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13
14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 LISA JAMES, a qualified elector and
17 taxpayer; MERILEE FOWLER, a qualified
18 elector and taxpayer; TODD GRIFFITH, a
19 qualified elector and taxpayer; DR. EDWARD
20 GOGK, a qualified elector and taxpayer;
21 PAUL SMITH, a qualified elector and
22 taxpayer; DR. DALE GUTHRIE, a qualified
23 elector and taxpayer; and SALLY
24 SCHINDEL, a qualified elector and taxpayer,

25 Plaintiffs,

26 vs.

27 KATIE HOBBS, in her capacity as Arizona
28 Secretary of State,

Defendant.

and

SMART AND SAFE ARIZONA, a political
action committee,

Real Party in Interest.

Case No.

CV 2020-008460

VERIFIED COMPLAINT

**(Entitled to Priority Trial Under
A.R.S. § 19-122)**

1 Plaintiffs bring this action for declaratory and injunctive relief pursuant to
2 A.R.S. § 19-122(C) and hereby allege as follows:

3 **WHY WE BROUGHT THIS CHALLENGE**

4 1. This is a challenge to the legal sufficiency of an initiative measure titled the
5 “Smart and Safe Arizona Act” (the “Initiative”), serial number I-23-2020. A true and
6 correct copy of the Initiative is attached as Exhibit A. The Initiative’s stated purpose is to
7 legalize the use of marijuana “for persons twenty-one years of age or older, subject to state
8 regulation, taxation, and local ordinance.” Ex. A at § 2(1). As set forth in this Verified
9 Complaint, the Initiative is invalid and should not be certified for placement on the
10 November 2020 general election ballot because the measure’s 100-word summary (the
11 “Summary”) is materially misleading and creates a substantial danger of fraud, confusion
12 and unfairness.

13 2. Plaintiff Lisa James is a qualified elector and taxpayer in the State of Arizona.
14 Ms. James is the chairperson of Arizonans for Health and Public Safety, a registered
15 political committee with the Arizona Secretary of State that opposes the legalization of
16 recreational marijuana and raises awareness about the associated dangers. Ms. James is
17 concerned about the misleading and confusing way that the Initiative’s Summary fails to
18 explain to the electorate the impact and statutory changes the Initiative would have if
19 passed. Specifically, Ms. James is concerned that the Summary fails to explain that the
20 Initiative would: (i) allow potent THC products to be defined as “marijuana;” (ii) allow
21 unlimited cultivation of marijuana by commercial licensees; (iii) decrease criminal penalties
22 for underage possession and use of marijuana; (iv) cap taxes on marijuana at 16%
23 regardless of the cost for government and community programs; (v) allow dual licenses
24 thereby limiting safeguards now in place for medical marijuana; (vi) allow advertising
25 targeted to minors and (vii) decrease criminal DUI standards.

26 3. Plaintiff Merilee Fowler is a qualified elector and taxpayer in the State of
27 Arizona. Plaintiff Fowler is the Executive Director of MATFORCE and the Vice Chair for
28 Arizonans for Responsible Drug Policy. As a substance abuse education provider, Ms.

1 Fowler is familiar with the data regarding marijuana use, particularly amongst youth, in
2 Arizona and legalization efforts and effects nationwide. Ms. Fowler is concerned that the
3 Summary fails to communicate the impact of the Initiative to voters. Specifically, Ms.
4 Fowler is concerned that the Summary does not address, *inter alia*: (i) the lack of
5 limitations on the amount of THC legally allowed in marijuana (despite legalizing highly
6 potent THC product like hashish); (ii) the exceptions to municipal regulation of recreational
7 marijuana stores; (iii) the decrease in penalties for underage marijuana use; (iii) the
8 weakening of current DUI laws for marijuana; (iv) the unlimited cultivation of marijuana by
9 commercial licensees; or (v) the statutory changes to employment law. Plaintiff Fowler is
10 suing in her personal capacity only.

11 4. Plaintiff Todd Griffith is a qualified elector and taxpayer in the State of
12 Arizona. Mr. Griffith is a retired forensic scientist that worked for 43 years at the
13 Department of Public Safety, the last 20 of which he served as the director of DPS's crime
14 laboratories, which conducts the majority of drug and other testing for law enforcement
15 agencies in Arizona. Mr. Griffith also assisted in the drafting of many of Arizona's drug-
16 related statutes, including Arizona's impaired driving statutes. As a forensic scientist, Mr.
17 Griffith is concerned about the failure of the Initiative's Summary to inform the electorate
18 about the Initiative's alteration of the impaired-driving statutes, the expanded definition of
19 marijuana to include highly potent derivatives of marijuana, or the reduced penalties for the
20 possession and use of marijuana by underage residents.

21 5. Plaintiff Edward Gogek is a qualified elector and taxpayer in the State of
22 Arizona. Dr. Gogek is a physician licensed in the State of Arizona where he has been
23 practicing for almost 30 years. Dr. Gogek is Board Certified in Psychiatry and Addiction
24 Medicine. As a physician addressing marijuana addiction and psychiatric disorders caused
25 or exacerbated by marijuana, Dr. Gogek is concerned that the Initiative's Summary is
26 misleading because it does not inform the electorate that the expanded definition of
27 "marijuana" includes more potent products such as hashish. Dr. Gogek is also concerned
28 that the Initiative's Summary does not address that non-profit medical marijuana licensees

1 may become “dual licensees” allowing such entities to remove existing safeguards under
2 current law or the statutory changes to employment and DUI laws. Dr. Gogek is suing in his
3 personal capacity only.

4 6. Plaintiff Paul Smith is a qualified elector and taxpayer in the State of Arizona.
5 He is the Director of Pharmacy Operations at Sana Behavioral Hospital, which provides
6 geriatric mental health services to older adults in Yavapai County. Mr. Smith is concerned
7 that the Summary is confusing and misleading because it fails to describe the statutory
8 changes to employment law and the expanded definition of marijuana to include higher
9 potency THC products compared to present law. Mr. Smith is suing in his personal capacity
10 only.

11 7. Plaintiff Dale Guthrie is a qualified elector and taxpayer in the State of
12 Arizona. Dr. Guthrie is a licensed physician in the state of Arizona that has been practicing
13 for 32 years as a pediatrician. He is a fellow of the American Academy of Pediatrics and a
14 former president of the Arizona chapter of the American Academy of Pediatrics. As a
15 physician, Dr. Guthrie is aware of the implications and detrimental effects of drug policy on
16 public health. Dr. Guthrie is concerned that the Initiative’s Summary is misleading because
17 it fails to adequately describe the limited and reduced regulation of marijuana, the statutory
18 changes to employment and DUI law, and the taxation scheme that exempts household
19 cultivated products. Dr. Guthrie is suing in his personal capacity only.

20 8. Plaintiff Sally Schindel is a qualified elector and taxpayer in the State of
21 Arizona. She is a volunteer with MATFORCE, and gives educational presentations across
22 the country regarding marijuana addiction. Ms. Schindel’s son died by suicide when he
23 could not end his marijuana addiction. She fears that other families will face similar
24 tragedies if recreational use of marijuana is legalized in Arizona. Ms. Schindel is concerned
25 that the Summary of the Initiative is misleading because it does not convey the actual scope
26 of the Initiative’s changes to state law and the likely impact on Arizona families especially,
27 as it relates to decreased criminal penalties for underage use of marijuana and the impact of
28 advertising marijuana with few limitations on those under 21. She is also concerned that the

1 Summary fails to inform the electorate about the expanded definition of marijuana to
2 include more than just the plant. Ms. Schindel is suing in her own capacity only.

3 9. Each Plaintiff has a strong interest in maintaining the integrity and accuracy
4 of the initiative process and in the application and enforcement of the constitutional and
5 statutory requirements for statewide initiative measures.

6 10. Each Plaintiff and the Arizona electorate as a whole will suffer irreparable
7 injury if the Initiative appears on the November 2020 ballot in its misleading and
8 unconstitutional form.

9 11. Defendant Katie Hobbs is the Arizona Secretary of State, a public officer of
10 this State and is named as a Defendant in this action solely in her official capacity.

11 12. Defendant Hobbs is the public officer responsible for placing initiatives on
12 the ballot and for the conduct of statewide elections, including elections on and the
13 solicitation of votes for statewide ballot measures. ARIZ. CONST. art. 4, pt. 1, § 1(9)-(11).

14 13. Upon information and belief, Real Party in Interest, Smart and Safe Arizona is
15 a political action committee organized in the State of Arizona and is the primary promoter
16 and sponsor of the Initiative. Smart and Safe Arizona was responsible for drafting and
17 proposing the substantive language that was filed with the Secretary of State and circulated
18 by petition to the public.

19 JURISDICTION AND VENUE

20 14. This Court has jurisdiction pursuant to Article 6, § 14 of the Arizona
21 Constitution and A.R.S. §§ 12-123, 12-1801 *et seq.*, 12-1831 *et seq.*, and 19-122(C).

22 15. Venue is proper in Maricopa County pursuant to A.R.S. §§ 12-401 and 19-
23 122(D).

24 16. An actual and justiciable controversy exists regarding the legal sufficiency of
25 the Initiative's summary. Without court intervention, the Defendants stand to violate
26 Plaintiffs' rights under Arizona law, resulting in immediate and irreparable injury to
27 Plaintiffs and the Arizona electorate. A judgment of this Court will redress this
28 controversy.

1 17. Because this Verified Complaint challenges the sufficiency of an initiative
2 petition, Plaintiffs are entitled to an immediate trial under A.R.S. § 19-122(A), (C).

3 GENERAL ALLEGATIONS

4 The Ballot Initiative Process

5 18. The ballot initiative process begins when the initiative proponents submit the
6 text of the measure to the Secretary of State and receive a serial number to identify the
7 initiative. A.R.S. §§ 19-111(A), 19-114(B).

8 19. Proponents then gather signatures on petition signature sheets, which must
9 have attached to them the title and text of the initiative. Indeed, the Summary appears on
10 each petition signature sheet.

11 20. The standard for compliance was changed in 2017 by the Arizona Legislature
12 such that substantial compliance is no longer the correct standard. Petition signature sheets
13 must *strictly* comply with statutory requirements. ARIZ. CONST. art. 4, pt. 1, § 1(9); A.R.S.
14 §§ 19-102, 19-102.01(A), and 19-121(A)(3).

15 21. Completed petition signature sheets are filed with the Secretary of State at
16 least four months before the next general election. ARIZ. CONST. art. 4, pt. 1, § 1(4).

17 22. In this election cycle, the petition signature sheets were required to be filed by
18 July 2, 2020. See <https://azsos.gov/elections/initiative-referendum-and-recall>.

19 23. The petition signatures are counted and validated by the Secretary of State
20 and County Recorders in a process that is not relevant for purposes of this Complaint. See
21 *generally* A.R.S. §§ 19-121.01-.04. misleading

22 24. In this election cycle, 237,645 signatures from qualified electors were
23 required for an initiative measure to qualify for placement on the ballot. See
24 <https://azsos.gov/elections/initiative-referendum-and-recall>.

25 25. If the final number of valid signatures exceeds the minimum number of
26 required signatures, the Secretary of State must “notify the governor that a sufficient
27 number of signatures has been filed and that the initiative [] shall be placed on the ballot in
28 the manner provided by law.” A.R.S. §§ 19-121.04(B).

Strict Compliance Standard of Review

26. Under A.R.S. § 19-102.01(A), “[c]onstitutional and statutory requirements for statewide initiative measures must be strictly construed and persons using the initiative process must strictly comply with those constitutional and statutory requirements.”

27. Strict compliance with the constitutional and statutory requirements for the initiative process and in the application and enforcement of those requirements provides the surest method for safeguarding the integrity and accuracy of the initiative process. *See W. Devcor, Inc. v. City of Scottsdale*, 168 Ariz. 426, 429 (1991) (citing *Cottonwood Dev. v. Foothills Area Coal. of Tucson, Inc.*, 134 Ariz. 46, 49 (1982)).

28. “This standard of strict compliance requires nearly perfect compliance with constitutional and statutory . . . requirements.” *Arrett v. Bower*, 237 Ariz. 74, 81, 345 P.3d 129, 136 (App. 2015) (analyzing the strict compliance standard in context of referendums)

The Initiative Generally

29. On August 8, 2019, Smart and Safe Arizona applied for and received a serial number for the Initiative.

30. On September 24, 2019, Smart and Safe Arizona refiled its application due to changes in the 100-word summary and text of the Initiative.

31. On September 26, 2019, Smart and Safe Arizona refiled its application due to changes in the text of the Initiative.

32. To date, Smart and Safe Arizona claims to have submitted 420,000 signatures in support of Initiative. On July 1, 2020, Smart and Safe Arizona submitted petition signature sheets to the Secretary of State’s office.

33. Upon information and belief, the Secretary of State has not yet completed her review of the signatures submitted by Smart and Safe Arizona.

The Initiative’s 100-Word Summary

34. A.R.S. § 19-102(A) requires an initiative petition to contain a description “of no more than one hundred words of the principal provisions of the proposed measure.”

35. An initiative petition must be invalidated if the 100-word summary is

1 “fraudulent or creates a significant danger of confusion or unfairness.” *Molera v. Reagan*,
2 245 Ariz. 291, 295, ¶ 13, 428 P.3d 490, 494 (2018) (citing *Save Our Vote, Opposing C-03-*
3 *2012 v. Bennett*, 231 Ariz. 145, 152 ¶ 26, 291 P.3d 342, 349 (2013)).

4 36. An initiative petition must also be invalidated if the 100-word summary omits
5 a “principal provision that renders the initiative invalid.” *Id* at 297, ¶¶ 24-25, 428 P.3d at
6 496.

7 37. The Initiative contains the following Summary on the application for serial
8 number filed with the Secretary of State:

9 This Act permits limited possession, transfer, cultivation, and use of
10 marijuana (as defined) by adults 21 years old or older; protects employer
11 and property owner rights; bans smoking in public places; imposes a 16%
12 excise tax on marijuana to fund public safety, community colleges,
13 infrastructure, and public health and community programs; authorizes state
14 and local regulations for the sale and production of marijuana by a limited
15 number of licensees; requires impairment to the slightest degree for
marijuana DUIs; transfers monies from the Medical Marijuana Fund;
permits expungement of some marijuana violations; and prescribes
penalties for violations.

16 38. As set forth herein, the Initiative’s Summary is fraudulent and creates a
17 significant danger of confusion or unfairness, invalidating the Initiative.

18 **The Summary Is Misleading and Fraudulent Because The Initiative Redefines**
19 **“Marijuana” Without Disclosing This Change Or Its Impact**

20 39. The Summary states that the Initiative “permits limited possession, transfer,
21 cultivation, and use of marijuana (as defined) by adults 21 years old or older.” Ex. A. This
22 statement is deceptive and creates a significant danger of confusion because the electorate
23 was not told that the Initiative amends the existing definition of marijuana and legalizes
24 more potent forms of cannabis (such as hashish and marijuana concentrate) in addition to
25 what is commonly known as “marijuana.” This is a principal provision making its omission
26 a disqualifying defect.

27 40. The resin extracted from a cannabis plant—commonly known as hashish or
28 marijuana concentrate—contains higher concentrations of THC (*i.e.*, the main psychoactive

1 constituent contained in a cannabis plant) than unsifted or unprocessed cannabis flower.
2 See Russo, Ethan. *Cannabis and Cannabinoids: Pharmacology, Toxicology, and*
3 *Therapeutic Potential*, p. 34 (Routledge 2013).

4 41. The definition of “marijuana” under current Arizona law *excludes* the resin
5 extracted from a cannabis plant. Extracted resin is currently defined as “cannabis”—a
6 “narcotic drug.” A.R.S. §§ 13-3401(4), (19), (20)(w).

7 42. Currently, the penalties for possessing or producing “marijuana” are different
8 than the penalties for the possession or production of “cannabis.” Compare A.R.S. § 13-
9 3405 (marijuana penalties), with A.R.S. § 13-3408 (narcotic penalties) and A.R.S. § 13-
10 3401(20)(w) (defining cannabis as a narcotic drug).

11 43. The Initiative redefines “marijuana” to include “the resin extracted from any
12 part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation
13 of the plan or its seeds or resin.” Ex. A at A.R.S. § 36-2850(16)(a).

14 44. The Summary misled signatories and will mislead voters who may support
15 the legalization of “marijuana” but not more potent forms of “cannabis.” Namely, the
16 Summary omits an accurate description or even a reference to the definition of “marijuana.”

17 45. The legalization of “marijuana” is the declared purpose of the Initiative. The
18 re-definition of marijuana under the Initiative is therefore a “principal provision” that
19 should have been adequately described in the Summary.

20 46. The failure to include an accurate description or definition of “marijuana” in
21 the Summary invalidates the Initiative.

22 **The Summary’s Description of the Standard for Marijuana DUIs is Deceptive and**
23 **Fraudulent**

24 47. The Summary states that the Initiative “requires impairment to the slightest
25 degree for marijuana DUIs.” Ex. A. This statement is misleading because it failed to
26 inform the electorate that the Initiative actually *decreases* the strength of Arizona’s laws for
27 driving under the influence (“DUI”) of marijuana and cannabis.

28 48. Arizona law currently provides that “[i]t is unlawful for a person to drive or

1 be in actual physical control of a vehicle...[w]hile there is [marijuana and cannabis] or its
2 metabolite in the person's body.” A.R.S. § 28-1381(A)(3).

3 49. The Initiative reduces the standard of culpability for DUI of marijuana,
4 stating: “[a] person with metabolites or components of marijuana in the person’s body” is
5 **not guilty** of DUI unless “the person is also impaired to the slightest degree.” Ex. A at
6 A.R.S. § 36-2852(B).

7 50. The Summary’s description of the new “impaired to the slightest degree”
8 requirement completely obscures that the Initiative materially alters and decreases the
9 standard for marijuana DUIs.

10 51. The Summary also deceptively implies that the Initiative strengthens or
11 maintains the current DUI standard. This is demonstrated in the text of the Initiative that
12 states: “[d]riving...while impaired to the slightest degree by marijuana **remains** illegal.”
13 Ex. A at § 2(2)(g) [emphasis added].

14 52. The Summary’s misleading description of the new criminal standard for
15 marijuana DUIs renders the Initiative invalid.

16 **The Summary Does Not Accurately Describe the “16% Excise Tax”**

17 53. The Summary states that the Initiative “imposes a 16% excise tax on
18 marijuana to fund public safety, community colleges, infrastructure, and public health and
19 community programs.” Ex. A. This statement is misleading because it failed to inform the
20 electorate that this “16% excise tax” is fixed and cannot be adjusted in the future except by
21 ballot initiative. Unlike virtually every other tax levied by the government, this tax on
22 marijuana cannot be changed even with a 2/3 vote of the legislature.

23 54. The Initiative states: “[t]here is levied and the department shall collect an
24 excise tax on all marijuana and marijuana products sold to a consumer...at a rate of sixteen
25 percent of the price of the marijuana or marijuana product sold.” Ex. A at A.R.S. § 42-
26 5452.

27 55. The Initiative further states that “[e]xcept as provided in subsection
28 [providing for a 16% excise tax], this state and localities may not levy or collect additional

1 taxes of any kind on the sale of marijuana or marijuana products....” Ex. A at A.R.S. § 36-
2 2864.

3 56. The Initiative also prohibits any increase in any fees. The only exception to
4 the prohibition on increased taxes and fees is if all other general taxes are raised. *See id.*

5 57. The Initiative therefore provides that even if the excise tax is insufficient “to
6 fund public safety, community colleges, infrastructure, and public health and community
7 programs,” the state and localities cannot increase taxes or impose additional fees on
8 marijuana to recoup the costs of these programs.

9 58. The Summary’s failure to adequately describe the Initiative’s imposition of a
10 ***fixed*** 16% excise tax on marijuana is misleading. The electorate may wrongfully assume
11 that the excise tax is adjustable to fund the complete cost of the Initiative’s government and
12 community programs.

13 59. The Arizona electorate likely assumed that either the Legislature or some
14 other state authority may increase the excise tax or apply additional fees as necessary in the
15 future to fully fund the programs created by the Initiative itself.

16 60. The Summary’s inaccurate and misleading description of the “16% excise tax
17 on marijuana” creates a danger of confusion among the Arizona electorate, rendering the
18 Initiative invalid.

19 **The Initiative Does Not Tax Household Cultivation**

20 61. The Summary’s statement that the Initiative “imposes a 16% excise tax on
21 marijuana” is also misleading and fraudulent because it does not disclose that household
22 cultivation is not susceptible to the excise tax.

23 62. The Initiative permits households to grow “six marijuana plants” if a single
24 member of the household is over the age of 21, or “twelve marijuana plants” if more than
25 one resident is over the age of 21. Ex. A at A.R.S. § 36-2852(A)(2)-(a).

26 63. Upon information and belief, a single marijuana plant may yield up to 600
27 grams or 21 ounces when grown in favorable conditions. In turn, a household with twelve
28 plants could potentially cultivate 7.2 kilograms of marijuana.

1 64. Thus, households will be able to cultivate significant amounts of tax-free
2 marijuana at home thereby materially reducing the quantity of marijuana subject to the 16%
3 excise tax.

4 65. Upon information and belief, home cultivation will result in materially
5 reduced tax income for the state. The Summary therefore misleads voters attracted by the
6 16% excise tax and alleged revenue-producing aspects of the Initiative.

7 66. The Summary's statement regarding the imposition of excise tax without
8 clearly stating that the measure would allow tax-free household cultivation is misleading
9 and creates a significant danger of confusion.

10 **The Initiative Does Not "Protect" Employer Rights**

11 67. The Summary states that the Initiative "protects employer rights." This
12 statement is misleading because the Initiative actually restricts the right of an employer to
13 enforce drug-testing policies.

14 68. Currently, Arizona law allows both public and private employers to establish
15 and enforce written drug-testing policies. *See* A.R.S. §§ 23-493.01, 23-493.04.

16 69. Employers in compliance with the requirements of Arizona's drug-testing
17 laws can take adverse action against potential employees and current employees based on a
18 positive drug-test for marijuana and cannabis. *See* A.R.S. §§ 23-493.01, 23-493.05. The
19 Initiative would take this right away.

20 70. The Initiative creates a statutory right for adults to use marijuana
21 "notwithstanding any law to the contrary" except as "specifically and expressly" permitted
22 by the Initiative and further prohibits the imposition of "penalties of any kind under the
23 laws of this state or any locality" for any permitted use. Ex. A at A.R.S. § 36-2852(A).

24 71. With respect to "employers" the Initiative states that the measure: (1) "[d]oes
25 not restrict the rights of employers to maintain a drug-and-alcohol-free workplace or affect
26 the ability of employers to have workplace policies restricting the use of marijuana by
27 employees or prospective employees"; and (2) "[d]oes not require an employer to allow or
28 accommodate the use, consumption, possession, transfer, display, transportation, sale or

1 cultivation of marijuana in a place of employment.” Ex. A at A.R.S. § 36-2851(1)-(2).

2 72. The Initiative therefore only maintains the right of employers to control active
3 use and possession of marijuana while employees are “in a place of employment.” The
4 Initiative restricts the right of employers to take adverse action against prospective
5 employees and employees based on a positive drug-test for marijuana.

6 73. The Summary’s statement concerning “employer rights” is misleading and
7 invalidates the Initiative.

8 **The Initiative Does Not “Limit” Commercial Cultivation**

9 74. The Summary states that the Initiative “permits limited...cultivation...of
10 marijuana....” Ex. A. This statement is misleading because the Initiative contains no
11 limitations on licensed commercial cultivation.

12 75. Under the Initiative, a commercial licensee is permitted to cultivate an
13 ***unlimited*** amount of marijuana.

14 76. Although the Initiative limits the amount of plants an individual household
15 may cultivate, there is no similar provision limiting commercial cultivation. *See* Ex. A at
16 A.R.S. § 36-2852.

17 77. Accordingly, signatories were misled to believe that cultivation would be
18 “limited” when the reality is very different. For-profit commercial entities that obtain the
19 requisite licenses under the Initiative can cultivate unlimited amounts of marijuana,
20 cannabis, etc. with no limitation on where it can be cultivated.

21 78. The Summary fails to disclose that the Initiative will allow individuals to have
22 ownership interests in an unlimited number of licensed operations and to combine those
23 operations into a single site.

24 79. The Summary fails to disclose that the Initiative will allow any individual to
25 be an applicant, principal officer, or board member of an unlimited number of marijuana
26 establishments and dual licenses, regardless of locations. Ex. A at A.R.S. § 36-2858(H)(1).

27 80. The Summary fails to disclose that the Initiative allows an unlimited number
28 of marijuana establishments and dual licensees to designate a single off-site location for

1 operations. Ex. A at A.R.S. § 36-2858(H)(1).

2 81. The Summary's description of "limited" cultivation is materially misleading
3 and the Initiative is invalid.

4 **The Initiative Effectively Deregulates Medical Marijuana Dispensaries**

5 82. Upon information and belief, the Initiative was written by the largest medical
6 marijuana dispensaries.

7 83. In 2010, Arizona enacted the Arizona Medical Marijuana Act ("AMMA")
8 which sets forth numerous important rules and regulations for non-profit medical marijuana
9 dispensaries. *See* A.R.S. § 36-2801 *et seq.*

10 84. Upon information and belief, the Initiative is a covert scheme to allow the
11 existing medical marijuana dispensaries that are able to obtain recreational licenses to
12 transition from non-profit to commercial enterprises and to circumvent the important
13 regulations put in place by the Arizona electorate in passing the AMMA.

14 85. Under the Initiative, nonprofit medical marijuana dispensaries that obtain a
15 recreational or "dual license" will be able to circumvent AMMA requirements.
16 Specifically, a "dual licensee" under the Initiative is not required: (i) to have a medical
17 director; (ii) obtain a nonprofit medical marijuana dispensary agent or facility agent
18 registrations for outside vendors; (iii) have a single secure entrance; (iv) or comply with any
19 other provision or rule that "makes its operation as a dual licensee unduly burdensome."
20 Ex. A at A.R.S. § 36-2801(D)(4)(a)-(d).

21 86. Selling both medical and recreational marijuana out of the same storefront is
22 pernicious and would result in the dismantling of the regulations and protections under the
23 AMMA.

24 87. The Summary's failure to disclose the potential for deregulation of medical
25 marijuana is a material omission rendering the Initiative invalid.

26 **The Initiative Allows Advertising of Marijuana to Persons Under 21**

27 88. The Summary fails to disclose that that Initiative permits "a marijuana
28 establishment or nonprofit marijuana dispensary [to] engage in advertising." Ex. A at

1 A.R.S. § 36-2859(A).

2 89. With respect to advertising involving “direct, individualized communication
3 or dialogue,” the Initiative requires implementation of “age affirmation to verify that the
4 recipient is twenty-one years of age or order.” Ex. A at A.R.S. § 36-2859(C). There is no
5 similar requirement under the Initiative for indirect forms of advertising such as television,
6 radio, newspapers and magazines, billboards, online or social media.

7 90. The Initiative will therefore expose children and other underage residents of
8 Arizona to marijuana advertisements.

9 91. The failure to disclose the Initiative’s implications for marijuana advertising
10 in the Summary is a material omission invalidating the measure.

11 **The Initiative Materially Decreases Criminal Penalties for Underage Marijuana**

12 **Violations**

13 92. Upon information and belief, the presence of advertising for recreational
14 marijuana would result in the increased likelihood that underage Arizona residents would
15 consume marijuana.

16 93. For underage residents who use or possess marijuana, the Initiative actually
17 decreases the penalties. This provision is not revealed in the Summary which fraudulently
18 claims its provisions are limited to “adults 21 years of age or older.”

19 94. The Summary fails to disclose that the Initiative reduces the criminal
20 penalties for underage use and possession of marijuana.

21 95. For persons under the age of 21 found to be in possession or use of marijuana
22 (in an amount of not more than one ounce or 5 grams), the Initiative imposes: (i) a civil
23 penalty of not more than \$100 for the first offense with a discretionary 4 hours of drug
24 education; (ii) a discretionary 8 hours of drug education for the second offense; and (iii) a
25 class one misdemeanor for the third or more offense. Ex. A at A.R.S. § 36-2853(B)(1)-(3).

26 96. For persons under the age of twenty-one who misrepresent their age using a
27 written document or identification with the intent to induce another person to sell or transfer
28 marijuana to them, the Initiative makes it a petty offense for the first violation and a class

one misdemeanor for the second or subsequent violation. *Id.* at A.R.S. §§ 36-2853(E)(1)-(2).

97. For persons under the age of twenty-one who solicit another person to purchase marijuana for them, the Initiative makes it a petty offense for the first violation and a class three misdemeanor for the second or subsequent violation. *Id.* at A.R.S. §§ 36-2853(F)(1)-(2).

98. In contrast, possessing less than two pounds of marijuana is currently considered a class 6 felony. *See* A.R.S. § 13-3405(B)(1).

99. The Summary's failure to disclose the significant impact on criminal penalties for underage use and possession of marijuana is a material omission rendering the Initiative invalid.

100. The foregoing omissions and ambiguities in the Summary are sufficiently fraudulent, confusing and misleading such that the Initiative is invalid and cannot appear on the November 2020 ballot.

101. The forgoing omissions and ambiguities in the Summary appear on each of the petition sheets, rendering the signatures on the petition sheets invalid and the Initiative legally ineligible to appear on the November 2020 general election ballot.

COUNT I

(Declaratory Relief)

102. Plaintiffs re-allege and incorporate by this reference the allegations set forth in preceding paragraphs of this Verified Complaint.

103. Pursuant to A.R.S. § 12-1831 *et seq.*, Plaintiffs are entitled to, and request, a judicial determination and declaratory judgment that the Initiative does not comply with the constitutional and statutory requirements for placement on the ballot.

104. Plaintiffs have an interest in the proper application, construction and enforcement of the constitutional and statutory requirements for statewide initiative measures, including strict compliance with the requirement that a 100-word summary accurately describe an initiative's principal provisions without generating voter confusion.

105. There is an actual and justiciable controversy, and such judgment or decree will terminate the uncertainty and controversy giving rise to this proceeding as required by A.R.S. § 12-1836.

106. Plaintiffs are therefore entitled to order declaring the Initiative is legally invalid and that the measure may not be certified for placement on the November 2020 general election ballot.

COUNT II

(Injunctive Relief)

107. Plaintiffs re-allege and incorporate by this reference the allegations set forth in preceding paragraphs of this Verified Complaint.

108. Pursuant to A.R.S. § 19-122(C), Plaintiffs may contest the validity of the Initiative and may seek to enjoin the secretary of state from certifying or printing the official ballot for the election that will include the Initiative and to enjoin the certification or printing of the ballot.

109. Further, pursuant to A.R.S. § 12-1801, the Court may issue an injunction where: (1) it appears that the party applying for the injunction is entitled to the relief demanded and that such relief requires the restraint of a prejudicial act; (2) when it appears that a party is about to do an act in violation of the rights of the applicant which would render judgment ineffectual; or (3) in all other cases when the applicant is entitled to an injunction under the principles of equity.

110. Because the Initiative does not comply with the constitutional and statutory requirements for statewide initiative measures, the Secretary of State's certification of the measure will irreparably injure the Plaintiffs as well as the Arizona electorate if placed on the November 2020 general election ballot.

111. The balance of the equities and considerations of public policy strongly support the issuance of injunctive relief.

112. Plaintiffs are therefore entitled to injunctive relief enjoining the Secretary of State from certifying and placing the Initiative on the November 2020 ballot.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray for relief as follows:

3 A. That the Court enter an order declaring that the Initiative fails to strictly
4 comply with the constitutional and statutory requirements for statewide initiative measures
5 and cannot be certified for placement on the November 2020 ballot.

6 B. That the Court enter an order declaring the Initiative invalid because the
7 Summary is fraudulent, misleading, omits principal provisions and creates a significant
8 danger of confusion or unfairness.

9 C. That the Court enter an injunction prohibiting the Secretary of State from
10 certifying and placing the Initiative on the November 2020 ballot;

11 D. That the Court enter other injunctive relief that is necessary and appropriate to
12 ensure strict compliance with the constitutional and statutory requirements for statewide
13 initiative measures;

14 E. That the Court enter an order awarding Plaintiffs' their attorneys' fees, other
15 expenses and taxable costs pursuant to A.R.S. §§ 12-341, 12-348, 12-1840, 12-2030 and
16 any other applicable law; and

17 F. That the Court award any other relief that it deems just and proper.

18
19 Dated this 20th day of July 2020.

20 POLSINELLI PC

21 By: /s/ John B. Shadegg

22 John B. Shadegg

23 Eric E. Lynch

24 Sean R. Gallagher (*Pro Hac Vice Forthcoming*)

25 CityScape, One E. Washington St., Ste. 1200

26 Phoenix, AZ 85004

27 (602) 650-2000

28 *Attorneys for Plaintiffs*

1 **VERIFICATION**

2 I, Lisa James, am a qualified elector and taxpayer in the State of Arizona. I declare
3 that I have read the foregoing Verified Complaint and as to the contents therein believe
4 them to be true and correct to the best of my knowledge, information and belief. Pursuant
5 to Rule 80(i), Ariz.R.Civ.P., I declare under penalty of perjury that the foregoing is true and
6 correct.

7 Dated: July 20, 2020.

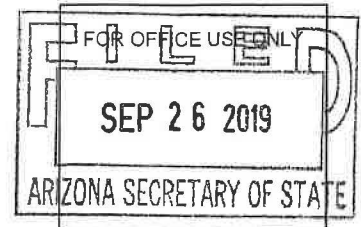
8 
9
10 Lisa James

Exhibit A



STATE OF ARIZONA

Application for Serial Number
Initiative Petition
A.R.S. § 19-111



The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight point type, of the measure or constitutional amendment intended to be initiated at the next general election.

☒ Statutory
Measure

☐ Constitutional
Amendment

Date of Application

9/26/2019

Signatures Required

237,645

Deadline for Filing

7/2/2020

Serial Number Issued

I-23-2020

This Act permits limited possession, transfer, cultivation, and use of marijuana (as defined) by adults 21 years old or older; protects employer and property owner rights; bans smoking in public places; imposes a 16% excise tax on marijuana to fund public safety, community colleges, infrastructure, and public health and community programs; authorizes state and local regulations for the sale and production of marijuana by a limited number of licensees; requires impairment to the slightest degree for marijuana DUIs; transfers monies from the Medical Marijuana Fund; permits expungement of some marijuana violations; and prescribes penalties for violations.

Darryl Tattrie

Name of Applicant

2303 N. 44th St., Suite 14, Box 1192

Address

Phoenix AZ 85008

City

State

Zip

(928) 362-2296

Telephone Number

info@smartandsafeaz.com

E-mail Address

Smart and Safe Arizona

Committee Name

202000053

Committee ID No.

Chad Campbell

Chairperson

Darryl Tattrie

Treasurer

2303 N. 44th St., Suite 14, Box 1192

Committee Address

Phoenix AZ 85008

City

State

Zip

(928) 362-2296

Committee Telephone Number

info@smartandsafeaz.com

Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:

- ☒ That I have received and will review the accompanying Instructions for Statewide Initiatives, including the Secretary of State's recommended best practices for printing copies of the Statewide Initiative Petition to be circulated.
- ☒ That at the time of filing, I was provided instructions regarding accurate completion of the Statewide Initiative Petition form.

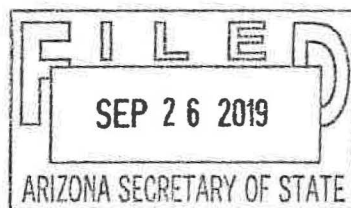
Applicant Signature

September 26, 2019

Date

Office of the Secretary of State
1700 W. Washington Street
Phoenix, Arizona 85007

Rev. 03/04/2019



OFFICIAL TITLE
AN INITIATIVE MEASURE

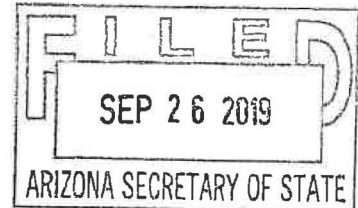
AMENDING SECTION 36-2817, ARIZONA REVISED STATUTES; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-108; RELATING TO THE RESPONSIBLE ADULT USE, REGULATION AND TAXATION OF MARIJUANA.

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Short title

This act may be cited as the "Smart and Safe Arizona Act".



Section 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the responsible adult use of marijuana should be legal for persons twenty-one years of age or older, subject to state regulation, taxation, and local ordinance.
2. In the interest of the health and public safety of our citizenry, the legal adult use of marijuana should be regulated so that:
 - (a) Legitimate, taxpaying business people, and not criminal actors, conduct sales of marijuana.
 - (b) Marijuana sold in this state is tested, labeled and subject to additional regulations to ensure that consumers are informed and protected.
 - (c) Employers retain their rights to maintain drug-and-alcohol-free places of employment.
 - (d) The health and safety of employees in the marijuana industry are protected.
 - (e) Individuals must show proof of age before purchasing marijuana.
 - (f) Selling, transferring, or providing marijuana to minors and other individuals under the age of twenty-one remains illegal.
 - (g) Driving, flying or boating while impaired to the slightest degree by marijuana remains illegal.

Section 3. Section 36-2817, Arizona Revised Statutes, is amended to read:

36-2817. Medical marijuana fund; private donations

- A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.
- B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.
- C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.
- D. ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE DIRECTOR OF THE DEPARTMENT SHALL TRANSFER THE FOLLOWING SUMS FROM THE MEDICAL MARIJUANA FUND FOR THE FOLLOWING PURPOSES:
 1. \$15,000,000 TO THE ARIZONA TEACHERS ACADEMY FUND ESTABLISHED BY SECTION 15-1655.
 2. \$10,000,000 TO THE DEPARTMENT TO FUND THE FORMATION AND OPERATION OF COUNCILS, COMMISSIONS AND PROGRAMS DEDICATED TO IMPROVING PUBLIC HEALTH, INCLUDING TEEN SUICIDE PREVENTION, THE MATERNAL MORTALITY REVIEW PROGRAM, IMPROVING YOUTH HEALTH, SUBSTANCE ABUSE PREVENTION, ADDRESSING ADVERSE CHILDHOOD EXPERIENCES, THE ARIZONA POISON CONTROL SYSTEM ESTABLISHED PURSUANT TO SECTION 36-1161, THE ARIZONA HEALTH IMPROVEMENT PLAN, THE CHILD FATALITY REVIEW TEAM ESTABLISHED PURSUANT TO SECTION 36-3501 AND THE CHRONIC PAIN SELF MANAGEMENT PROGRAM.
 3. \$10,000,000 TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY TO DISTRIBUTE GRANTS FOR THE FOLLOWING PURPOSES:
 - (a) REDUCING IMPAIRED DRIVING, INCLUDING CONDUCTING TRAINING PROGRAMS AND PURCHASING EQUIPMENT FOR DETECTING, TESTING AND ENFORCING LAWS AGAINST DRIVING, FLYING OR BOATING WHILE IMPAIRED.
 - (b) EQUIPMENT, TRAINING AND PERSONNEL COSTS FOR DEDICATED TRAFFIC ENFORCEMENT.
 4. \$2,000,000 TO THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE CHAPTER 28.2 OF THIS TITLE.

5. \$4,000,000 TO THE DEPARTMENT TO DISTRIBUTE GRANTS TO QUALIFIED NONPROFIT ENTITIES THAT WILL PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO SECTION 36-2862 AND WILL ASSIST WITH THE EXPUNGEMENT PETITION PROCESS. THE DEPARTMENT SHALL DISTRIBUTE GRANTS PURSUANT TO THIS PARAGRAPH ON OR BEFORE JUNE 30, 2021.

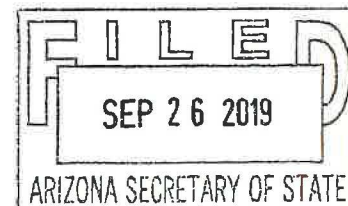
6. \$2,000,000 TO THE DEPARTMENT TO DEVELOP AND IMPLEMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ECONOMIC SECURITY AND OTHER STATE AGENCIES, A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS. FOR THE PURPOSES OF THIS PARAGRAPH, "MARIJUANA ESTABLISHMENT" AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

7. \$1,000,000 TO THE DEPARTMENT TO FUND PROGRAMS AND GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS FOR EDUCATION AND COMMUNITY OUTREACH RELATED TO CHAPTER 28.2 OF THIS TITLE.

8. \$1,000,000 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

Section 4. Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

CHAPTER 28.2
RESPONSIBLE ADULT USE OF MARIJUANA



36-2850. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "ADVERTISE," "ADVERTISEMENT" AND "ADVERTISING" MEAN ANY PUBLIC COMMUNICATION IN ANY MEDIUM THAT OFFERS OR SOLICITS A COMMERCIAL TRANSACTION INVOLVING THE SALE, PURCHASE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.

2. "CHILD-RESISTANT" MEANS DESIGNED OR CONSTRUCTED TO BE SIGNIFICANTLY DIFFICULT FOR CHILDREN UNDER FIVE YEARS OF AGE TO OPEN, AND NOT DIFFICULT FOR NORMAL ADULTS TO USE PROPERLY.

3. "CONSUME," "CONSUMING" AND "CONSUMPTION" MEAN THE ACT OF INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

4. "CONSUMER" MEANS AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS.

5. "CULTIVATE" AND "CULTIVATION" MEAN TO PROPAGATE, BREED, GROW, PREPARE AND PACKAGE MARIJUANA.

6. "DELIVER" AND "DELIVERY" MEAN THE TRANSPORTATION, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO A CONSUMER AT A LOCATION OTHER THAN THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

7. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES OR ITS SUCCESSOR AGENCY.

8. "DESIGNATED CAREGIVER," "EXCLUDED FELONY OFFENSE," "INDEPENDENT THIRD-PARTY LABORATORY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY," "NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT," AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

9. "DUAL LICENSEE" MEANS AN ENTITY THAT HOLDS BOTH A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION AND A MARIJUANA ESTABLISHMENT LICENSE.

10. "EARLY APPLICANT" MEANS EITHER OF THE FOLLOWING:

(a) AN ENTITY SEEKING TO OPERATE A MARIJUANA ESTABLISHMENT IN A COUNTY WITH FEWER THAN TWO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES.

(b) A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING WITH THE DEPARTMENT.

11. "EMPLOYEE," "EMPLOYER," "HEALTH CARE FACILITY," AND "PLACES OF EMPLOYMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

12. "GOOD STANDING" MEANS THAT A NONPROFIT MEDICAL MARIJUANA DISPENSARY IS NOT THE SUBJECT OF A PENDING NOTICE OF INTENT TO REVOKE ISSUED BY THE DEPARTMENT.

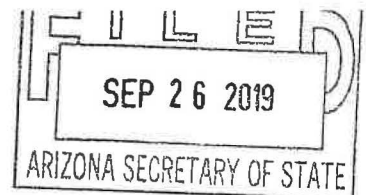
13. "INDUSTRIAL HEMP" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-311.

14. "LOCALITY" MEANS A CITY, TOWN OR COUNTY.

15. "MANUFACTURE" AND "MANUFACTURING" MEAN TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

16. "MARIJUANA":

(a) MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, AS WELL AS THE SEEDS FROM THE PLANT, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE PLANT OR ITS SEEDS OR RESIN.



(b) INCLUDES CANNABIS AS DEFINED IN SECTION 13-3401.
(c) DOES NOT INCLUDE INDUSTRIAL HEMP, THE FIBER PRODUCED FROM THE STALKS OF THE PLANT OF THE GENUS CANNABIS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEEDS OF THE PLANT THAT ARE INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

17. "MARIJUANA CONCENTRATE":

(a) MEANS RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL.

(b) DOES NOT INCLUDE INDUSTRIAL HEMP OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

18. "MARIJUANA ESTABLISHMENT" MEANS AN ENTITY LICENSED BY THE DEPARTMENT TO OPERATE ALL OF THE FOLLOWING:

(a) A SINGLE RETAIL LOCATION AT WHICH THE LICENSEE MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, CULTIVATE MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS.

(b) A SINGLE OFF-SITE CULTIVATION LOCATION AT WHICH THE LICENSEE MAY CULTIVATE MARIJUANA, PROCESS MARIJUANA AND MANUFACTURE MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

(c) A SINGLE OFF-SITE LOCATION AT WHICH THE LICENSEE MAY MANUFACTURE MARIJUANA PRODUCTS AND PACKAGE AND STORE MARIJUANA AND MARIJUANA PRODUCTS, BUT FROM WHICH MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE TRANSFERRED OR SOLD TO CONSUMERS.

19. "MARIJUANA FACILITY AGENT" MEANS A PRINCIPAL OFFICER, BOARD MEMBER OR EMPLOYEE OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS NOT BEEN CONVICTED OF AN EXCLUDED FELONY OFFENSE.

20. "MARIJUANA PRODUCTS" MEANS MARIJUANA CONCENTRATE AND PRODUCTS THAT ARE COMPOSED OF MARIJUANA AND OTHER INGREDIENTS AND THAT ARE INTENDED FOR USE OR CONSUMPTION, INCLUDING EDIBLE PRODUCTS, OINTMENTS AND TINCTURES.

21. "MARIJUANA TESTING FACILITY" MEANS THE DEPARTMENT OR ANOTHER ENTITY THAT IS LICENSED BY THE DEPARTMENT TO ANALYZE THE POTENCY OF MARIJUANA AND TEST MARIJUANA FOR HARMFUL CONTAMINANTS.

22. "OPEN SPACE" MEANS A PUBLIC PARK, PUBLIC SIDEWALK, PUBLIC WALKWAY OR PUBLIC PEDESTRIAN THOROUGHFARE.

23. "PROCESS" AND "PROCESSING" MEAN TO HARVEST, DRY, CURE, TRIM OR SEPARATE PARTS OF THE MARIJUANA PLANT.

24. "PUBLIC PLACE" HAS THE SAME MEANING PRESCRIBED IN THE SMOKE-FREE ARIZONA ACT, SECTION 36-601.01.

25. "SMOKE" MEANS TO INHALE, EXHALE, BURN, CARRY OR POSSESS ANY LIGHTED MARIJUANA OR LIGHTED MARIJUANA PRODUCTS, WHETHER NATURAL OR SYNTHETIC.

36-2851. Employers; driving; minors; control of property; smoking in public places and open spaces

THIS CHAPTER:

1. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG-AND-ALCOHOL-FREE WORKPLACE OR AFFECT THE ABILITY OF EMPLOYERS TO HAVE WORKPLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES OR PROSPECTIVE EMPLOYEES.

2. DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR CULTIVATION OF MARIJUANA IN A PLACE OF EMPLOYMENT.

3. DOES NOT ALLOW DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA OR PREVENT THIS STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING, FLYING OR BOATING WHILE IMPAIRED TO EVEN THE SLIGHTEST DEGREE BY MARIJUANA.

4. DOES NOT ALLOW AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE TO PURCHASE, POSSESS, TRANSPORT OR CONSUME MARIJUANA OR MARIJUANA PRODUCTS.

5. DOES NOT ALLOW THE SALE, TRANSFER OR PROVISION OF MARIJUANA OR MARIJUANA PRODUCTS TO AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE.

6. DOES NOT RESTRICT THE RIGHTS OF EMPLOYERS, SCHOOLS, DAY CARE CENTERS, ADULT DAY CARE FACILITIES, HEALTH CARE FACILITIES OR CORRECTIONS FACILITIES TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN THEIR PROPERTIES.

7. DOES NOT RESTRICT THE ABILITY OF AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, PRIVATE CORPORATION, PRIVATE ENTITY OR PRIVATE ORGANIZATION OF ANY CHARACTER THAT

OCCUPIES, OWNS OR CONTROLS PROPERTY TO PROHIBIT OR REGULATE CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER ON OR IN SUCH PROPERTY.

8. DOES NOT ALLOW ANY PERSON TO:

(a) SMOKE MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE.

(b) CONSUME MARIJUANA OR MARIJUANA PRODUCTS WHILE DRIVING, OPERATING OR RIDING IN THE PASSENGER SEAT OR COMPARTMENT OF AN OPERATING MOTOR VEHICLE, BOAT, VESSEL, AIRCRAFT OR ANOTHER VEHICLE USED FOR TRANSPORTATION.

9. DOES NOT PROHIBIT THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE FROM PROHIBITING OR REGULATING CONDUCT OTHERWISE ALLOWED BY THIS CHAPTER WHEN SUCH CONDUCT OCCURS ON OR IN PROPERTY THAT IS OCCUPIED, OWNED, CONTROLLED OR OPERATED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

10. DOES NOT AUTHORIZE A PERSON TO PROCESS OR MANUFACTURE MARIJUANA BY MEANS OF ANY LIQUID OR GAS, OTHER THAN ALCOHOL, THAT HAS A FLASHPOINT BELOW ONE HUNDRED DEGREES FAHRENHEIT, UNLESS PERFORMED BY A MARIJUANA ESTABLISHMENT.

11. DOES NOT REQUIRE A PERSON TO VIOLATE FEDERAL LAW OR TO IMPLEMENT OR FAIL TO IMPLEMENT A RESTRICTION ON THE POSSESSION, CONSUMPTION, DISPLAY, TRANSFER, PROCESSING, MANUFACTURING OR CULTIVATION OF MARIJUANA IF BY SO DOING THE PERSON WILL LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW.

12. DOES NOT SUPERSEDE OR ELIMINATE ANY EXISTING RIGHTS OR PRIVILEGES OF ANY PERSON EXCEPT AS SPECIFICALLY SET FORTH IN THIS CHAPTER.

13. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY UNDER CHAPTER 28.1 OF THIS TITLE EXCEPT AS EXPRESSLY SET FORTH IN THIS CHAPTER.

14. DOES NOT LIMIT ANY PRIVILEGE OR RIGHT OF A QUALIFYING PATIENT OR DESIGNATED CAREGIVER UNDER CHAPTER 28.1 OF THIS TITLE.

36-2852. Allowable possession and personal use of marijuana, marijuana products and marijuana paraphernalia

A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTIONS 36-2851 AND 36-2853 AND NOTWITHSTANDING ANY OTHER LAW, THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR IMPOSING PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE OR ANY LOCALITY OR FOR ABROGATING OR LIMITING ANY RIGHT OR PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR ANY LOCALITY:

1. POSSESSING, CONSUMING, PURCHASING, PROCESSING, MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, OR TRANSPORTING ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE GROWN IF ALL OF THE FOLLOWING APPLY:

(a) NOT MORE THAN TWELVE PLANTS ARE PRODUCED AT A SINGLE RESIDENCE WHERE TWO OR MORE INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE RESIDE AT ONE TIME.

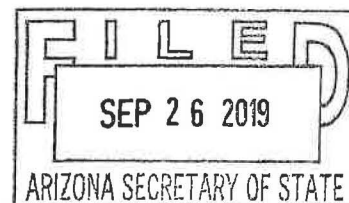
(b) CULTIVATION TAKES PLACE WITHIN A CLOSET, ROOM, GREENHOUSE OR OTHER ENCLOSED AREA ON THE GROUNDS OF THE RESIDENCE EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS.

(c) CULTIVATION TAKES PLACE IN AN AREA WHERE THE MARIJUANA PLANTS ARE NOT VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

3. TRANSFERRING ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE, TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. TRANSFERRING UP TO SIX MARIJUANA PLANTS TO AN INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS WITHOUT REMUNERATION AND IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

5. ACQUIRING, POSSESSING, MANUFACTURING, USING, PURCHASING, SELLING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS.



6. ASSISTING ANOTHER INDIVIDUAL WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SUBSECTION.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS GUILTY OF VIOLATING SECTION 28-1381, SUBSECTION A, PARAGRAPH 3 ONLY IF THE PERSON IS ALSO IMPAIRED TO THE SLIGHTEST DEGREE.

C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA OR BURNT MARIJUANA DOES NOT BY ITSELF CONSTITUTE REASONABLE ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING WHETHER A PERSON HAS VIOLATED SECTION 28-1381.

36-2853. Violations; classification; civil penalty; additional fine; enforcement

A. NOTWITHSTANDING ANY OTHER LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN AMOUNT OF MARIJUANA GREATER THAN THE AMOUNT ALLOWED PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-HALF OUNCES OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, IS GUILTY OF A PETTY OFFENSE.

B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES, CONSUMES, TRANSPORTS OR TRANSFERS WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN FIVE GRAMS IS IN THE FORM OF MARIJUANA CONCENTRATE, OR PARAPHERNALIA RELATING TO THE CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS:

1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT MORE THAN \$100 TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856 AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO FOUR HOURS OF DRUG EDUCATION OR COUNSELING.

2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND IN THE COURT'S DISCRETION MAY BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG EDUCATION OR COUNSELING.

3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO SMOKES MARIJUANA IN A PUBLIC PLACE OR OPEN SPACE IS GUILTY OF A PETTY OFFENSE.

D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED PERSON WHO CULTIVATES MARIJUANA PLANTS PURSUANT TO SECTION 36-2852 WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT USING BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

E. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO MISREPRESENTS THE PERSON'S AGE TO ANY OTHER PERSON BY MEANS OF A WRITTEN INSTRUMENT OF IDENTIFICATION OR WHO USES A FRAUDULENT OR FALSE WRITTEN INSTRUMENT OF IDENTIFICATION WITH THE INTENT TO INDUCE A PERSON TO SELL OR OTHERWISE TRANSFER MARIJUANA OR A MARIJUANA PRODUCT TO THE PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 1 MISDEMEANOR.

F. A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO SOLICITS ANOTHER PERSON TO PURCHASE MARIJUANA OR A MARIJUANA PRODUCT IN VIOLATION OF THIS CHAPTER IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

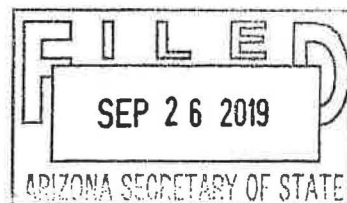
2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS 3 MISDEMEANOR.

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

A. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND ENFORCE THIS CHAPTER AND REGULATE MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES. THOSE RULES SHALL INCLUDE REQUIREMENTS FOR:

1. LICENSING MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES, INCLUDING CONDUCTING INVESTIGATIONS AND BACKGROUND CHECKS TO DETERMINE ELIGIBILITY FOR LICENSING FOR MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY APPLICANTS, EXCEPT THAT:

(a) AN APPLICATION FOR A MARIJUANA ESTABLISHMENT LICENSE OR MARIJUANA TESTING FACILITY LICENSE MAY NOT REQUIRE THE DISCLOSURE OF THE IDENTITY OF ANY PERSON WHO IS ENTITLED TO A SHARE OF LESS THAN TEN PERCENT OF THE PROFITS OF AN APPLICANT THAT IS A PUBLICLY TRADED CORPORATION.



(b) THE DEPARTMENT MAY NOT ISSUE MORE THAN ONE MARIJUANA ESTABLISHMENT LICENSE FOR EVERY TEN PHARMACIES THAT HAVE REGISTERED UNDER SECTION 32-1929, THAT HAVE OBTAINED A PHARMACY PERMIT FROM THE ARIZONA BOARD OF PHARMACY AND THAT OPERATE WITHIN THIS STATE.

(c) NOTWITHSTANDING SUBDIVISION (b) OF THIS PARAGRAPH, THE DEPARTMENT MAY ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO NOT MORE THAN TWO MARIJUANA ESTABLISHMENTS PER COUNTY THAT CONTAINS NO REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES, OR ONE MARIJUANA ESTABLISHMENT LICENSE PER COUNTY THAT CONTAINS ONE REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY. ANY LICENSE ISSUED PURSUANT TO THIS SUBDIVISION SHALL BE FOR A FIXED COUNTY AND MAY NOT BE RELOCATED OUTSIDE OF THAT COUNTY.

(d) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR MARIJUANA ESTABLISHMENT LICENSES FROM EARLY APPLICANTS BEGINNING JANUARY 19, 2021 THROUGH MARCH 9, 2021. NOT LATER THAN SIXTY DAYS AFTER RECEIVING AN APPLICATION PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL ISSUE A MARIJUANA ESTABLISHMENT LICENSE TO EACH QUALIFIED EARLY APPLICANT. IF THE DEPARTMENT HAS NOT ADOPTED FINAL RULES PURSUANT TO THIS SECTION AT THE TIME MARIJUANA ESTABLISHMENT LICENSES ARE ISSUED PURSUANT TO THIS SUBDIVISION, LICENSEES SHALL COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

(e) AFTER ISSUING MARIJUANA ESTABLISHMENT LICENSES TO QUALIFIED EARLY APPLICANTS, THE DEPARTMENT SHALL ISSUE MARIJUANA ESTABLISHMENT LICENSES AVAILABLE UNDER SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH BY RANDOM SELECTION AND ACCORDING TO RULES ADOPTED PURSUANT TO THIS SECTION. AT LEAST SIXTY DAYS PRIOR TO ANY RANDOM SELECTION, THE DEPARTMENT SHALL PROMINENTLY PUBLICIZE THE RANDOM SELECTION ON ITS WEBSITE AND THROUGH OTHER MEANS OF GENERAL DISTRIBUTION INTENDED TO REACH AS MANY INTERESTED PARTIES AS POSSIBLE AND SHALL PROVIDE NOTICE THROUGH AN EMAIL NOTIFICATION SYSTEM TO WHICH INTERESTED PARTIES CAN SUBSCRIBE.

(f) NOTWITHSTANDING SUBDIVISIONS (b) AND (c) OF THIS PARAGRAPH, AND NO LATER THAN SIX MONTHS AFTER THE DEPARTMENT ADOPTS FINAL RULES TO IMPLEMENT A SOCIAL EQUITY OWNERSHIP PROGRAM PURSUANT TO PARAGRAPH 9 OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE TWENTY-SIX ADDITIONAL MARIJUANA ESTABLISHMENT LICENSES TO ENTITIES THAT ARE QUALIFIED PURSUANT TO THE SOCIAL EQUITY OWNERSHIP PROGRAM.

(g) LICENSES ISSUED BY THE DEPARTMENT TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES SHALL BE VALID FOR A PERIOD OF TWO YEARS.

2. LICENSING FEES AND RENEWAL FEES FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES IN AMOUNTS THAT ARE REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS FOR LICENSES AND RENEWALS AND THAT DO NOT EXCEED FIVE TIMES THE FEES PRESCRIBED BY THE DEPARTMENT TO REGISTER OR RENEW A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

3. THE SECURITY OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.

4. MARIJUANA ESTABLISHMENTS TO SAFELY CULTIVATE, PROCESS AND MANUFACTURE MARIJUANA AND MARIJUANA PRODUCTS.

5. TRACKING, TESTING, LABELING AND PACKAGING MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS THAT MARIJUANA AND MARIJUANA PRODUCTS BE:

(a) SOLD TO CONSUMERS IN CLEARLY AND CONSPICUOUSLY LABELED CONTAINERS THAT CONTAIN ACCURATE WARNINGS REGARDING THE USE OF MARIJUANA OR MARIJUANA PRODUCTS.

(b) PLACED IN CHILD-RESISTANT PACKAGING ON EXIT FROM A MARIJUANA ESTABLISHMENT.

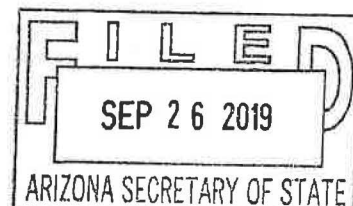
6. FORMS OF GOVERNMENT-ISSUED IDENTIFICATION THAT ARE ACCEPTABLE BY A MARIJUANA ESTABLISHMENT VERIFYING A CONSUMER'S AGE AND PROCEDURES RELATED TO VERIFYING A CONSUMER'S AGE CONSISTENT WITH SECTION 4-241. UNTIL THE DEPARTMENT ADOPTS FINAL RULES RELATED TO VERIFYING A CONSUMER'S AGE, MARIJUANA ESTABLISHMENTS SHALL COMPLY WITH THE PROOF OF LEGAL AGE REQUIREMENTS PRESCRIBED IN SECTION 4-241.

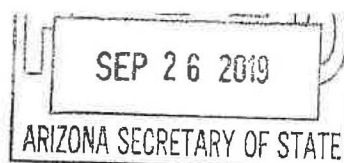
7. THE POTENCY OF EDIBLE MARIJUANA PRODUCTS THAT MAY BE SOLD TO CONSUMERS BY MARIJUANA ESTABLISHMENTS AT REASONABLE LEVELS UPON CONSIDERATION OF INDUSTRY STANDARDS, EXCEPT THAT THE RULES:

(a) SHALL LIMIT THE STRENGTH OF EDIBLE MARIJUANA PRODUCTS TO NO MORE THAN TEN MILLIGRAMS OF TETRAHYDROCANNABINOL PER SERVING OR ONE HUNDRED MILLIGRAMS OF TETRAHYDROCANNABINOL PER PACKAGE.

(b) SHALL REQUIRE THAT IF A MARIJUANA PRODUCT CONTAINS MORE THAN ONE SERVING, IT MUST BE DELINEATED OR SCORED INTO STANDARD SERVING SIZES AND HOMOGENIZED TO ENSURE UNIFORM DISBURSEMENT THROUGHOUT THE MARIJUANA PRODUCT.

8. ENSURING THE HEALTH, SAFETY AND TRAINING OF EMPLOYEES OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.





9. THE CREATION AND IMPLEMENTATION OF A SOCIAL EQUITY OWNERSHIP PROGRAM TO PROMOTE THE OWNERSHIP AND OPERATION OF MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY INDIVIDUALS FROM COMMUNITIES DISPROPORTIONATELY IMPACTED BY THE ENFORCEMENT OF PREVIOUS MARIJUANA LAWS.

B. THE DEPARTMENT MAY:

1. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, DENY ANY APPLICATION SUBMITTED OR DENY, SUSPEND OR REVOKE, IN WHOLE OR IN PART, ANY REGISTRATION OR LICENSE ISSUED UNDER THIS CHAPTER IF THE REGISTERED OR LICENSED PARTY OR AN OFFICER, AGENT OR EMPLOYEE OF THE REGISTERED OR LICENSED PARTY DOES ANY OF THE FOLLOWING:

(a) VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.
(b) HAS BEEN, IS OR MAY CONTINUE TO BE IN SUBSTANTIAL VIOLATION OF THE REQUIREMENTS FOR LICENSING OR REGISTRATION AND, AS A RESULT, THE HEALTH OR SAFETY OF THE GENERAL PUBLIC IS IN IMMEDIATE DANGER.

2. SUBJECT TO TITLE 41, CHAPTER 6, ARTICLE 10, AND UNLESS ANOTHER PENALTY IS PROVIDED ELSEWHERE IN THIS CHAPTER, ASSESS A CIVIL PENALTY AGAINST A PERSON THAT VIOLATES THIS CHAPTER OR ANY RULE ADOPTED PURSUANT TO THIS CHAPTER IN AN AMOUNT NOT TO EXCEED \$1,000 FOR EACH VIOLATION. EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION. THE MAXIMUM AMOUNT OF ANY ASSESSMENT IS \$25,000 FOR ANY THIRTY-DAY PERIOD. IN DETERMINING THE AMOUNT OF A CIVIL PENALTY ASSESSED AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER ALL OF THE FACTORS SET FORTH IN SECTION 36-2816, SUBSECTION H. ALL CIVIL PENALTIES COLLECTED BY THE DEPARTMENT PURSUANT TO THIS PARAGRAPH SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

3. AT ANY TIME DURING REGULAR HOURS OF OPERATION, VISIT AND INSPECT A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE TO DETERMINE IF IT COMPLIES WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL MAKE AT LEAST ONE UNANNOUNCED VISIT ANNUALLY TO EACH FACILITY LICENSED PURSUANT TO THIS CHAPTER.

4. ADOPT ANY OTHER RULES NOT EXPRESSLY STATED IN THIS SECTION THAT ARE NECESSARY TO ENSURE THE SAFE AND RESPONSIBLE CULTIVATION, SALE, PROCESSING, MANUFACTURE, TESTING AND TRANSPORT OF MARIJUANA AND MARIJUANA PRODUCTS.

C. UNTIL THE DEPARTMENT ADOPTS RULES PERMITTING AND REGULATING DELIVERY BY MARIJUANA ESTABLISHMENTS PURSUANT TO SUBSECTION D OF THIS SECTION, DELIVERY IS UNLAWFUL UNDER THIS CHAPTER.

D. ON OR AFTER JANUARY 1, 2023, THE DEPARTMENT MAY, AND NO LATER THAN JANUARY 1, 2025 THE DEPARTMENT SHALL, ADOPT RULES TO PERMIT AND REGULATE DELIVERY BY MARIJUANA ESTABLISHMENTS. THE RULES SHALL:

1. REQUIRE THAT DELIVERY AND THE MARIJUANA AND MARIJUANA PRODUCTS TO BE DELIVERED ORIGINATE FROM A DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT AND ONLY AFTER AN ORDER IS MADE WITH THE MARIJUANA ESTABLISHMENT BY A CONSUMER.

2. PROHIBIT DELIVERY TO ANY PROPERTY OWNED OR LEASED BY THE UNITED STATES, THIS STATE, A POLITICAL SUBDIVISION OF THIS STATE OR THE ARIZONA BOARD OF REGENTS.

3. LIMIT THE AMOUNT OF MARIJUANA AND MARIJUANA PRODUCTS BASED ON RETAIL PRICE THAT MAY BE IN A DELIVERY VEHICLE DURING A SINGLE TRIP FROM THE DESIGNATED RETAIL LOCATION OF A MARIJUANA ESTABLISHMENT.

4. PROHIBIT EXTRA OR UNALLOCATED MARIJUANA OR MARIJUANA PRODUCTS IN DELIVERY VEHICLES.

5. REQUIRE THAT DELIVERIES BE MADE ONLY BY MARIJUANA FACILITY AGENTS IN UNMARKED VEHICLES THAT ARE EQUIPPED WITH A GLOBAL POSITIONING SYSTEM OR SIMILAR LOCATION TRACKING SYSTEM AND VIDEO SURVEILLANCE AND RECORDING EQUIPMENT, AND THAT CONTAIN A LOCKED COMPARTMENT IN WHICH MARIJUANA AND MARIJUANA PRODUCTS MUST BE STORED.

6. REQUIRE DELIVERY LOGS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

7. REQUIRE INSPECTIONS TO ENSURE COMPLIANCE WITH THIS SUBSECTION AND RULES ADOPTED PURSUANT TO THIS SUBSECTION.

8. INCLUDE ANY OTHER PROVISIONS NECESSARY TO ENSURE SAFE AND RESTRICTED DELIVERY.

9. REQUIRE DUAL LICENSEES TO COMPLY WITH THE RULES ADOPTED PURSUANT TO THIS SUBSECTION.

E. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DEPARTMENT MAY NOT PERMIT DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS UNDER THIS CHAPTER BY ANY INDIVIDUAL OR ENTITY. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY THAT DELIVERS MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER SHALL PAY

A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

F. ALL RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE PURPOSE OF THIS CHAPTER.

G. THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT:

1. PROHIBITS THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THE OPERATION OF A MARIJUANA ESTABLISHMENT UNDULY BURDENSOME.

2. PROHIBITS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE TO OPERATE A MARIJUANA ESTABLISHMENT AND A NONPROFIT MEDICAL MARIJUANA DISPENSARY AT SHARED LOCATIONS.

H. NOTWITHSTANDING SECTION 41-192, THE DEPARTMENT MAY EMPLOY LEGAL COUNSEL AND MAKE AN EXPENDITURE OR INCUR AN INDEBTEDNESS FOR LEGAL SERVICES FOR THE PURPOSES OF:

1. DEFENDING THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. DEFENDING CHAPTER 28.1 OF THIS TITLE OR RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

I. THE DEPARTMENT SHALL DEPOSIT ALL LICENSE FEES, APPLICATION FEES AND RENEWAL FEES PAID TO THE DEPARTMENT PURSUANT TO THIS CHAPTER IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

J. ON REQUEST, THE DEPARTMENT SHALL SHARE WITH THE DEPARTMENT OF REVENUE INFORMATION REGARDING A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE, INCLUDING ITS NAME, PHYSICAL ADDRESS, CULTIVATION SITE AND TRANSACTION PRIVILEGE TAX LICENSE NUMBER.

K. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT MAY:

1. LICENSE AN INDEPENDENT THIRD-PARTY LABORATORY TO ALSO OPERATE AS A MARIJUANA TESTING FACILITY.

2. OPERATE A MARIJUANA TESTING FACILITY.

L. THE DEPARTMENT SHALL MAINTAIN AND PUBLISH A CURRENT LIST OF ALL MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES BY NAME AND LICENSE NUMBER.

M. NOTWITHSTANDING ANY OTHER LAW, THE ISSUANCE OF AN OCCUPATIONAL, PROFESSIONAL OR OTHER REGULATORY LICENSE OR CERTIFICATION TO A PERSON BY A JURISDICTION OR REGULATORY AUTHORITY OUTSIDE THIS STATE DOES NOT ENTITLE THAT PERSON TO BE ISSUED A MARIJUANA ESTABLISHMENT LICENSE, A MARIJUANA TESTING FACILITY LICENSE, OR ANY OTHER LICENSE, REGISTRATION OR CERTIFICATION UNDER THIS CHAPTER.

36-2855. Marijuana facility agents; registration; card; rules

A. A MARIJUANA FACILITY AGENT SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE WORKING AT A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.

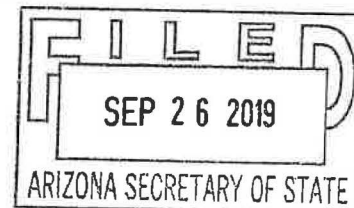
B. A PERSON WHO WISHES TO BE REGISTERED AS A MARIJUANA FACILITY AGENT OR RENEW THE PERSON'S REGISTRATION AS A MARIJUANA FACILITY AGENT SHALL:

1. SUBMIT A COMPLETED APPLICATION ON A FORM PRESCRIBED BY THE DEPARTMENT AND PAY A NONREFUNDABLE FEE THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF PROCESSING APPLICATIONS SUBMITTED PURSUANT TO THIS SECTION.

2. SUBMIT EVIDENCE THAT THE APPLICANT HOLDS A CURRENT LEVEL I FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07, OR SUBMIT A FULL SET OF THE APPLICANT'S FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION WITHOUT DISCLOSING THAT THE RECORDS CHECK IS RELATED TO THIS CHAPTER AND ACTS ALLOWED BY THIS CHAPTER. THE DEPARTMENT OF PUBLIC SAFETY SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETED.

C. IF THE DEPARTMENT DETERMINES THAT AN APPLICANT MEETS THE CRITERIA FOR REGISTRATION UNDER THIS CHAPTER AND RULES PURSUANT TO THIS CHAPTER, THE DEPARTMENT SHALL ISSUE THE APPLICANT A MARIJUANA FACILITY AGENT CARD THAT IS VALID FOR TWO YEARS.

D. A REGISTERED MARIJUANA FACILITY AGENT MAY BE EMPLOYED BY OR ASSOCIATED WITH ANY MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY. A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN IT EMPLOYS OR BECOMES ASSOCIATED WITH A NEW MARIJUANA FACILITY AGENT. A MARIJUANA FACILITY AGENT SHALL PROMPTLY NOTIFY THE DEPARTMENT WHEN THE MARIJUANA FACILITY AGENT IS EMPLOYED BY OR BECOMES ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY AND WHEN THE MARIJUANA FACILITY AGENT IS NO LONGER EMPLOYED BY OR ASSOCIATED WITH A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY.



E. A NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OF A DUAL LICENSEE WHO HAS APPLIED TO BE REGISTERED AS A MARIJUANA FACILITY AGENT MAY SERVE AS A MARIJUANA FACILITY AGENT OF THAT DUAL LICENSEE UNTIL THE DEPARTMENT HAS APPROVED OR REJECTED THE AGENT'S APPLICATION.

F. THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

36-2856. Smart and safe Arizona fund; disposition; exemption

A. THE SMART AND SAFE ARIZONA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2854, 42-5452 AND 42-5503, PRIVATE DONATIONS AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE SMART AND SAFE ARIZONA FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT TO IMPLEMENT, CARRY OUT AND ENFORCE THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE ACTUAL REASONABLE COSTS INCURRED BY THE DEPARTMENT OF REVENUE TO IMPOSE AND ENFORCE THE TAX AUTHORIZED AND LEVIED BY SECTION 42-5452.

3. THE ACTUAL REASONABLE COSTS INCURRED BY THE SUPREME COURT AND THE DEPARTMENT OF PUBLIC SAFETY TO PROCESS PETITIONS FOR EXPUNGEMENT AND EXPUNGEMENT ORDERS PURSUANT TO SECTION 36-2862 AND TO OTHERWISE IMPLEMENT SECTION 36-2862.

4. THE ACTUAL REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.

5. ANY OTHER MANDATORY EXPENDITURE OF STATE REVENUES REQUIRED BY THIS CHAPTER TO IMPLEMENT OR ENFORCE THE PROVISIONS OF THIS CHAPTER.

C. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS FROM THE SMART AND SAFE ARIZONA FUND PURSUANT TO SUBSECTION B OF THIS SECTION.

D. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE SMART AND SAFE ARIZONA FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. 33 PERCENT TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGE DISTRICTS, BUT NOT TO COMMUNITY COLLEGE TUITION FINANCING DISTRICTS ESTABLISHED PURSUANT TO SECTION 15-1409, FOR THE PURPOSES OF INVESTING IN AND PROVIDING WORKFORCE DEVELOPMENT PROGRAMS, JOB TRAINING, CAREER AND TECHNICAL EDUCATION, AND SCIENCE, TECHNOLOGY, ENGINEERING AND MATH PROGRAMS, AS FOLLOWS:

(a) 15 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH COMMUNITY COLLEGE DISTRICT.

(b) 0.5 PERCENT OF THE 33 PERCENT DIVIDED EQUALLY BETWEEN EACH PROVISIONAL COMMUNITY COLLEGE DISTRICT, IF ONE OR MORE PROVISIONAL COMMUNITY COLLEGE DISTRICTS EXIST.

(c) THE REMAINDER TO COMMUNITY COLLEGE DISTRICTS AND PROVISIONAL COMMUNITY COLLEGES DISTRICTS IN PROPORTION TO EACH DISTRICT'S FULL-TIME EQUIVALENT STUDENT ENROLLMENT PERCENTAGE OF THE TOTAL STATEWIDE AUDITED FULL-TIME EQUIVALENT STUDENT ENROLLMENT IN THE PRECEDING FISCAL YEAR PRESCRIBED IN SECTION 15-1466.01.

2. 31.4 PERCENT TO MUNICIPAL POLICE DEPARTMENTS, MUNICIPAL FIRE DEPARTMENTS, FIRE DISTRICTS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 5 AND COUNTY SHERIFFS' DEPARTMENTS IN PROPORTION TO THE NUMBER OF ENROLLED MEMBERS FOR EACH SUCH AGENCY IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4 AND THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN ESTABLISHED BY TITLE 38, CHAPTER 5, ARTICLE 4.1, FOR PERSONNEL COSTS.

3. 25.4 PERCENT TO THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED BY SECTION 28-6533.

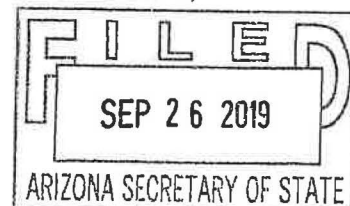
4. 10 PERCENT TO THE JUSTICE REINVESTMENT FUND ESTABLISHED BY SECTION 36-2863.

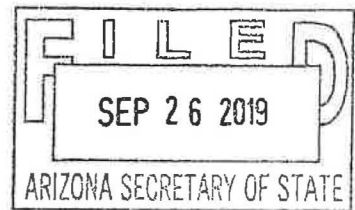
5. 0.2 PERCENT TO THE ATTORNEY GENERAL TO USE TO ENFORCE THIS CHAPTER, OR TO GRANT TO LOCALITIES TO ENFORCE THIS CHAPTER.

E. THE MONIES TRANSFERRED AND RECEIVED PURSUANT TO THIS SECTION:

1. ARE IN ADDITION TO ANY OTHER APPROPRIATION, TRANSFER OR OTHER ALLOCATION OF MONIES AND MAY NOT SUPPLANT, REPLACE OR CAUSE A REDUCTION IN OTHER FUNDING SOURCES.

2. ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTIONS 20 AND 21, CONSTITUTION OF ARIZONA.





36-2857. Localities: marijuana establishments and marijuana testing facilities

- A. A LOCALITY MAY:
1. ENACT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES TO SPECIFIED AREAS.
 2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.
 3. PROHIBIT MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, OR BOTH.
 4. REGULATE THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT AND MARIJUANA TESTING FACILITY OPERATIONS.
 5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES.
 6. PROHIBIT OR RESTRICT DELIVERY WITHIN ITS JURISDICTION.
- B. A COUNTY MAY EXERCISE ITS AUTHORITY PURSUANT TO SUBSECTION A OF THIS SECTION ONLY IN UNINCORPORATED AREAS OF THE COUNTY.
- C. A LOCALITY MAY NOT ENACT ANY ORDINANCE, REGULATION OR RULE THAT:
1. IS MORE RESTRICTIVE THAN A COMPARABLE ORDINANCE, REGULATION OR RULE THAT APPLIES TO NONPROFIT MEDICAL MARIJUANA DISPENSARIES.
 2. MAKES THE OPERATION OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY UNDULY BURDENSOME IF THE LOCALITY HAS NOT PROHIBITED MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES.
 3. CONFLICTS WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.
 4. PROHIBITS THE TRANSPORTATION OF MARIJUANA BY A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY ON PUBLIC ROADS.
 5. RESTRICTS OR INTERFERES WITH THE ABILITY OF A DUAL LICENSEE OR AN ENTITY ELIGIBLE TO BECOME A DUAL LICENSEE TO OPERATE A NONPROFIT MEDICAL MARIJUANA DISPENSARY AND A MARIJUANA ESTABLISHMENT COOPERATIVELY AT SHARED LOCATIONS.
 6. EXCEPT AS EXPRESSLY AUTHORIZED BY THIS SECTION OR SECTION 36-2851, PROHIBITS OR RESTRICTS ANY CONDUCT OR TRANSACTION ALLOWED BY THIS CHAPTER, OR IMPOSES ANY LIABILITY OR PENALTY IN ADDITION TO THAT PRESCRIBED BY THIS CHAPTER FOR ANY CONDUCT OR TRANSACTION CONSTITUTING A VIOLATION OF THIS CHAPTER.

36-2858. Lawful operation of marijuana establishments and marijuana testing facilities

- A. EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED IN SECTION 36-2857 AND NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL AND IS NOT AN OFFENSE UNDER THE LAWS OF THIS STATE OR ANY LOCALITY, MAY NOT CONSTITUTE THE BASIS FOR DETENTION, SEARCH OR ARREST, AND MAY NOT CONSTITUTE THE SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS OR THE BASIS FOR IMPOSING PENALTIES UNDER THE LAWS OF THIS STATE OR ANY LOCALITY FOR:
1. A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT, TO:
 - (a) POSSESS MARIJUANA OR MARIJUANA PRODUCTS.
 - (b) PURCHASE, SELL OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.
 - (c) SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS, EXCEPT THAT A MARIJUANA ESTABLISHMENT MAY NOT SELL MORE THAN ONE OUNCE OF MARIJUANA TO A CONSUMER IN A SINGLE TRANSACTION, NOT MORE THAN FIVE GRAMS OF WHICH MAY BE IN THE FORM OF MARIJUANA CONCENTRATE.
 - (d) CULTIVATE, PRODUCE, TEST OR PROCESS MARIJUANA OR MANUFACTURE MARIJUANA OR MARIJUANA PRODUCTS BY ANY MEANS INCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.
 2. AN AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT TO SELL OR OTHERWISE TRANSFER MARIJUANA TO AN INDIVIDUAL UNDER TWENTY-ONE YEARS OF AGE, IF THE AGENT REASONABLY VERIFIED THAT THE INDIVIDUAL APPEARED TO BE TWENTY-ONE YEARS OF AGE OR OLDER BY MEANS OF A GOVERNMENT-ISSUED PHOTOGRAPHIC IDENTIFICATION IN COMPLIANCE WITH RULES ADOPTED PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 6.
 3. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO OBTAIN, POSSESS, PROCESS, REPACKAGE, TRANSFER, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.
 4. A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY, A MARIJUANA ESTABLISHMENT OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MARIJUANA ESTABLISHMENT.

5. ANY INDIVIDUAL, CORPORATION OR OTHER ENTITY TO SELL, LEASE OR OTHERWISE ALLOW PROPERTY OR GOODS THAT ARE OWNED, MANAGED OR CONTROLLED BY THE INDIVIDUAL, CORPORATION OR OTHER ENTITY TO BE USED FOR ANY ACTIVITY AUTHORIZED BY THIS CHAPTER, OR TO PROVIDE SERVICES TO A MARIJUANA ESTABLISHMENT, OR MARIJUANA TESTING FACILITY OR AGENT ACTING ON BEHALF OF A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY IN CONNECTION WITH ANY ACTIVITY AUTHORIZED BY THIS CHAPTER.

B. THIS SECTION DOES NOT PRECLUDE THE DEPARTMENT FROM IMPOSING PENALTIES AGAINST A MARIJUANA ESTABLISHMENT OR MARIJUANA TESTING FACILITY FOR FAILING TO COMPLY WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

C. A MARIJUANA ESTABLISHMENT MAY BE OWNED OR OPERATED BY A PUBLICLY TRADED COMPANY.

D. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE:

1. MAY HOLD A MARIJUANA ESTABLISHMENT LICENSE AND OPERATE A MARIJUANA ESTABLISHMENT PURSUANT TO THIS CHAPTER.

2. MAY OPERATE ON A FOR-PROFIT BASIS IF THE DUAL LICENSEE PROMPTLY NOTIFIES THE DEPARTMENT AND DEPARTMENT OF REVENUE AND TAKES ANY ACTIONS NECESSARY TO ENABLE ITS FOR-PROFIT OPERATION, INCLUDING CONVERTING ITS CORPORATE FORM AND AMENDING ITS ORGANIZATIONAL AND OPERATING DOCUMENTS.

3. MUST CONTINUE TO HOLD BOTH ITS MARIJUANA ESTABLISHMENT LICENSE AND NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION, REGARDLESS OF ANY CHANGE IN OWNERSHIP OF THE DUAL LICENSEE, UNLESS IT TERMINATES ITS STATUS AS A DUAL LICENSEE AND FORFEITS EITHER ITS MARIJUANA ESTABLISHMENT LICENSE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION BY NOTIFYING THE DEPARTMENT OF SUCH A TERMINATION AND FORFEITURE.

4. MAY NOT BE REQUIRED TO:

(a) EMPLOY OR CONTRACT WITH A MEDICAL DIRECTOR.

(b) OBTAIN NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENT OR MARIJUANA FACILITY AGENT REGISTRATIONS FOR OUTSIDE VENDORS THAT DO NOT HAVE REGULAR, UNSUPERVISED ACCESS TO THE INTERIOR OF THE DUAL LICENSEE.

(c) HAVE A SINGLE SECURE ENTRANCE AS REQUIRED BY SECTION 36-2806, SUBSECTION C, BUT MAY BE REQUIRED TO IMPLEMENT APPROPRIATE SECURITY MEASURES TO DETER AND PREVENT THE THEFT OF MARIJUANA AND TO REASONABLY REGULATE CUSTOMER ACCESS TO THE PREMISES.

(d) COMPLY WITH ANY OTHER PROVISION OF CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE THAT MAKES ITS OPERATION AS A DUAL LICENSEE UNDULY BURDENSOME.

E. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION:

1. IS SUBJECT TO THE TAXES IMPOSED PURSUANT TO TITLE 43.

2. IS NOT REQUIRED TO SUBMIT ITS ANNUAL FINANCIAL STATEMENTS OR AN AUDIT REPORT TO THE DEPARTMENT FOR PURPOSES OF RENEWING ITS NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTRATION.

F. NOTWITHSTANDING ANY OTHER LAW, A DUAL LICENSEE MUST CONDUCT BOTH OF THE FOLLOWING OPERATIONS AT A SHARED LOCATION:

1. SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS PURSUANT TO THIS CHAPTER.

2. DISPENSE MARIJUANA TO REGISTERED QUALIFYING PATIENTS AND REGISTERED DESIGNATED CAREGIVERS PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

G. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE OR ANY RULE ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, A DUAL LICENSEE MAY ENGAGE IN ANY ACT, PRACTICE, CONDUCT OR TRANSACTION ALLOWED FOR A MARIJUANA ESTABLISHMENT BY THIS CHAPTER.

H. NOTWITHSTANDING ANY OTHER LAW:

1. AN INDIVIDUAL MAY BE AN APPLICANT, PRINCIPAL OFFICER OR BOARD MEMBER OF MORE THAN ONE MARIJUANA ESTABLISHMENT OR MORE THAN ONE DUAL LICENSEE REGARDLESS OF THE ESTABLISHMENT'S LOCATION.

2. TWO OR MORE MARIJUANA ESTABLISHMENTS OR DUAL LICENSEES MAY DESIGNATE A SINGLE OFF-SITE LOCATION AS PRESCRIBED IN SECTION 36-2850, PARAGRAPH 18, SUBDIVISION (c) TO BE JOINTLY USED BY THOSE DUAL LICENSEES OR MARIJUANA ESTABLISHMENTS.

I. MARIJUANA ESTABLISHMENTS, MARIJUANA TESTING FACILITIES AND DUAL LICENSEES THAT ARE SUBJECT TO APPLICABLE FEDERAL OR STATE ANTIDISCRIMINATION LAWS MAY NOT PAY THEIR EMPLOYEES DIFFERENTLY BASED SOLELY ON A PROTECTED CLASS STATUS SUCH AS SEX, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. THIS SUBSECTION DOES NOT EXPAND OR MODIFY THE JURISDICTIONAL REACH, PROVISIONS OR REQUIREMENTS OF ANY APPLICABLE ANTI-DISCRIMINATION LAW.

36-2859. Advertising restrictions; enforcement; civil penalty

- A. A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY MAY ENGAGE IN ADVERTISING.
- B. AN ADVERTISING PLATFORM MAY HOST ADVERTISING ONLY IF ALL OF THE FOLLOWING APPLY:
1. THE ADVERTISING IS AUTHORIZED BY A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.
 2. THE ADVERTISING ACCURATELY AND LEGIBLY IDENTIFIES THE MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY RESPONSIBLE FOR THE CONTENT OF THE ADVERTISING BY NAME AND LICENSE NUMBER OR REGISTRATION NUMBER.
 3. ANY ADVERTISING UNDER THIS CHAPTER INVOLVING DIRECT, INDIVIDUALIZED COMMUNICATION OR DIALOGUE SHALL USE A METHOD OF AGE AFFIRMATION TO VERIFY THAT THE RECIPIENT IS TWENTY-ONE YEARS OF AGE OR OLDER BEFORE ENGAGING IN THAT COMMUNICATION OR DIALOGUE. FOR THE PURPOSES OF THIS SUBSECTION, THAT METHOD OF AGE AFFIRMATION MAY INCLUDE USER CONFIRMATION, BIRTH DATE DISCLOSURE OR OTHER SIMILAR REGISTRATION METHODS.
- D. IT IS UNLAWFUL FOR AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR DUAL LICENSEE TO DO ANY OF THE FOLLOWING IN A MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER:
1. FACILITATE THE DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.
 2. SOLICIT OR ACCEPT ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS OR OPERATE A PLATFORM THAT SOLICITS OR ACCEPTS ORDERS FOR MARIJUANA OR MARIJUANA PRODUCTS.
 3. OPERATE A LISTING SERVICE RELATED TO THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA PRODUCTS.
- E. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2816.
- F. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, AN INDIVIDUAL OR ENTITY OTHER THAN A MARIJUANA ESTABLISHMENT OR NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT ADVERTISES MARIJUANA OR MARIJUANA PRODUCTS IN VIOLATION OF THIS SECTION OR OTHERWISE VIOLATES THIS SECTION SHALL PAY A CIVIL PENALTY OF \$20,000 PER VIOLATION TO THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY GENERAL.

36-2860. Packaging; restrictions on particular marijuana products

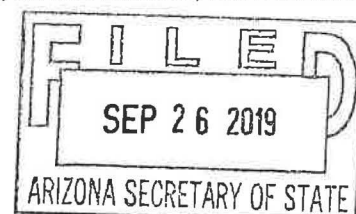
- A. A MARIJUANA ESTABLISHMENT MAY NOT:
1. PACKAGE OR LABEL MARIJUANA OR MARIJUANA PRODUCTS IN A FALSE OR MISLEADING MANNER.
 2. MANUFACTURE OR SELL MARIJUANA PRODUCTS THAT RESEMBLE THE FORM OF A HUMAN, ANIMAL, INSECT, FRUIT, TOY OR CARTOON.
 3. SELL OR ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS WITH NAMES THAT RESEMBLE OR IMITATE FOOD OR DRINK BRANDS MARKETING TO CHILDREN, OR OTHERWISE ADVERTISE MARIJUANA OR MARIJUANA PRODUCTS TO CHILDREN.
- B. A MARIJUANA ESTABLISHMENT THAT VIOLATES THIS SECTION IS SUBJECT TO DISCIPLINARY ACTION BY THE DEPARTMENT PURSUANT TO SECTION 36-2854, SUBSECTION B.

36-2861. Contracts; professional services

- A. IT IS THE PUBLIC POLICY OF THIS STATE THAT CONTRACTS RELATED TO MARIJUANA ESTABLISHMENTS AND MARIJUANA TESTING FACILITIES ARE ENFORCEABLE.
- B. A PERSON THAT IS LICENSED, CERTIFIED OR REGISTERED BY ANY DEPARTMENT, AGENCY OR REGULATORY BOARD OF THIS STATE IS NOT SUBJECT TO DISCIPLINARY ACTION BY THAT ENTITY FOR PROVIDING PROFESSIONAL ASSISTANCE TO A PROSPECTIVE OR REGISTERED MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

36-2862. Expungement; petition; appeal; dismissal of complaints; rules

- A. BEGINNING JULY 12, 2021, AN INDIVIDUAL WHO WAS ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED BY TRIAL OR PLEA OF, OR SENTENCED FOR, ANY OF THE FOLLOWING OFFENSES BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION MAY PETITION THE COURT TO HAVE THE RECORD OF THAT ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE EXPUNGED:



1. POSSESSING, CONSUMING OR TRANSPORTING TWO AND ONE-HALF OUNCES OR LESS OF MARIJUANA, OF WHICH NOT MORE THAN TWELVE AND ONE-HALF GRAMS WAS IN THE FORM OF MARIJUANA CONCENTRATE.

2. POSSESSING, TRANSPORTING, CULTIVATING OR PROCESSING NOT MORE THAN SIX MARIJUANA PLANTS AT THE INDIVIDUAL'S PRIMARY RESIDENCE FOR PERSONAL USE.

3. POSSESSING, USING OR TRANSPORTING PARAPHERNALIA RELATING TO THE CULTIVATION, MANUFACTURE, PROCESSING OR CONSUMPTION OF MARIJUANA.

B. IF THE COURT RECEIVES A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION:

1. THE COURT SHALL NOTIFY THE PROSECUTING AGENCY OF THE FILING OF THE PETITION, AND ALLOW THE PROSECUTING AGENCY TO RESPOND TO THE PETITION WITHIN THIRTY DAYS.

2. THE COURT MAY HOLD A HEARING:

(a) ON THE REQUEST OF EITHER THE PETITIONER OR THE PROSECUTING AGENCY.

(b) IF THE COURT CONCLUDES THERE ARE GENUINE DISPUTES OF FACT REGARDING WHETHER THE PETITION SHOULD BE GRANTED.

3. THE COURT SHALL GRANT THE PETITION UNLESS THE PROSECUTING AGENCY ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS NOT ELIGIBLE FOR EXPUNGEMENT.

4. THE COURT SHALL ISSUE A SIGNED ORDER OR MINUTE ENTRY GRANTING OR DENYING THE PETITION IN WHICH IT MAKES FINDINGS OF FACT AND CONCLUSIONS OF LAW.

C. IF THE COURT GRANTS A PETITION FOR EXPUNGEMENT:

1. THE SIGNED ORDER OR MINUTE ENTRY REQUIRED PURSUANT TO SUBSECTION B, PARAGRAPH 4 OF THIS SECTION SHALL DO ALL OF THE FOLLOWING:

(a) IF THE PETITIONER WAS ADJUDICATED OR CONVICTED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, VACATE THE JUDGMENT OF ADJUDICATION OR CONVICTION.

(b) STATE THAT IT EXPUNGES ANY RECORD OF THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE.

(c) IF THE PETITIONER WAS CONVICTED OR ADJUDICATED OF AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, STATE THAT THE PETITIONER'S CIVIL RIGHTS, INCLUDING THE RIGHT TO POSSESS FIREARMS, ARE RESTORED, UNLESS THE PETITIONER IS OTHERWISE NOT ELIGIBLE FOR THE RESTORATION OF CIVIL RIGHTS ON GROUNDS OTHER THAN A CONVICTION FOR AN OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION.

(d) REQUIRE THE CLERK OF THE COURT TO NOTIFY THE DEPARTMENT OF PUBLIC SAFETY, THE PROSECUTING AGENCY AND THE ARRESTING LAW ENFORCEMENT AGENCY, IF APPLICABLE, OF THE EXPUNGEMENT ORDER.

(e) REQUIRE THE CLERK OF THE COURT TO SEAL ALL RECORDS RELATING TO THE EXPUNGED ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE AND ALLOW THE RECORDS TO BE ACCESSED ONLY BY THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THE INDIVIDUAL'S ATTORNEY.

2. THE DEPARTMENT OF PUBLIC SAFETY SHALL SEAL AND SEPARATE THE EXPUNGED RECORD FROM ITS RECORDS AND INFORM ALL APPROPRIATE STATE AND FEDERAL LAW ENFORCEMENT AGENCIES OF THE EXPUNGEMENT. UNLESS THE PETITIONER IS INDIGENT, THE DEPARTMENT OF PUBLIC SAFETY MAY CHARGE THE SUCCESSFUL PETITIONER A REASONABLE FEE DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY TO RESEARCH AND CORRECT THE PETITIONER'S CRIMINAL HISTORY RECORD.

3. THE ARRESTING AND PROSECUTING AGENCIES SHALL CLEARLY IDENTIFY IN EACH AGENCY'S FILES AND ELECTRONIC RECORDS THAT THE PETITIONER'S ARREST, CHARGE, CONVICTION, ADJUDICATION AND SENTENCE ARE EXPUNGED AND SHALL NOT MAKE ANY RECORDS OF THE EXPUNGED ARREST, CHARGE, CONVICTION, ADJUDICATION OR SENTENCE AVAILABLE AS A PUBLIC RECORD TO ANY PERSON EXCEPT TO THE INDIVIDUAL WHOSE RECORD WAS EXPUNGED OR THAT INDIVIDUAL'S ATTORNEY.

D. AN ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE THAT IS EXPUNGED PURSUANT TO THIS SECTION MAY NOT BE USED IN A SUBSEQUENT PROSECUTION BY A PROSECUTING AGENCY OR COURT FOR ANY PURPOSE.

E. AN INDIVIDUAL WHOSE RECORD OF ARREST, CHARGE, ADJUDICATION, CONVICTION OR SENTENCE IS EXPUNGED PURSUANT TO THIS SECTION MAY STATE THAT THE INDIVIDUAL HAS NEVER BEEN ARRESTED FOR, CHARGED WITH, ADJUDICATED OR CONVICTED OF, OR SENTENCED FOR THE CRIME THAT IS THE SUBJECT OF THE EXPUNGEMENT.

F. IF THE COURT DENIES A PETITION FOR EXPUNGEMENT, THE PETITIONER MAY FILE A DIRECT APPEAL PURSUANT TO SECTION 13-4033, SUBSECTION A, PARAGRAPH 3.

G. ON MOTION, THE COURT SHALL DISMISS WITH PREJUDICE ANY PENDING COMPLAINT, INFORMATION OR INDICTMENT BASED ON ANY OFFENSE SET FORTH IN SUBSECTION A OF THIS SECTION, TO INCLUDE CHARGES OR ALLEGATIONS BASED ON OR ARISING OUT OF CONDUCT OCCURRING BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE INDIVIDUAL CHARGED MAY THEREAFTER PETITION THE COURT TO

EXPUNGE RECORDS OF THE ARREST AND CHARGE OR ALLEGATION AS PROVIDED IN THIS SECTION. A MOTION BROUGHT PURSUANT TO THIS SUBSECTION MAY BE FILED WITH THE COURT BEFORE JULY 12, 2021.

H. THE SUPREME COURT MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION, AND MAY ALSO SPONSOR PUBLIC SERVICE ANNOUNCEMENTS OR OTHER NOTIFICATIONS INTENDED TO PROVIDE NOTICE TO INDIVIDUALS WHO MAY BE ELIGIBLE TO FILE PETITIONS FOR EXPUNGEMENT PURSUANT TO THIS SECTION.

I. A PROSECUTING AGENCY MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL WHO WAS PROSECUTED BY THAT PROSECUTING AGENCY, AND THE ATTORNEY GENERAL MAY FILE A PETITION FOR EXPUNGEMENT PURSUANT TO THIS SECTION ON BEHALF OF ANY INDIVIDUAL.

36-2863. Justice reinvestment fund; exemption; distribution; definition

A. THE JUSTICE REINVESTMENT FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTION 36-2856 AND INTEREST EARNED ON THOSE MONIES. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND AND ITS ACCOUNTS MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION, DO NOT REVERT TO THE STATE GENERAL FUND, AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. ALL MONIES IN THE JUSTICE REINVESTMENT FUND MUST FIRST BE SPENT, AND THE STATE TREASURER SHALL TRANSFER MONIES FROM THE FUND, TO PAY:

1. THE REASONABLE COSTS INCURRED BY THE STATE TREASURER TO ADMINISTER THE FUND.
2. THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY THE DEPARTMENT TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

C. ON OR BEFORE JUNE 30 AND DECEMBER 31 OF EACH YEAR, THE STATE TREASURER SHALL TRANSFER ALL MONIES IN THE JUSTICE REINVESTMENT FUND IN EXCESS OF THE AMOUNTS PAID PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. THIRTY-FIVE PERCENT TO COUNTY PUBLIC HEALTH DEPARTMENTS, IN PROPORTION TO THE POPULATION OF EACH COUNTY ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS, FOR THE PURPOSE OF PROVIDING JUSTICE REINVESTMENT PROGRAMS OR DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS TO PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THAT COUNTY.

2. THIRTY-FIVE PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF DISTRIBUTING GRANTS TO QUALIFIED NONPROFIT ORGANIZATIONS THAT PROVIDE JUSTICE REINVESTMENT PROGRAMS IN THIS STATE.

3. THIRTY PERCENT TO THE DEPARTMENT FOR THE PURPOSE OF ADDRESSING IMPORTANT PUBLIC HEALTH ISSUES THAT AFFECT THIS STATE.

D. GRANTS MADE PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41, CHAPTER 23, AND EACH GRANTEE SHALL PROVIDE THE GRANTING AGENCY WITH AN ANNUAL REPORT DETAILING THE USE OF GRANTED MONIES.

E. MONIES TRANSFERRED AND RECEIVED PURSUANT TO SUBSECTION C OF THIS SECTION ARE NOT CONSIDERED LOCAL REVENUES FOR THE PURPOSES OF ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA.

F. THE STATE TREASURER MAY PRESCRIBE FORMS NECESSARY TO MAKE TRANSFERS PURSUANT TO SUBSECTION B OF THIS SECTION.

G. FOR THE PURPOSES OF THIS SECTION, "JUSTICE REINVESTMENT PROGRAMS" MEANS INITIATIVES OR PROGRAMS THAT FOCUS ON ANY OF THE FOLLOWING:

1. PUBLIC AND BEHAVIORAL HEALTH, INCLUDING EVIDENCE-BASED AND EVIDENCE-INFORMED SUBSTANCE USE PREVENTION AND TREATMENT AND SUBSTANCE USE EARLY INTERVENTION SERVICES.

2. RESTORATIVE JUSTICE, JAIL DIVERSION, WORKFORCE DEVELOPMENT, INDUSTRY-SPECIFIC TECHNICAL ASSISTANCE OR MENTORING SERVICES FOR ECONOMICALLY DISADVANTAGED PERSONS IN COMMUNITIES DISPROPORTIONATELY IMPACTED BY HIGH RATES OF ARREST AND INCARCERATION.

3. ADDRESSING THE UNDERLYING CAUSES OF CRIME, REDUCING DRUG-RELATED ARRESTS AND REDUCING THE PRISON POPULATION IN THIS STATE.

4. CREATING OR DEVELOPING TECHNOLOGY AND PROGRAMS TO ASSIST WITH THE RESTORATION OF CIVIL RIGHTS AND THE EXPUNGEMENT OF CRIMINAL RECORDS.

36-2864. Transaction privilege tax; use tax; additional taxes prohibited; exception

A. FOR PURPOSES OF THE TRANSACTION PRIVILEGE TAX AND USE TAX LEVIED AND COLLECTED PURSUANT TO TITLE 42, CHAPTERS 5 AND 6, MARIJUANA AND MARIJUANA PRODUCTS ARE TANGIBLE PERSONAL PROPERTY DEFINED IN SECTION 42-5001 AND ARE SUBJECT TO THE TRANSACTION PRIVILEGE TAX IN THE RETAIL CLASSIFICATION AND USE TAX.

B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND SECTION 42-5452, THIS STATE AND LOCALITIES MAY NOT LEVY OR COLLECT ADDITIONAL TAXES OF ANY KIND ON THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS AND MAY NOT LEVY OR COLLECT ANY FEES OR ASSESSMENTS OF ANY KIND ON THE

SALE OF MARIJUANA OR MARIJUANA PRODUCTS OR ON THE LICENSING, OPERATIONS OR ACTIVITIES OF MARIJUANA ESTABLISHMENTS OR MARIJUANA TESTING FACILITIES, UNLESS THE FEE OR ASSESSMENT IS OF GENERAL APPLICABILITY TO INDIVIDUALS OR BUSINESSES THAT ARE NOT ENGAGED IN THE SALE OF MARIJUANA OR MARIJUANA PRODUCTS.

C. THE PROHIBITION IMPOSED BY SUBSECTION B OF THIS SECTION DOES NOT APPLY TO UNIFORM INCREASES TO THE TRANSACTION PRIVILEGE TAX RATE FOR THE RETAIL CLASSIFICATION OR USE TAX RATE BY THIS STATE OR A LOCALITY OR TO UNIFORM INCREASES TO FEES OR ASSESSMENTS ALLOWED BY SUBSECTION B OF THIS SECTION.

36-2865. Enforcement of this chapter: special action

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY TO IMPLEMENT THIS CHAPTER ON OR BEFORE JUNE 1, 2021, OR FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), ANY CITIZEN MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

B. IF THE DEPARTMENT FAILS TO ISSUE A LICENSE OR SEND A NOTICE OF DENIAL WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION (d), THE APPLICANT MAY COMMENCE A SPECIAL ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, IF THE DEPARTMENT FAILS TO ISSUE ANY MARIJUANA ESTABLISHMENT LICENSES PURSUANT TO SECTION 36-2854, SUBSECTION A, PARAGRAPH 1, SUBDIVISION D ON OR BEFORE APRIL 5, 2021, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY IN GOOD STANDING MAY BEGIN TO CULTIVATE, PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS. IF THIS OCCURS, NONPROFIT MEDICAL MARIJUANA DISPENSARIES IN GOOD STANDING SHALL:

1. BE TREATED AS MARIJUANA ESTABLISHMENTS FOR ALL PURPOSES UNDER THIS CHAPTER, AND THEIR NONPROFIT MEDICAL MARIJUANA ESTABLISHMENT AGENTS SHALL BE TREATED AS MARIJUANA FACILITY AGENTS FOR ALL PURPOSES UNDER THIS CHAPTER.

2. COMPLY WITH THE RULES ADOPTED BY THE DEPARTMENT TO IMPLEMENT CHAPTER 28.1 OF THIS TITLE, EXCEPT THOSE THAT ARE INCONSISTENT WITH THIS CHAPTER.

Section 5. Title 42, Chapter 5, Arizona Revised Statutes, is amended by adding article 10 to read:

ARTICLE 10.
MARIJUANA AND MARIJUANA PRODUCTS

42-5451. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER," "DUAL LICENSEE," "MARIJUANA," "MARIJUANA ESTABLISHMENT" AND "MARIJUANA PRODUCTS" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

2. "DESIGNATED CAREGIVER," "NONPROFIT MEDICAL MARIJUANA DISPENSARY" AND "QUALIFYING PATIENT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2801.

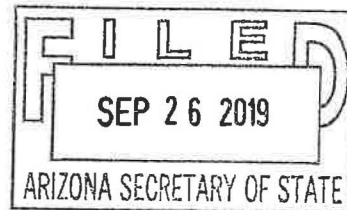
42-5452. Levy and rate of tax; effect of federal excise tax

A. THERE IS LEVIED AND THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO A CONSUMER BY A MARIJUANA ESTABLISHMENT AT A RATE OF SIXTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD. THIS SUBSECTION DOES NOT APPLY TO MARIJUANA DISPENSED TO A REGISTERED QUALIFYING PATIENT OR REGISTERED DESIGNATED CAREGIVER PURSUANT TO TITLE 36, CHAPTER 28.1 BY A DUAL LICENSEE OR NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. IF THE UNITED STATES LEVIES AND COLLECTS AN EXCISE TAX ON MARIJUANA AND MARIJUANA PRODUCTS, THE AGGREGATE OF FEDERAL AND STATE EXCISE TAXES MAY NOT EXCEED A RATE OF THIRTY PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD, AND THE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE LOWERED ACCORDINGLY AND AUTOMATICALLY ON THE EFFECTIVE DATE OF THE FEDERAL EXCISE TAX.

C. A PRODUCT SUBJECT TO THE TAX IMPOSED BY THIS SECTION MAY NOT BE BUNDLED WITH A PRODUCT OR SERVICE THAT IS NOT SUBJECT TO THE TAX IMPOSED BY THIS SECTION.

D. THE TAX LEVIED AND COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN COMPUTING THE TAX BASE, GROSS PROCEEDS OF SALES OR GROSS INCOME OF A MARIJUANA ESTABLISHMENT



FOR PURPOSES OF TITLE 42, CHAPTERS 5 AND 6, AND IS NOT SUBJECT TO ANY TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX LEVIED BY A COUNTY, CITY, TOWN OR SPECIAL TAXING DISTRICT.

E. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT ALL MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

42-5453. Return statement and payment by marijuana establishment; penalty; interest; rules; confidential information

A. THE TAX IMPOSED BY THIS ARTICLE IS DUE AND PAYABLE, TOGETHER WITH A RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT, FOR EACH MONTH ON OR BEFORE THE TWENTIETH DAY OF THE SUCCEEDING MONTH.

B. A MARIJUANA ESTABLISHMENT THAT FAILS TO PAY THE TAX IMPOSED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE THE PAYMENT IS DUE IS SUBJECT TO AND SHALL PAY A PENALTY DETERMINED UNDER SECTION 42-1125, PLUS INTEREST AT THE RATE DETERMINED PURSUANT TO SECTION 42-1123, FROM THE TIME THE TAX WAS DUE AND PAYABLE UNTIL PAID. THE DEPARTMENT MAY WAIVE ANY PENALTY OR INTEREST IF IT DETERMINES THAT THE MARIJUANA ESTABLISHMENT HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

C. THE MONTHLY RETURN STATEMENT PRESCRIBED BY THE DEPARTMENT SHALL INCLUDE AN ACCOUNTING OF THE QUANTITY OF MARIJUANA THAT IS SOLD BY A MARIJUANA ESTABLISHMENT THAT IS SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE DURING THE TAX MONTH.

D. ALL PENALTIES AND INTEREST COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE SMART AND SAFE ARIZONA FUND ESTABLISHED BY SECTION 36-2856.

E. THE DEPARTMENT MAY ADOPT RULES THAT ARE NECESSARY OR CONVENIENT TO ENFORCE THIS ARTICLE, EXCEPT THAT THOSE RULES MAY NOT CONFLICT WITH TITLE 36, CHAPTER 28.2.

F. THE DEPARTMENT MAY SHARE CONFIDENTIAL INFORMATION AS DEFINED IN SECTION 42-2001 WITH THE DEPARTMENT OF HEALTH SERVICES FOR ITS USE IN DETERMINING WHETHER A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY OR DUAL LICENSEE IS IN COMPLIANCE WITH TAX OBLIGATIONS UNDER THIS TITLE OR TITLE 43.

Section 6. Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding Section 43-108 to read:

43-108. Subtraction from gross income; ordinary and necessary expenses; marijuana establishments and marijuana testing facilities; definitions

A. NOTWITHSTANDING ANY OTHER LAW, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A TAXPAYER, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT, MARIJUANA TESTING FACILITY, OR DUAL LICENSEE THAT ELECTS TO OPERATE ON A FOR-PROFIT BASIS PURSUANT TO TITLE 36, CHAPTER 28.2 SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

B. FOR THE PURPOSES OF THIS SECTION, "DUAL LICENSEE," "MARIJUANA ESTABLISHMENT," AND "MARIJUANA TESTING FACILITY" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2850.

Section 7. Voter Protection Act

For the purposes of the Voter Protection Act, Ariz. Const. art. IV, pt. 1, § 1(6)(C), the People of the State of Arizona declare that the following acts of the Legislature would further the purpose of this act:

1. Enacting a per se law for the presumption of marijuana impairment based on the concentration of delta-9 tetrahydrocannabinol in a person's body when scientific research on the subject is conclusive and the National Highway Traffic Safety Administration recommends the adoption of such a law.

2. Reducing or eliminating any offense, offense level or penalty provided for in this act.

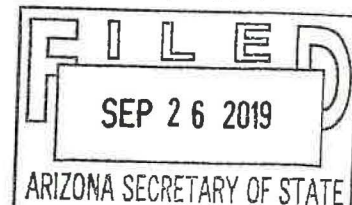
3. Increasing the amount of marijuana that a person may lawfully possess.

4. Amending the provisions of this act to align more closely with federal laws and regulations if marijuana is legalized or decriminalized by the federal government, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

5. Amending the provisions of this act to align more closely with federal laws and regulations governing the possession, processing, cultivation, transport, or transfer of industrial hemp, but only if and to the extent that such federal laws and regulations are not more restrictive than the provisions of this act.

6. Increasing the number of marijuana establishment licenses by up to 10 percent in furtherance of the social equity ownership program established by this act.

7. Facilitating the expungement and sealing of records of arrests, charges, convictions, adjudications and sentences that were predicated on conduct made lawful by this act, including by automatic means, and otherwise preventing or mitigating prejudice to individuals whose arrests, charges, convictions, adjudications or sentences are expunged.



8. Amending the definition of "smoking" in this act to conform with the Smoke-Free Arizona Act if that act is amended to include the use of an electronic smoking device that creates an aerosol or vapor.

Section 8. Exemption from rulemaking

For the purposes of this act, and for sixty months after the effective date of this act, the department of revenue and the department of health services are exempt from (a) any executive order or other directive purporting to limit or restrict their ability to adopt new rules, and (b) the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes, except that each department shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

Section 9. Severability

If any provision of this act or its application to any person or circumstance is declared invalid by a court of competent jurisdiction, such invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application. The invalidated provision or provisions shall be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of this act and, to the fullest extent possible, the provisions of this act, including each portion of any section of this act containing any invalidated provision that is not itself invalid, shall be construed so as to give effect to the intent thereof.

