

REFERENCE TITLE: marijuana; interstate agreements; delivery

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2770

Introduced by
Representative Wilmeth: Senator Gowan

AN ACT

AMENDING SECTIONS 36-2850 AND 36-2854, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-116; 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 36-2850, Arizona Revised
4 Statutes, is amended to read:

5 36-2850. Definitions

6 In this chapter, unless the context requires otherwise:

7 1. "Advertise," "advertisement" and "advertising" mean any public
8 communication in any medium that offers or solicits a commercial
9 transaction involving the sale, purchase or delivery of marijuana or
10 marijuana products.

11 2. "Child-resistant" means designed or constructed to be
12 significantly difficult for children under five years of age to open, and
13 not difficult for normal adults to use properly.

14 3. "Consume," "consuming" and "consumption" mean the act of
15 ingesting, inhaling or otherwise introducing marijuana into the human
16 body.

17 4. "Consumer" means an individual who is at least twenty-one years
18 of age and who purchases marijuana or marijuana products.

19 5. "Cultivate" and "cultivation" mean to propagate, breed, grow,
20 prepare and package marijuana.

21 6. "Deliver" and "delivery" mean the transportation, transfer or
22 provision of marijuana or marijuana products to a consumer at a location
23 other than the designated retail location of a marijuana establishment.

24 7. "Department" means the department of health services or its
25 successor agency.

26 8. "Designated caregiver" has the same meaning prescribed in
27 section 36-2801.

28 9. "Dual licensee" means an entity that holds both a nonprofit
29 medical marijuana dispensary registration and a marijuana establishment
30 license.

31 10. "Early applicant" means either of the following:

32 (a) An entity seeking to operate a marijuana establishment in a
33 county with fewer than two registered nonprofit medical marijuana
34 dispensaries.

35 (b) A nonprofit medical marijuana dispensary that is registered and
36 in good standing with the department.

37 11. "Employee," "employer," "health care facility," and "places of
38 employment" have the same meanings prescribed in ~~the smoke-free Arizona~~
39 ~~act~~, section 36-601.01.

40 12. "Excluded felony offense" has the same meaning prescribed in
41 section 36-2801.

42 13. "Good standing" means that a nonprofit medical marijuana
43 dispensary is not the subject of a pending notice of intent to revoke
44 issued by the department.

- 1 14. "Independent third-party laboratory" has the same meaning
2 prescribed in section 36-2801.
- 3 15. "Industrial hemp" has the same meaning prescribed in section
4 3-311.
- 5 16. "Licensee" means a person that obtains a license pursuant to
6 section 36-2854.
- 7 17. "Locality" means a city, town or county.
- 8 18. "Manufacture" and "manufacturing" mean to compound, blend,
9 extract, infuse or otherwise make or prepare a marijuana product.
- 10 19. "Marijuana":
- 11 (a) Means all parts of the plant of the genus cannabis, whether
12 growing or not, as well as the seeds from the plant, the resin extracted
13 from any part of the plant, and every compound, manufacture, salt,
14 derivative, mixture or preparation of the plant or its seeds or resin.
- 15 (b) Includes cannabis as defined in 13-3401.
- 16 (c) Does not include industrial hemp, the fiber produced from the
17 stalks of the plant of the genus cannabis, oil or cake made from the seeds
18 of the plant, sterilized seeds of the plant that are incapable of
19 germination, or the weight of any other ingredient combined with marijuana
20 to prepare topical or oral administrations, food, drink or other products.
- 21 20. "Marijuana concentrate":
- 22 (a) Means resin extracted from any part of a plant of the genus
23 cannabis and every compound, manufacture, salt, derivative, mixture or
24 preparation of that resin or tetrahydrocannabinol.
- 25 (b) Does not include industrial hemp or the weight of any other
26 ingredient combined with cannabis to prepare topical or oral
27 administrations, food, drink or other products.
- 28 21. "Marijuana establishment" means an entity that is licensed by
29 the department to operate all of the following:
- 30 (a) A single retail location at which the licensee may sell
31 marijuana and marijuana products to consumers, cultivate marijuana and
32 manufacture marijuana products.
- 33 (b) A single off-site cultivation location at which the licensee
34 may cultivate marijuana, process marijuana and manufacture marijuana
35 products, but from which marijuana and marijuana products may not be
36 ~~transferred or~~ sold to consumers.
- 37 (c) A single off-site location at which the licensee may
38 manufacture marijuana products and package and store marijuana and
39 marijuana products, but from which marijuana and marijuana products may
40 not be ~~transferred or~~ sold to consumers.
- 41 22. "Marijuana facility agent" means a principal officer, board
42 member or employee of a marijuana establishment or marijuana testing
43 facility who is at least twenty-one years of age and who has not been
44 convicted of an excluded felony offense.

1 23. "Marijuana ~~products~~ **PRODUCT**" means marijuana concentrate and
2 ~~products~~ **ANY PRODUCT** that ~~are~~ **IS** composed of marijuana and other
3 ingredients and that ~~are~~ **IS** intended for use or consumption, including
4 edible products, ointments and tinctures.

5 24. "Marijuana testing facility" means the department or another
6 entity that is licensed by the department to analyze the potency of
7 marijuana and test marijuana for harmful contaminants.

8 25. "Nonprofit medical marijuana dispensary" has the same meaning
9 prescribed in section 36-2801.

10 26. "Nonprofit medical marijuana dispensary agent" has the same
11 meaning prescribed in section 36-2801.

12 27. "Open space" means a public park, public sidewalk, public
13 walkway or public pedestrian thoroughfare.

14 28. "Process" and "processing" mean to harvest, dry, cure, trim or
15 separate parts of the marijuana plant.

16 29. "Public place" has the same meaning prescribed in section
17 36-601.01.

18 30. "Qualifying patient" has the same meaning prescribed in section
19 36-2801.

20 31. "Smoke" means to inhale, exhale, burn, carry or possess any
21 lighted marijuana or lighted marijuana products, whether natural or
22 synthetic.

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
31 include requirements for:

32 1. Licensing marijuana establishments and marijuana testing
33 facilities, including conducting investigations and background checks to
34 determine eligibility for licensing for marijuana establishment and
35 marijuana testing facility applicants, except that:

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

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

44 (c) Notwithstanding subdivision (b) of this paragraph, the
45 department may issue a marijuana establishment license to not more than

1 two marijuana establishments per county that contains no registered
2 nonprofit medical marijuana dispensaries, or one marijuana establishment
3 license per county that contains one registered nonprofit medical
4 marijuana dispensary. Any license issued pursuant to this subdivision
5 shall be for a fixed county and may not be relocated outside of that
6 county.

7 (d) The department shall accept applications for marijuana
8 establishment licenses from early applicants beginning January 19, 2021
9 through March 9, 2021. Not later than sixty days after receiving an
10 application pursuant to this subdivision, the department shall issue a
11 marijuana establishment license to each qualified early applicant. If the
12 department has not adopted final rules pursuant to this section at the
13 time marijuana establishment licenses are issued pursuant to this
14 subdivision, licensees shall comply with the rules adopted by the
15 department to implement chapter 28.1 of this title except those that are
16 inconsistent with this chapter.

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

26 (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and
27 not later than six months after the department adopts final rules to
28 implement a social equity ownership program pursuant to paragraph 9 of
29 this subsection, the department shall issue twenty-six additional
30 marijuana establishment licenses to entities that are qualified pursuant
31 to the social equity ownership program.

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

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

38 (ii) The date of the nonprofit medical marijuana dispensary
39 registration renewal.

40 (h) ~~Beginning September 29, 2021,~~ The department may not issue a
41 marijuana establishment or marijuana testing facility license to an
42 applicant who has an ownership interest in an out-of-state marijuana
43 establishment or marijuana testing facility, or the other state's
44 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.

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

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

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

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

44 6. Forms of government-issued identification that are acceptable by
45 a marijuana establishment verifying a consumer's age and procedures

1 related to verifying a consumer's age consistent with section 4-241.
2 Until the department adopts final rules related to verifying a consumer's
3 age, marijuana establishments shall comply with the proof of legal age
4 requirements prescribed in section 4-241.

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

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

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

15 8. Ensuring the health, safety and training of employees of
16 marijuana establishments and marijuana testing facilities.

17 9. The creation and implementation of a social equity ownership
18 program to promote the ownership and operation of marijuana establishments
19 and marijuana testing facilities by individuals from communities
20 disproportionately impacted by the enforcement of previous marijuana laws.

21 10. Prohibiting a marijuana testing facility from having any direct
22 or indirect familial relationship with or financial ownership interest in
23 a marijuana establishment or related marijuana business entity or
24 management company. The rules shall include prohibiting a marijuana
25 establishment from having any direct or indirect familial relationship
26 with or financial ownership interest in a marijuana testing facility or
27 related marijuana business entity or management company.

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

37 B. The department may:

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

43 (a) Violates this chapter or any rule adopted pursuant to this
44 chapter.

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

4 2. Subject to title 41, chapter 6, article 10, and unless another
5 penalty is provided elsewhere in this chapter, assess a civil penalty
6 against a person that violates this chapter or any rule adopted pursuant
7 to this chapter in an amount not to exceed \$2,000 for each violation.
8 Each day a violation occurs constitutes a separate violation. In
9 determining the amount of a civil penalty assessed against a person, the
10 department shall consider all of the factors set forth in section 36-2816,
11 subsection H. All civil penalties collected by the department pursuant to
12 this paragraph shall be deposited in the smart and safe Arizona fund
13 established by section 36-2856.

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

19 4. Adopt any other rules that are not expressly stated in this
20 section and that are necessary to ensure the safe and responsible
21 cultivation, sale, processing, manufacture, testing and transport of
22 marijuana and marijuana products.

23 C. Until the department adopts rules ~~permitting~~ ALLOWING and
24 regulating delivery by marijuana establishments pursuant to subsection D
25 of this section, delivery is unlawful under this chapter.

26 D. On or after January 1, 2023, the department may, and not later
27 than January 1, 2025 the department shall, adopt rules to ~~permit~~ ALLOW and
28 regulate delivery by marijuana establishments. The rules shall:

29 1. Require that ~~delivery and~~ the marijuana and marijuana products
30 ~~to be delivered originate from a designated retail location of a marijuana~~
31 ~~establishment and~~ only after an order is made with ~~the~~ A marijuana
32 establishment by a consumer.

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

36 3. Limit the amount of marijuana and marijuana products based on
37 retail price that may be in a delivery vehicle during a single trip from
38 the designated ~~retail~~ location ~~of a marijuana establishment.~~ THE
39 DESIGNATED LOCATION MAY BE THE MARIJUANA ESTABLISHMENT'S RETAIL LOCATION
40 OR WHERE THE MARIJUANA OR MARIJUANA PRODUCTS ARE PROCESSED, MANUFACTURED
41 OR CULTIVATED.

42 4. Prohibit extra or unallocated marijuana or marijuana products in
43 delivery vehicles.

44 5. Require that deliveries be made only by marijuana facility
45 agents in unmarked vehicles that are equipped with a global positioning

1 system or similar location tracking system and video surveillance and
2 recording equipment, and that contain a locked compartment in which
3 marijuana and marijuana products must be stored.

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

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

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

10 9. Require dual licensees to comply with the rules adopted pursuant
11 to this subsection.

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

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

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

23 1. Prohibits the operation of marijuana establishments, either
24 expressly or through requirements that make the operation of a marijuana
25 establishment unduly burdensome.

26 2. Prohibits or interferes with the ability of a dual licensee to
27 operate a marijuana establishment and a nonprofit medical marijuana
28 dispensary at shared locations.

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

32 1. Defending this chapter or rules adopted pursuant to this
33 chapter.

34 2. Defending chapter 28.1 of this title or rules adopted pursuant
35 to chapter 28.1 of this title.

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

39 J. On request, the department OF HEALTH SERVICES shall share with
40 the department of revenue information regarding a marijuana establishment,
41 marijuana testing facility or dual licensee, including its name, physical
42 address, cultivation site and transaction privilege tax license number.

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

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

- 1 2. Operate a marijuana testing facility.
- 2 L. The department shall maintain and publish a current list of all
3 marijuana establishments and marijuana testing facilities by name and
4 license number.
- 5 M. Notwithstanding any other law, the issuance of an occupational,
6 professional or other regulatory license or certification to a person by a
7 jurisdiction or regulatory authority outside this state does not entitle
8 that person to be issued a marijuana establishment license, a marijuana
9 testing facility license, or any other license, registration or
10 certification under this chapter.
- 11 N. Until the department adopts rules as required by subsection A,
12 paragraph 10 of this section:
- 13 1. A marijuana testing facility is prohibited from having any
14 direct or indirect familial relationship with or financial ownership
15 interest in a marijuana establishment or related marijuana business entity
16 or management company.
- 17 2. A marijuana establishment is prohibited from having any direct
18 or indirect familial relationship with or financial ownership interest in
19 a marijuana testing facility or related marijuana business entity or
20 management company.
- 21 Sec. 3. Subject to the requirements of article IV, part 1,
22 section 1, Constitution of Arizona, title 41, chapter 1, article 1,
23 Arizona Revised Statutes, is amended by adding section 41-116, to read:
- 24 41-116. Marijuana; cross-jurisdictional coordination
25 agreements; definitions
- 26 A. THE GOVERNOR MAY ENTER INTO AN AGREEMENT WITH ANOTHER STATE FOR
27 THE PURPOSES OF BOTH OF THE FOLLOWING:
- 28 1. CROSS-JURISDICTIONAL COORDINATION AND ENFORCEMENT OF
29 MARIJUANA-RELATED BUSINESSES AUTHORIZED TO CONDUCT BUSINESS IN EITHER THIS
30 STATE OR THE OTHER STATE.
- 31 2. CROSS-JURISDICTIONAL DELIVERY OF MARIJUANA AND MARIJUANA
32 PRODUCTS BETWEEN THIS STATE AND THE OTHER STATE.
- 33 B. AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION:
- 34 1. MUST ENSURE ENFORCEABLE PUBLIC HEALTH AND SAFETY STANDARDS AND
35 INCLUDE A SYSTEM TO REGULATE AND TRACK THE INTERSTATE DELIVERY OF
36 MARIJUANA AND MARIJUANA PRODUCTS.
- 37 2. MUST ENSURE THAT ANY MARIJUANA AND MARIJUANA PRODUCTS DELIVERED
38 INTO THIS STATE, BEFORE SALE TO A CONSUMER, ARE:
- 39 (a) TESTED IN ACCORDANCE PURSUANT TO THIS CHAPTER.
- 40 (b) PACKAGED AND LABELED IN ACCORDANCE PURSUANT TO THIS CHAPTER.
- 41 3. MAY AUTHORIZE ONE OR MORE AGENCIES OF THIS STATE TO PROVIDE
42 POLICY RECOMMENDATIONS AND ASSIST IN IMPLEMENTING AND ENFORCING OF THE
43 TERMS OF THE AGREEMENT.
- 44 C. IN ACCORDANCE WITH AN AGREEMENT AS PRESCRIBED IN THIS SECTION:

1 1. A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE MAY DELIVER MARIJUANA
2 AND MARIJUANA PRODUCTS TO A PERSON LOCATED IN AND AUTHORIZED TO RECEIVE
3 MARIJUANA AND MARIJUANA PRODUCTS FROM THE OTHER STATE.

4 2. A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE MAY RECEIVE MARIJUANA
5 AND MARIJUANA PRODUCTS FROM A PERSON LOCATED IN AND AUTHORIZED TO EXPORT
6 MARIJUANA AND MARIJUANA PRODUCTS BY THE OTHER STATE.

7 D. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE", "MARIJUANA",
8 "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS
9 PRESCRIBED IN SECTION 36-2850.

10 Sec. 4. Conditional enactment; notice

11 A. Section 41-116, Arizona Revised Statutes, as added by this act,
12 does not become effective unless on or before October 1, 2028 either of
13 the following occurs:

14 1. Federal law is amended to allow for the interstate transfer of
15 marijuana and marijuana products between authorized marijuana-related
16 businesses.

17 2. The United States department of justice issues an opinion or
18 memorandum allowing or tolerating the interstate transfer of marijuana and
19 marijuana products between authorized marijuana-related businesses.

20 B. The director of the department of health services shall notify
21 the director of the Arizona legislative council in writing on or before
22 November 1, 2028 either:

23 1. Of the date on which the condition prescribed in subsection A,
24 paragraph 1 or 2 was met.

25 2. That neither condition was met.

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

27 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
28 sections 36-2850 and 36-2854, Arizona Revised Statutes, as amended by this
29 act, section 41-116, Arizona Revised Statutes, as added by this act, are
30 effective only on the affirmative vote of at least three-fourths of the
31 members of each house of the legislature.