCEDURES  
19 THAT APPROPRIATELY BALANCE THE NEED FOR ENSURING QUALIFYING PATIENTS'  
20 SAFETY AND PRECISE POTENCY INFORMATION WITH THE ADDED COST THAT STRICTER  
21 REQUIREMENTS WOULD IMPOSE ON QUALIFYING PATIENTS. BEGINNING JANUARY 1,  
22 2024, THE RULES SHALL REQUIRE:

23 1. INDEPENDENT THIRD-PARTY LABORATORIES TO BEGIN COLLECTING  
24 SAMPLES, TO PERFORM THE COLLECTION PER ISO 17025 AND TO MAINTAIN SAMPLING  
25 RECORDS FOR ONE YEAR.

26 2. NONPROFIT MEDICAL MARIJUANA DISPENSARIES TO MAINTAIN ANY VIDEO  
27 SURVEILLANCE RECORDS THAT DEPICT SAMPLES BEING COLLECTED FOR A PERIOD OF  
28 SIX MONTHS.

29 I. AN INDEPENDENT THIRD-PARTY LABORATORY THAT CONDUCTS TESTING IN  
30 ACCORDANCE WITH SUBSECTION E OF THIS SECTION SHALL UPLOAD TO THE  
31 DEPARTMENT'S ONLINE PORTAL WITHIN FIVE CALENDAR DAYS AFTER COMPLETING THE  
32 TESTING THE LABORATORY-APPROVED CERTIFICATE OF ANALYSIS THAT PROVIDES THE  
33 DETAILS OF THE LABORATORY TEST RESULTS THAT WERE CONDUCTED IN ACCORDANCE  
34 WITH SUBSECTION E OF THIS SECTION.

35 J. THE DEPARTMENT SHALL ADOPT RULES, BASED ON NATIONAL OR  
36 INTERNATIONAL STANDARDS IF AVAILABLE, TO STANDARDIZE HOW INDEPENDENT  
37 THIRD-PARTY LABORATORIES TEST SAMPLES OF MARIJUANA AND MARIJUANA PRODUCTS  
38 TO ENSURE CONSISTENT, RELIABLE AND SCIENTIFICALLY VALID RESULTS.

39 K. THE DEPARTMENT SHALL DEVELOP A STANDARD FORM AND REQUIRE  
40 INDEPENDENT THIRD-PARTY LABORATORIES TO SUBMIT THE STANDARD FORM AS THE  
41 FINAL CERTIFICATE OF ANALYSIS OF TEST RESULTS. THE STANDARD FORM MUST  
42 CONTAIN THE MANDATORY TESTING REQUIREMENTS.

43 ~~F.~~ L. Nonprofit medical marijuana dispensaries shall:

44 1. Provide test results to a registered qualifying patient or  
45 designated caregiver immediately on request.

1           2. Display in a conspicuous location a sign that notifies patients  
2 of their right to receive the certified independent third-party laboratory  
3 test results for marijuana and marijuana products for medical use.

4           ~~G.~~ M. The department shall adopt rules to certify and regulate  
5 independent third-party laboratories that analyze marijuana cultivated for  
6 medical use. The department shall establish certification fees for  
7 laboratories pursuant to subsection A of this section. In order to be  
8 certified as an independent third-party laboratory that is allowed to test  
9 marijuana and marijuana products for medical use pursuant to this chapter,  
10 an independent third-party laboratory:

11           1. Must meet requirements established by the department, including  
12 reporting and health and safety requirements.

13           2. May not have any direct or indirect familial or financial  
14 relationship with or interest in a nonprofit medical marijuana dispensary  
15 or related medical marijuana business entity or management company, or any  
16 direct or indirect familial or financial relationship with a designated  
17 caregiver for whom the laboratory is testing marijuana and marijuana  
18 products for medical use in this state.

19           3. Must have a quality assurance program and standards.

20           4. Must have an adequate chain of custody and sample requirement  
21 policies.

22           5. Must have an adequate records retention process to preserve  
23 records.

24           6. Must establish procedures to ensure that results are accurate,  
25 precise and scientifically valid before reporting the results.

26           7. Must be accredited by a national or international accreditation  
27 association or other similar accrediting entity, as determined by the  
28 department.

29           8. Must establish policies and procedures for disposal and reverse  
30 distribution of samples that are collected by the laboratory.

31           ~~H.~~ N. Through December 31, 2022, the department may conduct  
32 proficiency testing and remediate problems with independent third-party  
33 laboratories that are certified and regulated pursuant to this chapter and  
34 marijuana testing facilities that are licensed and regulated pursuant to  
35 chapter 28.2 of this title.

36           ~~I.~~ O. ~~Beginning January 1, 2023,~~ The department shall ~~conduct~~  
37 ~~proficiency testing and remediate problems with~~ REQUIRE independent  
38 third-party laboratories that are certified and regulated pursuant to this  
39 chapter and marijuana testing facilities that are licensed and regulated  
40 pursuant to chapter 28.2 of this title TO CONDUCT PROFICIENCY TESTING THAT  
41 IS COMMERCIALY AVAILABLE BY CONTRACTING WITH A PROFICIENCY TESTING  
42 PROVIDER THAT HAS NATIONAL OR INTERNATIONAL ACCREDITATION. The department  
43 ~~may contract for proficiency testing with laboratories that have a~~  
44 ~~national or international accreditation~~ SHALL SUPERVISE REMEDIATION AND  
45 TAKE CORRECTIVE ACTION AS NEEDED.



1           5. \$4,000,000 to the department to distribute grants to qualified  
2 nonprofit entities that will provide outreach to individuals who may be  
3 eligible to file petitions for expungement pursuant to section 36-2862 and  
4 will assist with the expungement petition process. The department shall  
5 distribute grants pursuant to this paragraph on or before June 30, 2021.

6           6. \$2,000,000 to the department of health services to develop and  
7 implement, in conjunction with the department of economic security and  
8 other state agencies, a social equity ownership program to promote the  
9 ownership and operation of marijuana establishments and marijuana testing  
10 facilities by individuals from communities disproportionately impacted by  
11 the enforcement of previous marijuana laws. For the purposes of this  
12 paragraph, "marijuana establishment" and "marijuana testing facility" have  
13 the same meanings prescribed in section 36-2850.

14           7. \$1,000,000 to the department to fund programs and grants to  
15 qualified nonprofit organizations for education and community outreach  
16 related to chapter 28.2 of this title.

17           8. \$1,000,000 to the smart and safe Arizona fund established by  
18 section 36-2856.

19           F. After all costs incurred to implement, carry out and enforce  
20 this chapter and the rules adopted pursuant to this chapter are paid for  
21 fiscal year 2021-2022, the department shall transfer from the medical  
22 marijuana fund the following sums for the following purposes:

23           1. \$1,250,000 to the department for suicide prevention.

24           2. \$1,250,000 to the Arizona health care cost containment system  
25 for suicide prevention.

26           3. \$2,000,000 to the institute for mental health research for  
27 research to improve mental health services, research and education in this  
28 state.

29           4. \$2,000,000 to the department for the primary care provider loan  
30 repayment program and the rural private primary care provider loan  
31 repayment program established by chapter 21 of this title. The department  
32 shall prioritize rural providers in the areas of mental health care and  
33 behavioral health care if feasible and appropriate.

34           5. \$2,000,000 to the board of medical student loans for the  
35 purposes of title 15, chapter 13, article 7. The board shall prioritize  
36 students who intend to practice in the area of psychiatry or other areas  
37 of practice that treat mental illness if feasible and appropriate.

38           6. \$5,000,000 to county public health departments, in proportion to  
39 the population of each county, for the purposes of addressing important  
40 public health issues and communities affected by drug addiction and  
41 incarceration.

42           7. \$1,000,000 to the department for the health care directives  
43 registry established pursuant to section 36-3291.

44           G. Monies transferred pursuant to subsection F of this section do  
45 not revert to the state general fund.

1 H. The director shall make a onetime transfer of \$250,000 from the  
2 medical marijuana fund to the department to provide grants for marijuana  
3 research studies pursuant to section 36-2812.

4 I. The director may use monies in the medical marijuana fund to  
5 contract with laboratories pursuant to section 36-2803, subsection ~~† 0~~ to  
6 comply with the proficiency testing requirements of this chapter for  
7 independent third-party laboratories and marijuana testing facilities. On  
8 or before July 1 of each year, the department shall report to the joint  
9 legislative budget committee expenditures made pursuant to this subsection  
10 for the preceding fiscal year.

11 Sec. 3. Subject to the requirements of article IV, part 1,  
12 section 1, Constitution of Arizona, section 36-2854.01, Arizona Revised  
13 Statutes, is amended to read:

14 36-2854.01. Marijuana products; labeling; packaging

15 Not later than December 31, 2023, any marijuana product packaging  
16 labeled for sale shall include a consumer scannable tetrahydrocannabinol  
17 quick response code or similar technology linking to a webpage that  
18 displays all of the following for the specific marijuana product:

- 19 1. The date of harvest of the marijuana.
- 20 2. The tetrahydrocannabinol strain of the marijuana.
- 21 3. The tetrahydrocannabinol extraction method used to extract the  
22 tetrahydrocannabinol from the marijuana.

23 ~~4. A laboratory report of impurities containing at least heavy  
24 metals and agrochemicals.~~

25 4. THE COMPLETE INDEPENDENT THIRD-PARTY LABORATORY CERTIFICATE OF  
26 ANALYSIS THAT IS PROVIDED TO THE DEPARTMENT PURSUANT TO SECTION 36-2803 IF  
27 THE MARIJUANA PRODUCT IS TESTED PURSUANT TO SECTION 36-2803, OR THE  
28 COMPLETE MARIJUANA TESTING FACILITY CERTIFICATE OF ANALYSIS.

- 29 5. The date of manufacture of the marijuana product.
- 30 6. The distribution chain, including at least a point of intended  
31 sale.

32 7. A warning that states, "using marijuana during pregnancy could  
33 cause birth defects or other health issues to your unborn child."

34 Sec. 4. Subject to the requirements of article IV, part 1,  
35 section 1, Constitution of Arizona, title 36, chapter 28.2, Arizona  
36 Revised Statutes, is amended by adding sections 36-2866 and 36-2867, to  
37 read:

38 36-2866. Third-party contractors; sample collection and  
39 testing

40 A. BEGINNING JANUARY 1, 2025, THE DEPARTMENT SHALL CONTRACT WITH A  
41 THIRD PARTY, WHICH MAY INCLUDE INDEPENDENT THIRD-PARTY LABORATORIES AND  
42 MARIJUANA TESTING FACILITIES, TO COLLECT RANDOM SAMPLES OF MARIJUANA OR  
43 MARIJUANA PRODUCTS FOR SALE AT NONPROFIT MEDICAL MARIJUANA DISPENSARIES  
44 AND MARIJUANA ESTABLISHMENTS TO CONFIRM THAT THE CERTIFIED TEST RESULTS OF  
45 THE MARIJUANA OR MARIJUANA PRODUCTS MATCH THE MARIJUANA OR MARIJUANA



1 PRODUCTS BEING SOLD. THE THIRD-PARTY CONTRACTOR MAY COLLECT, POSSESS AND  
2 TEST THE SAMPLES OF MARIJUANA AND MARIJUANA PRODUCTS FOR THE PURPOSES OF  
3 THIS SECTION.

4 B. NOTWITHSTANDING TITLE 13, CHAPTER 34, A THIRD-PARTY CONTRACTOR  
5 MAY NOT BE CHARGED WITH OR PROSECUTED FOR POSSESSION OF MARIJUANA OR  
6 MARIJUANA PRODUCTS THAT ARE COLLECTED FOR THE PURPOSES OF A CONTRACT WITH  
7 THE DEPARTMENT PURSUANT TO THIS SECTION.

8 36-2867. Complaints; disclosure of information;  
9 confidentiality

10 A. A COMPLAINT THAT RELATES TO COMPLIANCE WITH THIS CHAPTER,  
11 CHAPTER 28.1 OF THIS TITLE OR THE RULES ADOPTED PURSUANT TO THIS CHAPTER  
12 OR CHAPTER 28.1 OF THIS TITLE AND THAT IS SUBMITTED TO THE DEPARTMENT  
13 REGARDING AN INDEPENDENT THIRD-PARTY LABORATORY, A MARIJUANA TESTING  
14 FACILITY, A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA  
15 ESTABLISHMENT SHALL BE MADE AVAILABLE TO THE PUBLIC AFTER THE DEPARTMENT  
16 DETERMINES THAT THERE IS A REASONABLE BASIS TO PROCEED TO INVESTIGATE THE  
17 COMPLAINT, EXCEPT THAT THE NAME OF THE COMPLAINANT SHALL REMAIN  
18 CONFIDENTIAL IF REQUESTED BY THE COMPLAINANT.

19 B. UNLESS OTHERWISE PROHIBITED BY FEDERAL OR STATE LAW, THE  
20 DEPARTMENT MAY DISCLOSE THE INFORMATION IN A COMPLAINT DESCRIBED IN  
21 SUBSECTION A OF THIS SECTION TO AN OFFICER OF THE COURT PURSUANT TO A  
22 COURT ORDER, TO A DEPARTMENT OR AGENCY OF THIS STATE OR THE FEDERAL  
23 GOVERNMENT, TO A LAW ENFORCEMENT AGENCY OR TO A COUNTY MEDICAL EXAMINER IF  
24 THE DISCLOSURE OF THIS INFORMATION IS NECESSARY AND PERTINENT TO AN  
25 INVESTIGATION OR PROCEEDING. THE RECIPIENT OF INFORMATION DISCLOSED  
26 PURSUANT TO THIS SUBSECTION SHALL MAINTAIN THE CONFIDENTIALITY OF THE  
27 COMPLAINANT'S NAME.

28 Sec. 5. Requirements for enactment; three-fourths vote

29 Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
30 sections 36-2803, 36-2817 and 36-2854.01, Arizona Revised Statutes, as  
31 amended by this act, and sections 36-2866 and 36-2867, Arizona Revised  
32 Statutes, as added by this act, are effective only on the affirmative vote  
33 of at least three-fourths of the members of each house of the legislature.