

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HOUSE BILL 2064

AN ACT

AMENDING SECTIONS 36-2801 AND 36-2806, ARIZONA REVISED STATUTES; RELATING
TO MEDICAL MARIJUANA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 36-2801, Arizona Revised
4 Statutes, is amended to read:
5 36-2801. Definitions
6 In this chapter, unless the context otherwise requires:
7 1. "Allowable amount of marijuana":
8 (a) With respect to a qualifying patient, the "allowable amount of
9 marijuana" means:
10 (i) Two-and-one-half ounces of usable marijuana; and
11 (ii) If the qualifying patient's registry identification card
12 states that the qualifying patient is authorized to cultivate marijuana,
13 twelve marijuana plants contained in an enclosed, locked facility, except
14 that the plants are not required to be in an enclosed, locked facility if
15 the plants are being transported because the qualifying patient is moving.
16 (b) With respect to a designated caregiver, the "allowable amount
17 of marijuana" for each patient assisted by the designated caregiver under
18 this chapter means:
19 (i) Two-and-one-half ounces of usable marijuana; and
20 (ii) If the designated caregiver's registry identification card
21 provides that the designated caregiver is authorized to cultivate
22 marijuana, twelve marijuana plants contained in an enclosed, locked
23 facility, except that the plants are not required to be in an enclosed,
24 locked facility if the plants are being transported because the designated
25 caregiver is moving.
26 (c) Marijuana that is incidental to medical use, but is not usable
27 marijuana as defined in this chapter, shall not be counted toward a
28 qualifying patient's or designated caregiver's allowable amount of
29 marijuana.
30 2. "ATTRACTIVE TO MINORS" MEANS PACKAGING, LABELING OR MARKETING
31 THAT FEATURES ANY OF THE FOLLOWING:
32 (a) A CARTOON.
33 (b) A DESIGN, BRAND OR NAME THAT RESEMBLES A NONCANNABIS CONSUMER
34 PRODUCT OF THE TYPE THAT IS TYPICALLY MARKETED TO MINORS.
35 (c) A SYMBOL OR CELEBRITY IMAGE THAT IS COMMONLY USED TO MARKET
36 PRODUCTS TO MINORS.
37 (d) AN IMAGE OF MINORS.
38 (e) WORDS THAT REFER TO PRODUCTS THAT ARE COMMONLY ASSOCIATED WITH
39 MINORS OR MARKETED BY MINORS.
40 ~~2.~~ 3. "Cardholder" means a qualifying patient, a designated
41 caregiver or a nonprofit medical marijuana dispensary agent who has been
42 issued and possesses a valid registry identification card.

1 ~~3-~~ 4. "Debilitating medical condition" means one or more of the
2 following:

3 (a) Cancer, glaucoma, positive status for human immunodeficiency
4 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic
5 lateral sclerosis, Crohn's disease, **OPIOID USE DISORDER**, agitation of
6 Alzheimer's disease or the treatment of these conditions.

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

9 (i) Cachexia or wasting syndrome. ~~;~~

10 (ii) Severe and chronic pain. ~~;~~

11 (iii) Severe nausea. ~~;~~

12 (iv) Seizures, including those characteristic of epilepsy. ~~;~~ ~~or~~

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

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

17 ~~4-~~ 5. "Department" means the ~~Arizona~~ department of health services
18 or its successor agency.

19 ~~5-~~ 6. "Designated caregiver" means a person who:

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

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

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

23 (d) Assists no more than five qualifying patients with the medical
24 use of marijuana.

25 (e) May receive reimbursement for actual costs incurred in
26 assisting a registered qualifying patient's medical use of marijuana if
27 the registered designated caregiver is connected to the registered
28 qualifying patient through the department's registration process. The
29 designated caregiver may not be paid any fee or compensation for ~~his~~
30 service as a caregiver. Payment for costs under this subdivision shall
31 not constitute an offense under title 13, chapter 34 or under title 36,
32 chapter 27, article 4.

33 ~~6-~~ 7. "Enclosed, locked facility" means a closet, room, greenhouse
34 or other enclosed area equipped with locks or other security devices that
35 permit access only by a cardholder.

36 ~~7-~~ 8. "Excluded felony offense" means:

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

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

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

1 (ii) An offense involving conduct that would be immune from arrest,
2 prosecution or penalty under section 36-2811, except that the conduct
3 occurred before ~~the effective date of this chapter~~ DECEMBER 14, 2010 or
4 was prosecuted by an authority other than the state of Arizona.

5 ~~8.~~ 9. "Marijuana" means all parts of any plant of the genus
6 cannabis whether growing or not, and the seeds of such plant.

7 ~~9.~~ 10. "Medical use" means the acquisition, possession,
8 cultivation, manufacture, use, administration, delivery, transfer or
9 transportation of marijuana or paraphernalia relating to the
10 administration of marijuana to treat or alleviate a registered qualifying
11 patient's debilitating medical condition or symptoms associated with the
12 patient's debilitating medical condition.

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

19 ~~10.~~ 12. "Nonprofit medical marijuana dispensary agent" means a
20 principal officer, board member, employee or volunteer of a nonprofit
21 medical marijuana dispensary who is at least twenty-one years of age and
22 has not been convicted of an excluded felony offense.

23 ~~12.~~ 13. "Physician" means a doctor of medicine who holds a valid
24 and existing license to practice medicine pursuant to title 32, chapter 13
25 or its successor, a doctor of osteopathic medicine who holds a valid and
26 existing license to practice osteopathic medicine pursuant to title 32,
27 chapter 17 or its successor, a naturopathic physician who holds a valid
28 and existing license to practice naturopathic medicine pursuant to title
29 32, chapter 14 or its successor or a homeopathic physician who holds a
30 valid and existing license to practice homeopathic medicine pursuant to
31 title 32, chapter 29 or its successor.

32 ~~13.~~ 14. "Qualifying patient" means a person who has been diagnosed
33 by a physician as having a debilitating medical condition.

34 ~~14.~~ 15. "Registry identification card" means a document issued by
35 the department that identifies a person as a registered qualifying
36 patient, registered designated caregiver or a registered nonprofit medical
37 marijuana dispensary agent.

38 ~~15.~~ 16. "Usable marijuana" means the dried flowers of the
39 marijuana plant, and any mixture or preparation thereof, but does not
40 include the seeds, stalks and roots of the plant and does not include the
41 weight of any non-marijuana ingredients combined with marijuana and
42 prepared for consumption as food or drink.

43 ~~16.~~ 17. "Verification system" means a secure, password-protected,
44 web-based system established and maintained by the department that is
45 available to law enforcement personnel and nonprofit medical marijuana

1 dispensary agents on a ~~twenty-four-hour~~ TWENTY-FOUR-HOUR basis for
2 verification of registry identification cards.

3 ~~17.~~ 18. "Visiting qualifying patient" means a person:

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

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

11 ~~18.~~ 19. "Written certification" means a document dated and signed
12 by a physician, stating that in the physician's professional opinion the
13 patient is likely to receive therapeutic or palliative benefit from the
14 medical use of marijuana to treat or alleviate the patient's debilitating
15 medical condition or symptoms associated with the debilitating medical
16 condition. The physician must:

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

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

22 Sec. 2. Subject to the requirements of article IV, part 1,
23 section 1, Constitution of Arizona, section 36-2806, Arizona Revised
24 Statutes, is amended to read:

25 ~~36-2806.~~ Registered nonprofit medical marijuana dispensaries;
26 requirements; prohibitions

27 A. A registered nonprofit medical marijuana dispensary shall be
28 operated on a not-for-profit basis. The bylaws of a registered nonprofit
29 medical marijuana dispensary shall contain such provisions relative to the
30 disposition of revenues and receipts to establish and maintain its
31 nonprofit character. A registered nonprofit medical marijuana dispensary
32 need not be recognized as tax-exempt by the internal revenue service and
33 is not required to incorporate pursuant to title 10, chapter 19,
34 article 1.

35 B. The operating documents of a registered nonprofit medical
36 marijuana dispensary shall include procedures for the oversight of the
37 registered nonprofit medical marijuana dispensary and procedures to ensure
38 accurate recordkeeping.

39 C. A registered nonprofit medical marijuana dispensary shall have a
40 single secure entrance and shall implement appropriate security measures
41 to deter and prevent the theft of marijuana and unauthorized entrance into
42 areas containing marijuana.

43 D. A registered nonprofit medical marijuana dispensary is
44 prohibited from acquiring, possessing, cultivating, manufacturing,
45 delivering, transferring, transporting, supplying or dispensing marijuana

1 for any purpose except to assist registered qualifying patients with the
2 medical use of marijuana directly or through the registered qualifying
3 patients' designated caregivers.

4 E. All cultivation of marijuana must take place in an enclosed,
5 locked facility at a physical address provided to the department during
6 the registration process, which can only be accessed by registered
7 nonprofit medical marijuana dispensary agents associated in the registry
8 with the nonprofit medical marijuana dispensary.

9 F. A registered nonprofit medical marijuana dispensary may acquire
10 usable marijuana or marijuana plants from a registered qualifying patient
11 or a registered designated caregiver only if the registered qualifying
12 patient or registered designated caregiver receives no compensation for
13 the marijuana.

14 G. A nonprofit medical marijuana dispensary shall not **permit:**

15 1. **ALLOW** any person to consume marijuana on the property of a
16 nonprofit medical marijuana dispensary.

17 2. **ACQUIRE, POSSESS, MANUFACTURE OR SELL A MARIJUANA PRODUCT THAT**
18 **IS PACKAGED OR LABELED IN A MANNER THAT IS ATTRACTIVE TO MINORS.**

19 H. Registered nonprofit medical marijuana dispensaries are subject
20 to reasonable inspection by the department. The department shall give
21 reasonable notice of an inspection under this subsection.

22 Sec. 3. Effective date

23 This act is effective from and after December 31, 2018.

24 Sec. 4. Requirements for enactment: three-fourths vote

25 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
26 sections 36-2801 and 36-2806, Arizona Revised Statutes, as amended by this
27 act, are effective only on the affirmative vote of at least three-fourths
28 of the members of each house of the legislature.