# APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

The undersigned intends to circulate and file an **INITIATIVE** or a **REFERENDUM** (circle the appropriate word) 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. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the **MEASURE** or **CONSTITUTIONAL AMENDMENT** (circle appropriate word) intended to be **INITIATED** or **REFERRED** (circle appropriate word) at the next general election.

**SUMMARY**: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

The Regulation and Taxation of Marijuana Act: (1) establishes a 15% tax on retail marijuana sales, from which the revenue will be allocated to public health and education; (2) allows adults twenty-one years of age and older to possess and to privately consume and grow limited amounts of marijuana; (3) creates a system in which licensed businesses can produce and sell marijuana; (4) establishes a Department of Marijuana Licenses and Control to regulate the cultivation, manufacturing, testing, transportation, and sale of marijuana; and (5) provides local governments with the authority to regulate and limit marijuana businesses.

Signature of Applicant

Carlos Alfaro
Printed Name of Applicant

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Campaign to Regulate Marijuana Like Alcohol, sponsored by the Marijuana Policy Project
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| Date of Application | 4/17/15 |
| Signatures Required | 150,642 |
| Deadline for Filing | July 7, 2016 |
| Serial Number Issued | 1-05-2016 |

Revised 11/92

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**OFFICIAL TITLE**

AN INITIATIVE MEASURE

AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 28.2; AMENDING TITLE 42, CHAPTER 3, 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 REGULATION AND TAXATION OF MARIJUANA.

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TEXT OF PROPOSED AMENDMENT

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

**Section 1.** Title.

This Act may be cited as the "Regulation and Taxation of Marijuana Act."

**Sec. 2.** Findings.

A. The People of the State of Arizona find and declare that the distribution of marijuana should be removed from the illicit market and be controlled under a system that licenses, regulates and taxes the businesses involved and allocates the tax revenue to public education and public health.

B. The People of the State of Arizona proclaim that marijuana should be regulated in a manner similar to alcohol so that:

1. Marijuana may be purchased legally only from a business that is licensed and regulated.
2. Cultivating, manufacturing, testing, transporting and selling marijuana are controlled through licensing, regulation and enforcement.
3. Individuals are allowed to produce a limited amount of marijuana for personal use.
4. Selling or giving marijuana to persons under the legal age remains illegal.
5. Driving while impaired by marijuana remains illegal.
6. Marijuana sold in this state at licensed retail facilities is tested, labeled and packaged securely.

C. In the interest of the public health and public safety, to protect and maintain individual rights and the people's freedom and to better focus state and local law enforcement resources on crimes involving violence and personal property, the people of the State of Arizona find and declare that the use of marijuana should be legal for persons who are at least twenty-one years of age.

D. In the interest of enacting rational policies for the treatment of all variations of the cannabis plant, the people of the State of Arizona further find and declare that hemp should be legal and should be regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

**Sec. 3.** Title 36, Arizona Revised Statutes, is amended by adding chapter 28.2, to read:

CHAPTER 28.2

REGULATION AND TAXATION OF MARIJUANA ACT

**36-2851.** Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CONSUMER" MEANS A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO OBTAINS OR POSSESSES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE OR FOR USE BY PERSONS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE, BUT NOT FOR RESALE.

2. "CONTROLLING PERSON" MEANS A PRINCIPAL OFFICER, DIRECTOR, BOARD MEMBER, OR AN INDIVIDUAL WHO HAS HOLDS A FINANCIAL OR VOTING INTEREST OF TEN PERCENT OR GREATER IN A MARIJUANA ESTABLISHMENT.

3. "DEPARTMENT" MEANS THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL.

4. "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF THAT PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY-WEIGHT BASIS OF ANY PART OF THE PLANT CANNABIS, OR PER VOLUME OR WEIGHT

OF MARIJUANA PRODUCT, OR THE COMBINED PERCENTAGE OF DELTA-9 TETRAHYDROCANNABINOL AND TETRAHYDROCANNABINOLIC ACID IN ANY PART OF THE PLANT CANNABIS REGARDLESS OF MOISTURE CONTENT.

5. "LOCALITY" MEANS A CITY OR TOWN OR, IN REFERENCE TO A LOCATION OUTSIDE THE BOUNDARIES OF A CITY OR TOWN, A COUNTY.

6. "MANUFACTURE" MEANS TO COMPOUND, BLEND, EXTRACT, INFUSE OR OTHERWISE MAKE OR PREPARE A MARIJUANA PRODUCT.

7. "MARIJUANA"

(A) MEANS ALL PARTS OF ANY PLANT OF THE GENUS CANNABIS, WHETHER GROWING OR NOT, THE SEEDS THEREOF, 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:

(i) INDUSTRIAL HEMP.

(ii) THE MATURE STEMS AND ROOTS OF THE PLANT, FIBER PRODUCED FROM THE STEMS, OIL OR CAKE MADE FROM THE SEEDS OF THE PLANT, ANY OTHER COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THE MATURE STEMS, EXCEPT THE RESIN AND POWDER EXTRACTED FROM THE MATURE STEMS, OR THE STERILIZED SEED OF THE PLANT THAT IS INCAPABLE OF GERMINATION.

(iii) THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

8. "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCT OR MATERIAL OF ANY KIND THAT IS USED, INTENDED FOR USE OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, TRANSPORTING OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

9. "MARIJUANA CULTIVATOR" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT THAT MAY PRODUCE, PROCESS, TRANSPORT AND PACKAGE MARIJUANA, TO HAVE MARIJUANA TESTED BY A MARIJUANA TESTING FACILITY AND TO SELL MARIJUANA TO OTHER MARIJUANA ESTABLISHMENTS, BUT NOT TO CONSUMERS.

10. "MARIJUANA DISTRIBUTOR" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT THAT MAY STORE MARIJUANA AND MARIJUANA PRODUCTS AT A LOCATION THAT IS NOT LICENSED FOR THE PRODUCTION, MANUFACTURE OR RETAIL SALE OF MARIJUANA AND MARIJUANA PRODUCTS AND TO TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS FROM A MARIJUANA ESTABLISHMENT TO ANOTHER MARIJUANA ESTABLISHMENT, BUT NOT TO A CONSUMER.

11. "MARIJUANA ESTABLISHMENT" MEANS ANY ENTITY THAT IS A MARIJUANA CULTIVATOR, MARIJUANA DISTRIBUTOR, MARIJUANA TESTING FACILITY, MARIJUANA PRODUCT MANUFACTURER OR MARIJUANA RETAILER.

12. "MARIJUANA PRODUCT MANUFACTURER" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT TO PURCHASE, MANUFACTURE, PROCESS, TRANSPORT AND PACKAGE MARIJUANA AND MARIJUANA PRODUCTS AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA ESTABLISHMENTS, BUT NOT TO CONSUMERS.

13. "MARIJUANA PRODUCTS" MEANS PRODUCTS THAT HAVE BEEN SUBJECT TO MANUFACTURE AND THAT CONTAIN MARIJUANA OR AN EXTRACT FROM MARIJUANA, INCLUDING PRODUCTS COMPRISING MARIJUANA AND OTHER INGREDIENTS THAT ARE INTENDED FOR HUMAN USE OR CONSUMPTION, AND INCLUDES EDIBLE PRODUCTS, OINTMENTS, CONCENTRATED MARIJUANA PRODUCTS AND TINCTURES.

14. "MARIJUANA RETAILER" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT TO PURCHASE MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA

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ESTABLISHMENTS, TO TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM MARIJUANA ESTABLISHMENTS AND TO PACKAGE AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO MARIJUANA ESTABLISHMENTS AND TO CONSUMERS.

15. "MARIJUANA TESTING FACILITY" MEANS AN ENTITY THAT IS LICENSED BY THE DEPARTMENT TO TEST AND TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING TESTING FOR POTENCY AND HARMFUL CONTAMINANTS.

16. "PROCESS" MEANS TO HARVEST, DRY, CURE, TRIM AND SEPARATE PARTS OF THE MARIJUANA PLANT BY MANUAL OR MECHANICAL MEANS, INCLUDING SIEVING OR ICE WATER SEPARATION, BUT EXCLUDING CHEMICAL EXTRACTION OR CHEMICAL SYNTHESIS.

17. "REORGANIZED MARIJUANA BUSINESS" MEANS AN ENTITY THAT IS ESTABLISHED TO OPERATE A MARIJUANA ESTABLISHMENT BY THE UNANIMOUS CONSENT ALL OF THE PRINCIPAL OFFICERS OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

18. "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH RULES OR ORDINANCES ADOPTED PURSUANT TO THIS CHAPTER SUBJECT LICENSEES TO UNREASONABLE FINANCIAL OR OTHER RISK OR REQUIRE SUCH A SIGNIFICANT INVESTMENT OF MONEY, TIME OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OR ACQUISITION OF A MARIJUANA ESTABLISHMENT IS NOT WORTH BEING CARRIED OUT BY A REASONABLY PRUDENT BUSINESSPERSON.

**36-2852.** Applicability of chapter

A. THIS CHAPTER DOES NOT AUTHORIZE ANY PERSON TO ENGAGE IN AND DOES NOT PREVENT THE IMPOSITION OF ANY CIVIL, CRIMINAL OR OTHER PENALTY ON A PERSON FOR:

1. OPERATING, NAVIGATING OR BEING IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, TRAIN, AIRCRAFT, MOTORBOAT OR OTHER MOTORIZED FORM OF TRANSPORT OR MACHINERY WHILE IMPAIRED BY MARIJUANA OR A MARIJUANA PRODUCT.

2. INHALING OR CONSUMING MARIJUANA OR A MARIJUANA PRODUCT WHILE OPERATING A MOTOR VEHICLE, TRAIN, AIRCRAFT, MOTORBOAT OR OTHER MOTORIZED FORM OF TRANSPORT OR MACHINERY OR WHILE IN A PASSENGER COMPARTMENT THAT IS NOT ISOLATED FROM THE OPERATOR OF A MOTOR VEHICLE, TRAIN, AIRCRAFT, MOTORBOAT OR OTHER MOTORIZED FORM OF TRANSPORT OR MACHINERY.

3. KNOWINGLY DELIVERING, GIVING, SELLING, ADMINISTERING OR OFFERING TO SELL, ADMINISTER, GIVE OR DELIVER MARIJUANA OR A MARIJUANA PRODUCT TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE.

4. BUYING FOR RESALE, SELLING OR DEALING IN MARIJUANA OR MARIJUANA PRODUCTS IN THIS STATE WITHOUT PROCURING THE APPROPRIATE LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT.

5. POSSESSING OR USING MARIJUANA OR MARIJUANA ACCESSORIES ON THE GROUNDS OF OR WITHIN ANY CORRECTIONAL FACILITY.

6. POSSESSING OR USING MARIJUANA OR A MARIJUANA PRODUCT ON SCHOOL GROUNDS, INSIDE SCHOOL BUILDINGS, IN SCHOOL PARKING LOTS OR PLAYING FIELDS, IN SCHOOL BUSES OR VEHICLES OR AT OFF-CAMPUS SCHOOL-SPONSORED EVENTS. FOR THE PURPOSES OF THIS PARAGRAPH, "SCHOOL" MEANS ANY PUBLIC, CHARTER OR PRIVATE SCHOOL WHERE CHILDREN ATTEND CLASSES IN PRESCHOOL PROGRAMS, KINDERGARTEN PROGRAMS OR GRADES ONE THROUGH TWELVE.

7. PERFORMING ANY TASK WHILE IMPAIRED BY MARIJUANA OR A MARIJUANA PRODUCT THAT WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE.

B. THIS CHAPTER DOES NOT REQUIRE AN EMPLOYER TO ALLOW OR ACCOMMODATE THE POSSESSION OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS IN THE WORKPLACE AND DOES NOT AFFECT THE ABILITY OF EMPLOYERS TO ENACT AND ENFORCE WORKPLACE POLICIES RESTRICTING THE CONSUMPTION OF MARIJUANA AND MARIJUANA PRODUCTS BY EMPLOYEES.

C. THIS CHAPTER DOES NOT PROHIBIT A PERSON WHO OWNS, MANAGES OR LEASES

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A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE SMOKING, PRODUCTION, PROCESSING, MANUFACTURE OR SALE OF MARIJUANA AND MARIJUANA PRODUCTS ON OR IN THAT PROPERTY.

D. THIS CHAPTER DOES NOT PROHIBIT A PERSON FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION OR CONSUMPTION OF MARIJUANA AND MARIJUANA PRODUCTS ON OR IN PROPERTY THE PERSON OWNS, MANAGES OR LEASES IF EITHER:

1. THE PROPERTY IS A PUBLIC BUILDING THAT IS HELD OR OWNED BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

2. FAILING TO PROHIBIT THE POSSESSION OR CONSUMPTION OF MARIJUANA OR MARIJUANA PRODUCTS WOULD CAUSE THE PERSON WHO OWNS, MANAGES OR LEASES THE PROPERTY TO LOSE A MONETARY OR LICENSING-RELATED BENEFIT UNDER FEDERAL LAW OR REGULATIONS.

E. EXCEPT AS PROVIDED IN SECTION 36-2854, SUBSECTION C, SECTION 36-2862 AND IN SECTION 36-2868, SUBSECTION C, THIS CHAPTER DOES NOT AFFECT ANY PROVISIONS OF TITLE 36, CHAPTER 28.1 OF THIS TITLE RELATING TO THE USE OF MEDICAL MARIJUANA.

F. THIS CHAPTER DOES NOT PROHIBIT THE LEGISLATURE FROM PROVIDING FOR THE REGULATION OR TAXATION OF INDUSTRIAL HEMP.

**36-2853.** Department of marijuana licenses and control

A. THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL IS ESTABLISHED CONSISTING OF THE MARIJUANA COMMISSION AND THE OFFICE OF DIRECTOR OF THE DEPARTMENT.

B. THE GOVERNOR SHALL APPOINT A DIRECTOR OF THE DEPARTMENT PURSUANT TO SECTION 38-211 WHO IS QUALIFIED BY SUCCESSFUL EXPERIENCE IN BUSINESS ADMINISTRATION OR IN GOVERNMENT. THE GOVERNOR MAY REMOVE THE DIRECTOR FOR CAUSE. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE DIRECTOR SHALL ADMINISTER THIS CHAPTER. SUBJECT TO TITLE 41, CHAPTER 4, ARTICLE 4, THE DIRECTOR MAY EMPLOY, DETERMINE THE CONDITIONS OF EMPLOYMENT OF AND SPECIFY THE DUTIES OF EMPLOYEES AND CONTRACT TO HAVE THE SERVICES OF SUCH ADVISORS OR CONSULTANTS AS ARE REASONABLY NECESSARY TO ADEQUATELY PERFORM THE DEPARTMENT'S DUTIES. THE DIRECTOR MAY DELEGATE TO EMPLOYEES OF THE DEPARTMENT AUTHORITY TO EXERCISE POWERS OF THE DIRECTOR.

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C. THE MARIJUANA COMMISSION CONSISTS OF SEVEN MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211, FOUR OF WHOM DO NOT HAVE ANY FINANCIAL INTEREST, DIRECTLY OR INDIRECTLY, IN ANY MARIJUANA ESTABLISHMENT AND THREE OF WHOM ARE AT ALL TIMES WHILE SERVING ON THE MARIJUANA COMMISSION AND FOR AT LEAST ONE YEAR BEFORE SERVING ON THE MARIJUANA COMMISSION, CONTROLLING PERSONS OF A MARIJUANA ESTABLISHMENT. NOT MORE THAN FOUR MEMBERS MAY BE OF THE SAME POLITICAL PARTY, NOT MORE THAN TWO OF THE MEMBERS WHO ARE NOT CONTROLLING PERSONS MAY BE OF THE SAME POLITICAL PARTY AND AT LEAST ONE MEMBER WHO IS NOT A CONTROLLING PERSON MUST BE FROM THE POLITICAL PARTY ASSOCIATED WITH THE GUBERNATORIAL CANDIDATE WHO RECEIVED THE SECOND LARGEST NUMBER OF VOTES AT THE LAST GUBERNATORIAL ELECTION. TO BE ELIGIBLE FOR APPOINTMENT A PERSON SHALL HAVE A CONTINUOUS RECORDED REGISTRATION PURSUANT TO TITLE 16, CHAPTER 1 WITH THE SAME POLITICAL PARTY OR AS AN INDEPENDENT FOR AT LEAST TWO YEARS IMMEDIATELY PRECEDING APPOINTMENT. NOT MORE THAN TWO MEMBERS MAY BE APPOINTED FROM THE SAME COUNTY. THE TERM OF APPOINTMENT IS THREE YEARS AND TERMS EXPIRE ON THE THIRD MONDAY IN JANUARY OF THE APPROPRIATE YEAR.

D. THE MARIJUANA COMMISSION SHALL:

1. ADOPT RULES FOR THE CONDUCT OF ITS MEETINGS.

2. ANNUALLY ELECT FROM ITS MEMBERSHIP A CHAIRPERSON AND MAY ELECT FROM ITS MEMBERSHIP OTHER OFFICERS FOR SUCH TERMS AS THE MEMBERS DEEM NECESSARY OR DESIRABLE.

3. KEEP RECORDS OF ALL OF ITS PROCEEDINGS.

4. APPROVE AND DENY APPLICATIONS FOR LICENSURE.

5. HOLD HEARINGS AS PROVIDED FOR BY LAW.

E. A MAJORITY OF THE MEMBERS OF THE MARIJUANA COMMISSION CONSTITUTE A QUORUM. THE CONCURRENCE OF A MAJORITY OF A QUORUM IS SUFFICIENT FOR TAKING ANY ACTION.

F. THE COMPENSATION OF THE DIRECTOR AND EMPLOYEES OF THE DEPARTMENT SHALL BE DETERMINED PURSUANT TO SECTION 38-611. NOTWITHSTANDING SECTION 38-611, SUBSECTION C, MEMBERS OF THE MARIJUANA COMMISSION ARE ENTITLED TO RECEIVE COMPENSATION AT THE RATE OF FIFTY DOLLARS PER DAY WHILE ENGAGED IN THE BUSINESS OF THE MARIJUANA COMMISSION.

G. EXCEPT FOR A MEMBER OF THE MARIJUANA COMMISSION WHO IS APPOINTED BY THE GOVERNOR IN THE CAPACITY OF A CONTROLLING PERSON, MEMBERS OF THE MARIJUANA COMMISSION, EMPLOYEES OF THE DEPARTMENT AND THE DIRECTOR MAY NOT HAVE ANY FINANCIAL INTEREST, DIRECT OR INDIRECT, IN ANY MARIJUANA ESTABLISHMENT. A VIOLATION OF THIS SUBSECTION BY ANY MEMBER OF THE MARIJUANA COMMISSION CONSTITUTES A RESIGNATION BY THAT PERSON, AND A VIOLATION BY ANY EMPLOYEE OF THE DEPARTMENT OR THE DIRECTOR SHALL RESULT IN IMMEDIATE DISMISSAL.

**36-2854.** Power and duties of the Department

A. THE DEPARTMENT SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 THAT ARE NECESSARY OR CONVENIENT TO CARRY OUT THIS CHAPTER.

1. THE DEPARTMENT MAY ADOPT AND ENFORCE RULES TO REGULATE ANY PRODUCT SOLD BY A MARIJUANA RETAILER THAT WAS PRODUCED BY A MARIJUANA ESTABLISHMENT, INCLUDING PRODUCTS MADE FROM INDUSTRIAL HEMP.

2. UNTIL JANUARY 1, 2020, THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT ALLOWS FOR THE DELIVERY OF MARIJUANA TO A CONSUMER BY A MARIJUANA RETAILER AT ANY LOCATION OUTSIDE OF THE MARIJUANA RETAILER'S LICENSED PREMISES.

3. UNTIL A MARIJUANA TESTING FACILITY HAS BEEN LICENSED BY THE DEPARTMENT FOR AT LEAST NINETY DAYS, THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT REQUIRES THE TESTING OF MARIJUANA BY A MARIJUANA TESTING FACILITY.

4. UNTIL JANUARY 1, 2020, THE DEPARTMENT MAY NOT ADOPT ANY RULE THAT ALLOWS FOR THE CONSUMPTION OF MARIJUANA ON THE PREMISES WHERE SOLD. AFTER JANUARY 1, 2020, THE DEPARTMENT MAY ADOPT AND ENFORCE RULES TO ALLOW FOR THE ISSUANCE OF LICENSES TO PERMIT THE CONSUMPTION OF MARIJUANA WITHIN A SPECIFIED AREA OF A MARIJUANA RETAILER OR THE ISSUANCE OF LICENSES TO PERMIT CONSUMPTION OF MARIJUANA WITHIN A SPECIFIED AREA OF THE LICENSEE, BUT NOT SALE OR TRANSFER FOR REMUNERATION OF ANY KIND.

5. RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS CHAPTER AND PURSUANT TO CHAPTER 28.1 MAY PROVIDE FOR DIFFERENT REQUIREMENTS AND STANDARDS FOR MARIJUANA THAT IS INTENDED FOR MEDICAL USE. RULES ADOPTED OR ENFORCED BY THE DEPARTMENT MAY NOT CONFLICT IN A WAY THAT WOULD PREVENT A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTERED PURSUANT TO CHAPTER 28.1 AND A REORGANIZED MARIJUANA BUSINESS FROM OPERATING COOPERATIVELY AT A SHARED LOCATION.

B. THE DEPARTMENT SHALL APPROVE OR DENY APPLICATIONS FOR LICENSES AND SHALL ISSUE AND RENEW LICENSES PURSUANT TO THIS CHAPTER, AS FOLLOWS:

1. THE DEPARTMENT SHALL BEGIN ACCEPTING AND PROCESSING APPLICATIONS FOR UP TO ONE OF EACH TYPE OF MARIJUANA ESTABLISHMENT FROM EACH REORGANIZED MARIJUANA BUSINESS ON OR BEFORE SEPTEMBER 1, 2017. THE DEPARTMENT SHALL ACCEPT AN APPLICATION FOR UP TO ONE OF EACH TYPE OF MARIJUANA ESTABLISHMENT FOR EACH DISPENSARY REGISTRATION CERTIFICATE HELD BY SUCH NONPROFIT MEDICAL MARIJUANA DISPENSARY. THE DEPARTMENT SHALL BEGIN ACCEPTING AND PROCESSING APPLICATIONS FOR MARIJUANA ESTABLISHMENTS FROM ALL OTHER APPLICANTS ON AND AFTER DECEMBER 1,

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2017.

2. ON OR BEFORE DECEMBER 1, 2017, THE DEPARTMENT SHALL ISSUE LICENSES TO EACH QUALIFIED REORGANIZED MARIJUANA BUSINESS.

3. UNTIL SEPTEMBER 1, 2021, THE DEPARTMENT MAY NOT ISSUE MORE MARIJUANA RETAILER LICENSES THAN TEN PERCENT OF THE TOTAL NUMBER OF SERIES 9 LIQUOR LICENSES ISSUED BY THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

4. ON AND AFTER SEPTEMBER 1, 2021, THE DEPARTMENT MAY ISSUE ADDITIONAL MARIJUANA RETAILER LICENSES IF THE DEPARTMENT DETERMINES THAT ADDITIONAL LICENSES ARE DESIRABLE TO MINIMIZE THE ILLEGAL MARKET FOR MARIJUANA IN THIS STATE, TO EFFICIENTLY MEET THE DEMAND FOR MARIJUANA OR TO PROVIDE FOR REASONABLE ACCESS TO MARIJUANA RETAILERS IN RURAL AREAS.

C. NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, BEGINNING SEPTEMBER 1, 2017, ALL AUTHORITY THE DEPARTMENT OF HEALTH SERVICES MAY HAVE TO ADMINISTER AND ENFORCE CHAPTER 28.1 OF THIS TITLE IS TRANSFERRED TO THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL. ALL RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE BY THE DEPARTMENT OF HEALTH SERVICES SHALL BE ENFORCED BY THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL UNTIL THEY ARE AMENDED BY THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL PURSUANT TO TITLE 41, CHAPTER 6. EACH REGISTRATION CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO CHAPTER 28.1 OF THIS TITLE BEFORE SEPTEMBER 1, 2017 SHALL REMAIN VALID AS PROVIDED IN CHAPTER 28.1 OF THIS TITLE UNTIL THE REGISTRATION CERTIFICATE EXPIRES. THE DEPARTMENT OF HEALTH SERVICES SHALL ADVISE, ASSIST AND COOPERATE WITH THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL TO ENSURE A SMOOTH TRANSFER OF AUTHORITY TO ADMINISTER AND ENFORCE CHAPTER 28.1 OF THIS TITLE.

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D. THE DEPARTMENT SHALL CONDUCT HEARINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 AS NECESSARY OR CONVENIENT TO LICENSE AND REGULATE MARIJUANA ESTABLISHMENTS AND MAY ACCEPT RELEVANT AND MATERIAL EVIDENCE AND TESTIMONY, ADMINISTER OATHS OR AFFIRMATIONS, ISSUE SUBPOENAS REQUIRING ATTENDANCE AND TESTIMONY OF WITNESSES, CAUSE DEPOSITIONS TO BE TAKEN AND REQUIRE BY SUBPOENA DUCES TECUM THE PRODUCTION OF BOOKS, PAPERS AND OTHER DOCUMENTS THAT ARE NECESSARY FOR THE ENFORCEMENT OF THIS CHAPTER.

E. THE DEPARTMENT SHALL ENFORCE THE LAWS AND RULES RELATING TO THE PRODUCTION, MANUFACTURE, TRANSPORTATION, SALE, STORAGE, DISTRIBUTION AND TESTING OF MARIJUANA AND MARIJUANA PRODUCTS AND SHALL CONDUCT INVESTIGATIONS OF COMPLIANCE WITH THIS CHAPTER, INCLUDING THE INSPECTION OF MARIJUANA ESTABLISHMENTS AND THE EXAMINATION OF BOOKS, RECORDS AND PAPERS OF ANY MARIJUANA ESTABLISHMENT AS NECESSARY TO ENFORCE THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER. ANY ENFORCEMENT OFFICER WITHIN THE DEPARTMENT WHO IS DESIGNATED BY THE DIRECTOR SHALL, FOR IDENTIFICATION PURPOSES, HAVE CREDENTIALS SIGNED BY THE DIRECTOR AND COUNTERSIGNED BY THE GOVERNOR AND, WHEN BEARING THESE CREDENTIALS, HAS THE POWER AND DUTIES OF A PEACE OFFICER. THE DEPARTMENT SHALL TAKE STEPS NECESSARY TO MAINTAIN EFFECTIVE LIAISON WITH THE DEPARTMENT OF PUBLIC SAFETY AND ALL LOCAL ENFORCEMENT AGENCIES IN THE ENFORCEMENT OF THIS CHAPTER.

F. THE DIRECTOR SHALL ESTABLISH WITHIN THE DEPARTMENT AN INVESTIGATIONS UNIT WHICH HAS AS ITS RESPONSIBILITY THE INVESTIGATION OF COMPLIANCE WITH THIS CHAPTER INCLUDING THE INVESTIGATION OF LICENSEES ALLEGED TO HAVE SOLD OR DISTRIBUTED MARIJUANA OR MARIJUANA PRODUCTS TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND INVESTIGATIONS OF UNLICENSED PERSONS WHEN THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON SOLD OR OTHERWISE TRANSFERRED MARIJUANA OR MARIJUANA PRODUCTS IN EXCHANGE FOR ANYTHING OF VALUE, ADVERTISED OR PROMOTED THE SALE OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS OR SOLD OR OTHERWISE

TRANSFERRED MARIJUANA OR MARIJUANA PRODUCTS WHERE THE TRANSACTION IS SUBJECT TO PUBLIC VIEW WITHOUT THE USE OF BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS. INVESTIGATIONS CONDUCTED BY THIS UNIT MAY INCLUDE COVERT UNDERCOVER INVESTIGATIONS.

G. AFTER NOTICE AND A HEARING, THE DEPARTMENT MAY SUSPEND, REVOKE OR REFUSE TO RENEW ANY LICENSE ISSUED PURSUANT TO THIS CHAPTER AND IMPOSE A CIVIL PENALTY ON A LICENSEE FOR A VIOLATION OF THIS CHAPTER, ANY RULE ADOPTED PURSUANT TO THIS CHAPTER OR ANY CONDITION IMPOSED ON THE LICENSEE BY THE LICENSE. AN ACTION TAKEN BY THE DEPARTMENT PURSUANT TO THIS SUBSECTION IS A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE ARE VESTED IN THE SUPERIOR COURT.

H. AFTER NOTICE, THE DEPARTMENT MAY TEMPORARILY SUSPEND ANY LICENSE ISSUED PURSUANT TO THIS CHAPTER IF THERE IS CLEAR AND CONVINCING EVIDENCE THAT THE LICENSEE HAS COMMITTED A DELIBERATE AND WILLFUL VIOLATION OF ANY APPLICABLE LAW OR RULE OR THAT THE PUBLIC HEALTH, SAFETY OR WELFARE REQUIRES EMERGENCY ACTION. THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 WITHIN FOURTEEN CALENDAR DAYS AFTER A SUSPENSION PURSUANT TO THIS SUBSECTION.

I. THE DEPARTMENT SHALL KEEP RECORDS OF ALL OF ITS PROCEEDINGS.

**36-2855.** Rulemaking

A. ON OR BEFORE SEPTEMBER 1, 2017, THE DEPARTMENT SHALL ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 THAT ARE NECESSARY OR CONVENIENT TO CARRY OUT THIS CHAPTER, INCLUDING:

1. PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, RELOCATION AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT.

2. QUALIFICATIONS FOR LICENSURE AND MINIMUM STANDARDS FOR EMPLOYMENT THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO A PERSON'S FITNESS TO OPERATE A MARIJUANA ESTABLISHMENT.

3. REQUIREMENTS FOR THE INDOOR AND OUTDOOR SECURITY OF MARIJUANA ESTABLISHMENTS, INCLUDING LIGHTING, PHYSICAL SECURITY AND VIDEO AND ALARM REQUIREMENTS AND REQUIREMENTS FOR THE SECURE TRANSPORTATION AND STORAGE OF MARIJUANA AND MARIJUANA PRODUCTS.

4. REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS WHO ARE UNDER TWENTY-ONE YEARS OF AGE, INCLUDING A SPECIFICATION OF THE ACCEPTABLE FORMS OF IDENTIFICATION THAT A MARIJUANA ESTABLISHMENT MAY ACCEPT WHEN VERIFYING THE AGE OF A CONSUMER THAT ARE SIMILAR TO REQUIREMENTS FOR VERIFYING THE AGE OF A PERSON WHO PURCHASES ALCOHOL.

5. TRACKING PROCEDURES TO ENSURE THAT MARIJUANA AND MARIJUANA PRODUCTS PRODUCED, PROCESSED, MANUFACTURED, TRANSPORTED AND SOLD BY ANY MARIJUANA ESTABLISHMENT ARE NOT SOLD OR OTHERWISE TRANSFERRED EXCEPT BY A MARIJUANA ESTABLISHMENT TO ANOTHER MARIJUANA ESTABLISHMENT OR BY A MARIJUANA RETAILER TO A CONSUMER AND TO ENSURE THAT ALL MARIJUANA AND MARIJUANA PRODUCTS THAT ARE SOLD BY A MARIJUANA RETAILER WERE PRODUCED BY A MARIJUANA ESTABLISHMENT.

6. HEALTH AND SAFETY STANDARDS FOR THE CULTIVATION, PROCESSING, MANUFACTURE AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING RULES REGARDING THE USE OF PESTICIDES AND RESTRICTIONS ON ADDITIVES TO MARIJUANA PRODUCTS THAT WOULD MAKE THE MARIJUANA PRODUCTS ADDICTIVE OR INJURIOUS TO HEALTH.

7. REQUIREMENTS FOR THE PACKAGING OF MARIJUANA AND MARIJUANA PRODUCTS, INCLUDING REQUIREMENTS FOR CHILD-RESISTANT PACKAGING SIMILAR TO THE POISON PREVENTION PACKAGING ACT OF 1970 (P.L. 91-601; 84 STAT. 1670; 15 UNITED STATES

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CODE SECTIONS 1471 THROUGH 1477) AND FOR DIVIDING OR SCORING A MARIJUANA PRODUCT INTO A STANDARDIZED SERVING SIZE.

8. REQUIREMENTS FOR THE LABELING OF MARIJUANA PRODUCTS SOLD BY MARIJUANA ESTABLISHMENTS, INCLUDING ALL OF THE FOLLOWING:

(a) A SYMBOL OR OTHER MARK INDICATING THAT THE PACKAGE CONTAINS MARIJUANA.

(b) THE AMOUNT OF TETRAHYDROCANNABINOL AND CANNABIDIOL IN THE PACKAGE AND IN EACH SERVING OF THE MARIJUANA PRODUCT.

(c) THE NUMBER OF SERVINGS IN THE PACKAGE.

(d) A LIST OF INGREDIENTS, ALLERGENS AND SOLVENTS USED IN THE MANUFACTURE OF THE MARIJUANA PRODUCT.

(e) WARNING LABELS.

9. REQUIREMENTS FOR THE TESTING OF MARIJUANA AND MARIJUANA PRODUCTS TO MEASURE POTENCY AND TO ENSURE THAT PRODUCTS SOLD FOR HUMAN CONSUMPTION DO NOT CONTAIN CONTAMINANTS THAT ARE INJURIOUS TO HEALTH.

10. REQUIREMENTS FOR THE MARKETING, DISPLAY AND ADVERTISING OF MARIJUANA, MARIJUANA PRODUCTS AND MARIJUANA ACCESSORIES, INCLUDING RESTRICTING MARKETING OR ADVERTISING THAT APPEALS TO CHILDREN.

12. PROCEDURES AND REQUIREMENTS TO ENABLE THE TRANSFER OR SALE OF A LICENSE FROM A MARIJUANA ESTABLISHMENT TO ANOTHER QUALIFIED PERSON OR GROUP OF PERSONS OR TO ANOTHER SUITABLE LOCATION.

13. A STATEWIDE TIERED SYSTEM FOR THE LICENSURE OF MARIJUANA CULTIVATORS THAT:

(a) ESTABLISH AT LEAST 3 DIFFERENT LICENSING CLASS TIERS.

(b) ESTABLISH A LIMIT ON THE AMOUNT OF MARIJUANA THAT A MARIJUANA CULTIVATOR WITHIN EACH LICENSING CLASS TIER MAY PRODUCE BASED ON THE SIZE OF THE CULTIVATION AREA, EXCEPT THAT THE HIGHEST TIER SHALL PERMIT THE PRODUCTION OF AN UNLIMITED AMOUNT OF MARIJUANA.

(c) UNLESS THE LICENSEE IS A REORGANIZED MARIJUANA BUSINESS, ISSUE ONLY THE SMALLEST LICENSING CLASS TIER MARIJUANA CULTIVATOR LICENSE TO A LICENSEE UNTIL THE LICENSEE DEMONSTRATES TO THE DEPARTMENT THAT THE LICENSEE HAS SOLD MORE THAN EIGHTY-FIVE PERCENT OF THE MARIJUANA THE LICENSEE HAS PRODUCED TO MARIJUANA ESTABLISHMENTS WITHOUT ENGAGING IN ANY TRANSACTION AT A PRICE WHICH IS LESS THAN THE MARIJUANA CULTIVATOR'S COST TO PRODUCE THE MARIJUANA SOLD IN THE TRANSACTION.

(d) PROVIDES FOR THE ISSUANCE OF THE HIGHEST TIER MARIJUANA CULTIVATOR LICENSE TO A REORGANIZED MARIJUANA BUSINESS.

14. PROCEDURES AND REQUIREMENTS TO ENABLE A NONPROFIT MEDICAL MARIJUANA DISPENSARY REGISTERED AND IN GOOD STANDING PURSUANT TO CHAPTER 28.1 OF THIS TITLE AND A REORGANIZED MARIJUANA BUSINESS LICENSED TO ENGAGE IN THE SAME TYPE OF CONDUCT AS THE NONPROFIT MEDICAL MARIJUANA DISPENSARY TO OPERATE AT THE SAME LOCATION.

15. PROCEDURES FOR ENFORCING THIS CHAPTER, INCLUDING PROCEDURES FOR IMPOSING CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH ANY RULE ADOPTED PURSUANT TO THIS CHAPTER OR FOR ANY VIOLATION OF SECTION 36-2859, PROCEDURES FOR COLLECTING FEES AND CIVIL PENALTIES IMPOSED BY THIS CHAPTER, PROCEDURES FOR SUSPENDING OR TERMINATING A LICENSE ISSUED UNDER THIS CHAPTER AND PROCEDURES PROVIDING FOR A HEARING FOR THE APPEAL OF PENALTIES AND LICENSING ACTIONS UNDER THIS CHAPTER.

B. THE DEPARTMENT MAY REQUIRE EACH CONTROLLING PERSON OF A MARIJUANA ESTABLISHMENT LICENSE APPLICANT TO FURNISH BACKGROUND INFORMATION AND TO SUBMIT A FULL SET OF FINGERPRINTS TO THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK

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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. THE DEPARTMENT SHALL DESTROY EACH SET OF FINGERPRINTS AFTER THE CRIMINAL RECORDS CHECK IS COMPLETE.

C. RULES ADOPTED BY THE DEPARTMENT MAY NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE.

D. TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED:

1. THE DEPARTMENT MAY NOT REQUIRE A CONSUMER TO PROVIDE A MARIJUANA RETAILER WITH PERSONAL IDENTIFYING INFORMATION OTHER THAN IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE.

2. A MARIJUANA RETAILER SHALL NOT BE REQUIRED TO ACQUIRE OR RECORD PERSONAL IDENTIFYING INFORMATION ABOUT A CONSUMER OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A RETAIL TRANSACTION.

**36-2856.** Localities; Control of marijuana and marijuana products

A. THROUGH ENACTMENT OF A REFERENDUM OR INITIATIVE THAT IS CONDUCTED PURSUANT TO TITLE 19, CHAPTER 1, ARTICLE 4 AND THAT APPEARS ON A GENERAL ELECTION BALLOT, A LOCALITY MAY PROHIBIT THE OPERATION OF ONE OR MORE OF THE TYPES OF MARIJUANA ESTABLISHMENTS WITHIN THE LOCALITY, EXCEPT THAT IF A LOCALITY PROHIBITS THE OPERATION OF A MARIJUANA RETAILER, A MARIJUANA PRODUCT MANUFACTURER, OR A MARIJUANA CULTIVATOR IT MAY NOT PROHIBIT A REORGANIZED MARIJUANA BUSINESS ESTABLISHED BY A NONPROFIT MEDICAL MARIJUANA DISPENSARY OPERATING WITHIN THE LOCALITY FROM OPERATING THE PROHIBITED TYPE OF MARIJUANA ESTABLISHMENT WITHIN THE LOCALITY IN ANY AREA THAT IS ZONED TO ALLOW THE OPERATION OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY.

B. LOCALITIES MAY ENACT REASONABLE ORDINANCES OR RULES THAT ARE NOT IN CONFLICT WITH THIS ACT OR WITH RULES ENACTED PURSUANT TO THIS CHAPTER THAT:

1. GOVERN THE TIME, PLACE AND MANNER OF MARIJUANA ESTABLISHMENT OPERATIONS.

2. LIMIT THE NUMBER OF MARIJUANA ESTABLISHMENTS WITHIN THE LOCALITY, EXCEPT THAT THE LOCALITY MAY NOT LIMIT THE NUMBER OF MARIJUANA RETAILERS, MARIJUANA PRODUCT MANUFACTURERS, OR MARIJUANA CULTIVATORS TO A NUMBER THAT IS LESS THAN THE NUMBER OF LOCATIONS WHERE NONPROFIT MEDICAL MARIJUANA DISPENSARIES ARE ENGAGED IN THE SAME TYPE OF CONDUCT IN THE LOCALITY ON THE EFFECTIVE DATE OF THIS CHAPTER.

3. RESTRICT THE SMOKING, PRODUCTION, PROCESSING OR MANUFACTURE OF MARIJUANA AND MARIJUANA PRODUCTS WHEN IT IS INJURIOUS TO THE ENVIRONMENT OR OTHERWISE IS A NUISANCE TO A CONSIDERABLE NUMBER OF PERSONS.

4. LIMIT THE USE OF LAND FOR MARIJUANA ESTABLISHMENTS AND FOR BUSINESSES DEALING IN MARIJUANA ACCESSORIES TO SPECIFIED AREAS IN THE MANNER PROVIDED IN TITLE 9, CHAPTER 4, ARTICLE 6.1 AND TITLE 11, CHAPTER 6, ARTICLE 2, EXCEPT THAT ZONING MAY NOT PROHIBIT A MARIJUANA ESTABLISHMENT FROM OPERATING IN AN AREA THAT IS ZONED FOR THE OPERATION OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY OR A MEDICAL MARIJUANA CULTIVATION FACILITY AND MAY NOT BE A BASIS FOR DENYING A LICENSE UNDER THIS CHAPTER.

5. ESTABLISH REASONABLE RESTRICTIONS ON PUBLIC SIGNAGE REGARDING MARIJUANA, MARIJUANA PRODUCTS, MARIJUANA ESTABLISHMENTS AND MARIJUANA ACCESSORIES.

6. ESTABLISH CIVIL PENALTIES FOR THE VIOLATION OF AN ORDINANCE OR RULE ADOPTED PURSUANT TO THIS SECTION.

C. IF THE DEPARTMENT DOES NOT ADOPT RULES IN ACCORDANCE WITH SECTION 36-

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2855 OR ACCEPT OR PROCESS APPLICATIONS IN ACCORDANCE WITH SECTION 36-2854, SUBSECTION B OR SECTION 36-2858 A LOCALITY MAY:

1. DESIGNATE A LOCAL REGULATORY AUTHORITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE LOCALITY.

2. ISSUE AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE LOCALITY, SUSPEND OR REVOKE A LICENSE IT HAS ISSUED FOR CAUSE AND ESTABLISH A SCHEDULE OF APPLICATION AND LICENSING FEES FOR MARIJUANA ESTABLISHMENTS LICENSED BY THE LOCAL REGULATORY AUTHORITY.

3. ADOPT REASONABLE ORDINANCES OR RULES NECESSARY OR CONVENIENT FOR THE LICENSING AND REGULATING OF MARIJUANA ESTABLISHMENTS.

**36-2857.** Disposition of fees and penalties

ALL APPLICATION, LICENSING AND OTHER FEES AND ALL FINES AND CIVIL PENALTIES COLLECTED PURSUANT TO THIS CHAPTER SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE MARIJUANA FUND ESTABLISHED BY SECTION 36-2867.

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**36-2858.** Licensing of marijuana establishments

A. ON RECEIPT OF A COMPLETE MARIJUANA ESTABLISHMENT LICENSE APPLICATION, THE DEPARTMENT SHALL FORWARD A COPY OF THE APPLICATION TO THE LOCALITY IN WHICH THE PROPOSED LICENSED PREMISES WILL BE LOCATED.

B. ON RECEIPT OF A COMPLETE MARIJUANA ESTABLISHMENT LICENSE APPLICATION, THE DEPARTMENT, WITHIN SIXTY TO NINETY DAYS, MUST EITHER:

1. ISSUE THE APPROPRIATE LICENSE IF THE LICENSE APPLICATION IS APPROVED.

2. SEND A NOTICE OF DENIAL SETTING FORTH SPECIFIC REASONS WHY THE DEPARTMENT DID NOT APPROVE THE LICENSE APPLICATION.

C. THE DEPARTMENT SHALL APPROVE A LICENSE APPLICATION AND ISSUE OR RENEW A LICENSE UNLESS ANY OF THE FOLLOWING APPLIES:

1. THE APPLICANT FOR A MARIJUANA ESTABLISHMENT HAS NOT SUBMITTED AN APPLICATION IN COMPLIANCE WITH RULES ADOPTED BY THE DEPARTMENT, DOES NOT MEET THE REQUIREMENTS ESTABLISHED BY THE DEPARTMENT OR IS NOT IN COMPLIANCE WITH THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER.

2. THE LOCALITY IN WHICH THE PROPOSED MARIJUANA ESTABLISHMENT WILL BE LOCATED NOTIFIES THE DEPARTMENT THAT THE PROPOSED MARIJUANA ESTABLISHMENT IS NOT IN COMPLIANCE WITH ORDINANCES OR RULES THAT ARE ADOPTED BY THE LOCALITY PURSUANT TO SECTION 36-2856 AND IN EFFECT AT THE TIME OF APPLICATION.

3. THE PROPERTY, AT THE TIME THE LICENSE APPLICATION IS RECEIVED BY THE DEPARTMENT, IS LOCATED WITHIN FIVE HUNDRED HORIZONTAL FEET OF A BUILDING IN WHICH A PUBLIC OR PRIVATE SCHOOL OPERATES A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE THROUGH TWELVE OR WITHIN FIVE HUNDRED HORIZONTAL FEET OF A FENCED RECREATIONAL AREA ADJACENT TO A PUBLIC OR PRIVATE SCHOOL BUILDING. THIS PARAGRAPH DOES NOT PROHIBIT THE RENEWAL OF A VALID LICENSE ISSUED PURSUANT TO THIS CHAPTER.

4. A CONTROLLING PERSON OF THE PROPOSED MARIJUANA ESTABLISHMENT HAS BEEN CONVICTED OF A FELONY OR CONVICTED OF AN OFFENSE IN ANOTHER STATE THAT WOULD BE A FELONY IN THIS STATE WITHIN FIVE YEARS BEFORE APPLICATION.

5. ISSUANCE OF THE LICENSE WOULD EXCEED A NUMERICAL LIMIT IMPOSED BY SECTION 36-2854, SUBSECTION B, OR ENACTED BY A LOCALITY PURSUANT TO SECTION 36-2856.

D. IF THE NUMBER OF APPLICATIONS TO OPERATE MARIJUANA ESTABLISHMENTS RECEIVED BY THE DEPARTMENT FROM QUALIFIED APPLICANTS IS GREATER THAN THAT ALLOWED UNDER THE LIMITS IMPOSED BY SECTION 36-2854, SUBSECTION B, OR ENACTED BY A LOCALITY PURSUANT TO SECTION 36-2526, THE DEPARTMENT SHALL:

1. SELECT THE APPLICATION OF A REORGANIZED MARIJUANA BUSINESS THAT HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA PURSUANT TO CHAPTER 28.1 OF

THIS TITLE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT AND THAT IS IN GOOD STANDING PURSUANT TO CHAPTER 28.1 OF THIS TITLE WITH CHAPTER 28.1 OF THIS TITLE AND THE RULES ADOPTED PURSUANT TO CHAPTER 28.1 OF THIS TITLE OVER ANY COMPETING APPLICATION FROM AN APPLICANT WHO IS NOT A REORGANIZED MARIJUANA BUSINESS.

2. AWARD EACH LICENSE PURSUANT TO A COMPETITIVE PROCESS INTENDED TO SELECT APPLICANTS WHO ARE BEST SUITED TO MEET THE DEMAND FOR MARIJUANA AND MARIJUANA PRODUCTS IN THIS STATE, OPERATE IN COMPLIANCE WITH THIS CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER AND MINIMIZE THE UNLAWFUL MARKET FOR MARIJUANA IN THIS STATE.

3. NOT GRANT A LICENSE FOR A MARIJUANA ESTABLISHMENT TO A LICENSEE WHO HAS ALREADY RECEIVED A LICENSE TO OPERATE THE SAME TYPE OF MARIJUANA ESTABLISHMENT IF DOING SO WOULD PREVENT ANOTHER QUALIFIED APPLICANT WHO HAS APPLIED FROM RECEIVING A LICENSE, EXCEPT THAT THIS PARAGRAPH SHALL NOT PREVENT EACH INDIVIDUAL NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED PURSUANT TO CHAPTER 28.1 OF THIS TITLE FROM ESTABLISHING A REORGANIZED MARIJUANA BUSINESS TO OPERATE EACH TYPE OF MARIJUANA ESTABLISHMENT.

4. SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE APPLICANTS' COMPLIANCE WITH LOCAL ORDINANCES AND THE REASONS FOR THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE, IF ANY.

E. THE DENIAL OF A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SUBSECTION B OF THIS SECTION IS CONSIDERED A FINAL DECISION OF THE DEPARTMENT SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. JURISDICTION AND VENUE FOR JUDICIAL REVIEW ARE VESTED IN THE SUPERIOR COURT.

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**36-2858.01.** Fee schedule

A. THE DEPARTMENT SHALL REQUIRE EACH APPLICANT FOR A MARIJUANA ESTABLISHMENT LICENSE TO PAY A ONE-TIME APPLICATION FEE OF $5,000.

B. THE DEPARTMENT MAY REQUIRE PAYMENT OF AN ANNUAL LICENSING FEE OF NOT MORE THAN:

FOR THE INITIAL ISSUANCE OF A LICENSE FOR A MARIJUANA RETAILER ..... $20,000
FOR A RENEWAL LICENSE FOR A MARIJUANA RETAILER ..... $6,600
FOR THE INITIAL ISSUANCE OF A LICENSE FOR A MARIJUANA PRODUCT MANUFACTURER. $15,000
FOR A RENEWAL LICENSE FOR A MARIJUANA PRODUCT MANUFACTURER ..... $5,000
FOR THE INITIAL ISSUANCE OF A LICENSE FOR A MARIJUANA DISTRIBUTOR ..... $15,000
FOR A RENEWAL LICENSE FOR A MARIJUANA DISTRIBUTOR ..... $5,000
FOR THE INITIAL ISSUANCE OF A LICENSE FOR A MARIJUANA TESTING FACILITY ..... $10,000
FOR A RENEWAL LICENSE FOR A MARIJUANA TESTING FACILITY ..... $3,300

C. THE DEPARTMENT SHALL ESTABLISH A TIERED SCHEDULE OF ANNUAL LICENSING FEES FOR MARIJUANA CULTIVATORS WITH FEE AMOUNTS RELATIVE TO THE SIZE OF THE LICENSED CULTIVATION AREA. THE DEPARTMENT MAY REQUIRE PAYMENT OF AN ANNUAL LICENSING FEE OF NOT MORE THAN $30,000 FOR THE INITIAL ISSUANCE OF A LICENSE FOR A MARIJUANA CULTIVATOR OR $10,000 FOR A RENEWAL LICENSE FOR A MARIJUANA CULTIVATOR. THE MAXIMUM FEE AMOUNT FOR THE LOWEST TIER SPECIFIED IN THE SCHEDULE MAY NOT BE MORE THAN ONE-QUARTER OF THE ANNUAL LICENSING FEE FOR THE HIGHEST TIER SPECIFIED IN THE SCHEDULE.

D. IF A LICENSE RENEWAL APPLICATION IS FILED LATER THAN THIRTY DAYS BEFORE THE EXPIRATION OF THE LICENSE, THE DEPARTMENT MAY REQUIRE THE PAYMENT OF A LATE APPLICATION FEE OF UP TO $500.

E. TO ACCOUNT FOR INFLATION, THE DEPARTMENT SHALL ADJUST TO THE NEAREST DOLLAR THE AMOUNTS SPECIFIED IN THIS SECTION EVERY TWO YEARS BY THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX AND PUBLISH THE NEW AMOUNTS. FOR THE PURPOSES OF THIS SUBSECTION, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL

URBAN CONSUMERS, UNITED STATES CITY AVERAGE, OR ITS SUCCESSOR INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR AGENCY.

**36-2858.02.** Licenses; expiration; renewal

A. ALL LICENSES ISSUED PURSUANT TO THIS CHAPTER EXPIRE ONE YEAR AFTER THE DATE OF ISSUANCE.

B. THE DEPARTMENT SHALL ISSUE A RENEWAL LICENSE WITHIN THIRTY DAYS AFTER RECEIPT OF A COMPLETE APPLICATION AND THE RENEWAL FEE FROM A MARIJUANA ESTABLISHMENT. THE DEPARTMENT MAY NOT RENEW ANY LICENSE ISSUED BY A LOCALITY.

C. A LICENSEE WHOSE LICENSE HAS NOT BEEN EXPIRED FOR MORE THAN SIXTY DAYS, WHOSE LICENSE HAS NOT BEEN SUSPENDED OR REVOKED AND WHO HAS FILED A RENEWAL APPLICATION AND PAID THE RENEWAL FEE AND ANY REQUIRED LATE FEE MAY CONTINUE TO OPERATE UNTIL THE DEPARTMENT TAKES FINAL ACTION TO APPROVE OR DENY THE RENEWAL APPLICATION.

**36-2858.03.** Licensing by a locality

A. IF THE DEPARTMENT DOES NOT TIMELY ADOPT RULES AS REQUIRED BY SECTION 36-2855 OR ACCEPT OR PROCESS APPLICATIONS IN ACCORDANCE WITH SECTION 36-2854, SUBSECTION B, AFTER MARCH 1, 2018, AN APPLICANT FOR A MARIJUANA ESTABLISHMENT WHO IS A REORGANIZED MARIJUANA BUSINESS MAY SUBMIT ITS APPLICATION DIRECTLY TO A LOCAL REGULATORY AUTHORITY DESIGNATED PURSUANT TO SECTION 36-2856 BY THE LOCALITY WHERE THE MARIJUANA ESTABLISHMENT WILL BE LOCATED.

B. IF A MARIJUANA ESTABLISHMENT SUBMITS AN APPLICATION TO A LOCAL REGULATORY AUTHORITY UNDER THIS SECTION:

1. ON REQUEST OF THE LOCALITY, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE AMOUNT OF THE APPLICATION FEE, IF ANY, PAID BY THE APPLICANT TO THE DEPARTMENT.

2. THE LOCAL REGULATORY AUTHORITY SHALL ISSUE A LICENSE TO THE APPLICANT WITHIN NINETY DAYS AFTER RECEIPT OF THE APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH AN ORDINANCE OR RULE ADOPTED PURSUANT TO SECTION 36-2856 AND IN EFFECT AT THE TIME OF APPLICATION.

C. IF A LOCAL REGULATORY AUTHORITY ISSUES A LICENSE PURSUANT TO THIS SECTION:

1. THE LOCALITY SHALL NOTIFY THE DEPARTMENT THAT THE LICENSE HAS BEEN ISSUED.

2. THE LICENSE HAS THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT PURSUANT TO SECTION 36-2858

3. THE HOLDER OF THE LICENSE IS NOT SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE LICENSE TERM BUT IS SUBJECT TO REGULATION BY THE LOCALITY.

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**36-2859.** Marijuana establishments; operating requirements; security; inspection

A. IN ADDITION TO REQUIREMENTS ESTABLISHED BY RULE PURSUANT TO SECTION 36-2855, A MARIJUANA ESTABLISHMENT SHALL DO ALL OF THE FOLLOWING:

1. SECURE EVERY ENTRANCE TO AREAS CONTAINING MARIJUANA AND MARIJUANA PRODUCTS SO THAT ACCESS IS RESTRICTED TO PERSONS WHO ARE LEGALLY PERMITTED BY THE MARIJUANA ESTABLISHMENT TO ACCESS THE AREA.

2. SECURE THE INVENTORY AND EQUIPMENT OF THE MARIJUANA ESTABLISHMENT DURING AND AFTER OPERATING HOURS TO DETER AND PREVENT THEFT OF MARIJUANA AND MARIJUANA PRODUCTS FROM THE PREMISES OR WHILE IN TRANSIT TO OR FROM THE PREMISES OF A MARIJUANA ESTABLISHMENT.

3. PREVENT ANY PERSON WHO IS NOT AT LEAST TWENTY-ONE YEARS OF AGE FROM WORKING OR VOLUNTEERING FOR THE MARIJUANA ESTABLISHMENT.

B. THE CULTIVATION, PROCESSING, TESTING, STORAGE, MANUFACTURE OR SALE OF MARIJUANA AND MARIJUANA PRODUCTS SHALL TAKE PLACE AT THE PHYSICAL ADDRESS APPROVED BY THE DEPARTMENT AND WITHIN AN AREA THAT IS ENCLOSED AND LOCKED IN A MANNER THAT RESTRICTS ACCESS ONLY TO PERSONS WHO ARE LEGALLY PERMITTED BY THE MARIJUANA ESTABLISHMENT TO ACCESS THE AREA. THE AREA MAY INCLUDE A GREENHOUSE AND MAY BE UNCOVERED ONLY IF THE AREA IS ENCLOSED WITH SECURITY FENCING THAT IS DESIGNED TO PREVENT UNAUTHORIZED ENTRY AND THAT IS AT LEAST EIGHT FEET HIGH.

C. THE CULTIVATION, PROCESSING, MANUFACTURE, SALE AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS MAY NOT BE VISIBLE FROM A PUBLIC PLACE WITHOUT THE USE OF BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS.

D. A MARIJUANA ESTABLISHMENT IS SUBJECT TO REASONABLE INSPECTION BY THE DEPARTMENT.

E. A MARIJUANA DISTRIBUTOR LICENSE IS NOT REQUIRED FOR A MARIJUANA ESTABLISHMENT TO TRANSPORT MARIJUANA TO ANOTHER MARIJUANA ESTABLISHMENT.

F. A MARIJUANA RETAILER MAY NOT SELL OR OTHERWISE TRANSFER MARIJUANA TO A CONSUMER BEFORE MARCH 1, 2018.

**36-2860.** Possession, personal use and production of marijuana, marijuana products, marijuana accessories and industrial hemp; definition

A. NOTWITHSTANDING ANY OTHER LAW, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, IT IS LAWFUL IN THIS STATE AND MAY NOT BE USED AS THE BASIS FOR PROSECUTION, PENALTY OR SEIZURE OR FORFEITURE OF ASSETS FOR A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE TO:

1. POSSESS, USE, PURCHASE, OBTAIN, PROCESS, MANUFACTURE OR TRANSPORT MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF CONCENTRATED MARIJUANA.

2. POSSESS OR TRANSPORT NOT MORE THAN SIX MARIJUANA PLANTS AND POSSESS PRODUCE OR PROCESS NOT MORE THAN SIX MARIJUANA PLANTS AT THE PERSON'S PLACE OF RESIDENCE FOR PERSONAL USE AND POSSESS THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN IF NO MORE THAN TWELVE PLANTS ARE PRODUCED ON THE PREMISES AT ONE TIME.

3. GIVE OR OTHERWISE TRANSFER WITHOUT REMUNERATION ONE OUNCE OR LESS OF MARIJUANA, EXCEPT THAT NOT MORE THAN FIVE GRAMS OF MARIJUANA MAY BE IN THE FORM OF CONCENTRATED MARIJUANA, TO A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IF THE TRANSFER IS NOT ADVERTISED OR PROMOTED TO THE PUBLIC.

4. ASSIST ANOTHER PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IN ANY OF THE ACTS DESCRIBED IN THIS SECTION.

B. A PERSON MAY NOT BE PENALIZED BY THIS STATE FOR AN ACTION TAKEN WHILE UNDER THE INFLUENCE OF MARIJUANA OR A MARIJUANA PRODUCT SOLELY BECAUSE OF THE PRESENCE OF METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY OR IN THE URINE, BLOOD, SALIVA, HAIR OR OTHER TISSUE OR FLUID OF THE PERSON'S BODY.

C. NOTWITHSTANDING ANY OTHER LAW, IT IS LAWFUL IN THIS STATE AND MAY NOT BE USED AS THE BASIS FOR PROSECUTION, PENALTY OR SEIZURE OR FORFEITURE OF ASSETS FOR A PERSON TO POSSESS, PRODUCE, PROCESS, MANUFACTURE, PURCHASE, OBTAIN, SELL OR OTHERWISE TRANSFER OR TRANSPORT INDUSTRIAL HEMP.

D. A PERSON MAY NOT BE DENIED CUSTODY OF OR VISITATION OR PARENTING TIME WITH A MINOR AND MAY NOT BE PRESUMED GUILTY OF NEGLECT OR CHILD ENDANGERMENT SOLELY FOR CONDUCT THAT IS ALLOWED UNDER THIS CHAPTER, UNLESS THE PERSON'S BEHAVIOR IS CONTRARY TO THE BEST INTEREST OF THE CHILD AS SET OUT IN SECTION 25-403.

E. FOR THE PURPOSES OF THIS SECTION, "CONCENTRATED MARIJUANA" MEANS THE RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS AND EVERY

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COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF THAT RESIN OR TETRAHYDROCANNABINOL. CONCENTRATED MARIJUANA DOES NOT INCLUDE THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH CANNABIS TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK OR OTHER PRODUCTS.

**36-2861.** Marijuana accessories authorized

A. NOTWITHSTANDING ANY OTHER LAW, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER, A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE IS AUTHORIZED AND IT IS LAWFUL IN THIS STATE AND MAY NOT BE USED AS THE BASIS FOR PROSECUTION, PENALTY OR SEIZURE OR FORFEITURE OF ASSETS, TO POSSESS, USE, TRANSPORT, DELIVER, MANUFACTURE OR PURCHASE MARIJUANA ACCESSORIES OR DISTRIBUTE OR SELL MARIJUANA ACCESSORIES TO A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE.

B. NOTWITHSTANDING SECTION 13-3415, SUBSECTION C, AND SUBJECT TO ANY RULES ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 36-2855, IT IS NOT UNLAWFUL AND MAY NOT BE AN OFFENSE OR A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS FOR A PERSON TO PLACE OR PUBLISH AN ADVERTISEMENT FOR MARIJUANA ACCESSORIES.

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**36-2862.** Marijuana establishments; permissible activities

NOTWITHSTANDING ANY OTHER LAW, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER, IT IS LAWFUL IN THIS STATE AND MAY NOT BE THE BASIS FOR PROSECUTION, PENALTY OR SEIZURE OR FORFEITURE OF ASSETS FOR:

1. A MARIJUANA RETAILER, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA RETAILER, TO POSSESS, PURCHASE, SELL, PACKAGE OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT, OR SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

2. A MARIJUANA CULTIVATOR, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA CULTIVATOR, TO PRODUCE, HARVEST, PROCESS OR PACKAGE MARIJUANA OR TO POSSESS, SELL, PURCHASE OR TRANSPORT MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

3. A MARIJUANA PRODUCT MANUFACTURER, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA PRODUCT MANUFACTURER, TO PACKAGE, PROCESS, MANUFACTURE, STORE, POSSESS, TRANSPORT, SELL AND PURCHASE MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

4. A MARIJUANA DISTRIBUTOR, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA DISTRIBUTOR, TO POSSESS, STORE, TRANSPORT, SELL OR PURCHASE MARIJUANA AND MARIJUANA PRODUCTS TO OR FROM A MARIJUANA ESTABLISHMENT.

5. A MARIJUANA TESTING FACILITY, OR AN AGENT ACTING ON BEHALF OF A MARIJUANA TESTING FACILITY, TO POSSESS, PROCESS, REPACKAGE, STORE, TRANSPORT OR TEST MARIJUANA AND MARIJUANA PRODUCTS.

6. A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, OR AN AGENT ACTING ON BEHALF OF A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED PURSUANT TO CHAPTER 28.1 OF THIS TITLE, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A REORGANIZED MARIJUANA BUSINESS THAT HAS OBTAINED A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT OR FOR A REORGANIZED MARIJUANA BUSINESS THAT HAS OBTAINED A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, OR AN AGENT ACTING ON BEHALF OF A REORGANIZED MARIJUANA BUSINESS, TO SELL OR OTHERWISE TRANSFER MARIJUANA OR MARIJUANA PRODUCTS TO A NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

7. ANY PERSON TO LEASE OR OTHERWISE ALLOW PROPERTY THAT IS OWNED, MANAGED OR CONTROLLED BY THE PERSON TO BE USED FOR ANY LAWFUL ACTIVITY

PURSUANT TO THIS CHAPTER.

**36-2863.** Identification of underage persons

NOTWITHSTANDING ANY OTHER LAW, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER, A PERSON ACTING IN THE PERSON'S CAPACITY AS AN AGENT OF A MARIJUANA ESTABLISHMENT WHO DELIVERS, GIVES, SELLS, ADMINISTERS OR OFFERS TO SELL, ADMINISTER, GIVE OR DELIVER MARIJUANA OR A MARIJUANA PRODUCT TO A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE, IS NOT SUBJECT TO PROSECUTION, PENALTY OR SEIZURE OR FORFEITURE OF ASSETS IF:

1. THE PERSON REQUESTED IDENTIFICATION FROM THE RECIPIENT, EXAMINED THE IDENTIFICATION TO DETERMINE THAT THE IDENTIFICATION REASONABLY APPEARED TO BE A VALID, UNALTERED IDENTIFICATION THAT HAD NOT BEEN DEFACED, EXAMINED THE PHOTOGRAPH IN THE IDENTIFICATION AND DETERMINED THAT THE RECIPIENT REASONABLY APPEARED TO BE THE SAME PERSON IN THE IDENTIFICATION AND DETERMINED THAT THE DATE OF BIRTH ON THE IDENTIFICATION INDICATED THAT RECIPIENT WAS NOT UNDER TWENTY-ONE YEARS OF AGE.

2. THE RECIPIENT IS PERMITTED TO POSSESS THE MARIJUANA PURSUANT TO CHAPTER 28.1 OF THIS TITLE.

**36-2864.** Contracts pertaining to marijuana enforceable

IT IS THE PUBLIC POLICY OF THE PEOPLE OF THIS STATE THAT CONTRACTS RELATED TO THE OPERATION OF MARIJUANA ESTABLISHMENTS UNDER THIS CHAPTER BE ENFORCEABLE, AND A CONTRACT ENTERED INTO BY A LICENSEE OR ITS AGENT AS ALLOWED PURSUANT TO A VALID LICENSE ISSUED BY THE DEPARTMENT OR BY A PERSON WHO ALLOWS PROPERTY TO BE USED BY A LICENSEE OR ITS AGENTS AS ALLOWED PURSUANT TO A VALID LICENSE ISSUED BY THE DEPARTMENT MAY NOT BE DEEMED UNENFORCEABLE ON THE BASIS THAT ANY ACTION OR CONDUCT ALLOWED PURSUANT TO THE LICENSE IS PROHIBITED BY FEDERAL LAW.

**36-2865.** Provision of professional services

A PERSON WHO 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 LICENSED MARIJUANA ESTABLISHMENT OR OTHER PERSON FOR ANY LAWFUL ACTIVITY UNDER THIS CHAPTER.

**36-2866.** Violations; classification

A. A PERSON WHO SMOKES OR OTHERWISE USES MARIJUANA OR A MARIJUANA PRODUCT IN A PUBLIC PLACE IS GUILTY OF A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS.

B. A PERSON WHO MANUFACTURES MARIJUANA BY CHEMICAL EXTRACTION WITH A FLAMMABLE SOLVENT, UNLESS DONE PURSUANT TO A MARIJUANA PRODUCT MANUFACTURER LICENSE ISSUED BY THE DEPARTMENT, IS GUILTY OF A CLASS 6 FELONY.

C. 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 OR TO GAIN ACCESS TO A MARIJUANA ESTABLISHMENT IS GUILTY OF A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS AND PERFORMANCE OF UP TO TWENTY-FOUR HOURS OF COMMUNITY RESTITUTION.

D. 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 A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE

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HUNDRED DOLLARS AND PERFORMANCE OF UP TO TWENTY-FOUR HOURS OF COMMUNITY RESTITUTION.

E. A PERSON ACTING IN THE PERSON'S CAPACITY AS AN AGENT OF A MARIJUANA ESTABLISHMENT WHO KNOWINGLY ALLOWS A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO IS NOT AUTHORIZED TO POSSESS MARIJUANA PURSUANT TO CHAPTER 28.1 OF THIS TITLE TO REMAIN IN A SECURED AREA ON THE LICENSED PREMISES WHERE MARIJUANA OR MARIJUANA PRODUCTS ARE PRODUCED, PROCESSED, MANUFACTURED, SOLD OR USED IS GUILTY OF A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS.

F. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER 28.1 OF THIS TITLE, ANY UNLICENSED PERSON WHO PRODUCES MARIJUANA PLANTS PURSUANT TO SECTION 36-2860 WHERE THEY ARE SUBJECT TO PUBLIC VIEW WITHOUT THE USE OF BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS, WHERE PRODUCTION IS PROHIBITED BY A PERSON WHO OWNS, MANAGES OR LEASES THE PROPERTY WHERE THE MARIJUANA IS PRODUCED, IN ANY OUTDOOR AREA OR OUTSIDE OF AN ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY DEVICE IS GUILTY OF:

1. FOR A FIRST VIOLATION, A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS.

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

G. NOTWITHSTANDING SECTION 13-3405, A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND WHO POSSESSES OR USES ONE OUNCE OR LESS OR WHO TRANSFERS MARIJUANA WITHOUT REMUNERATION FROM A PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE TO SOMEONE WHO IS WITHIN TWO YEARS OF THE AGE OF THE TRANSFEROR IS GUILTY OF A PETTY OFFENSE THAT IS PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS, FORFEITURE OF THE MARIJUANA AND PERFORMANCE OF UP TO TWENTY-FOUR HOURS OF COMMUNITY RESTITUTION.

H. NOTWITHSTANDING SECTION 13-3405 AND EXCEPT AS PROVIDED IN SECTION 36-2860, A PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND WHO POSSESSES AN AMOUNT OF MARIJUANA HAVING A WEIGHT OF MORE THAN ONE OUNCE BUT NOT MORE THAN TWO AND ONE-HALF OUNCES IS GUILTY OF A PETTY OFFENSE PUNISHABLE BY A FINE OF NOT MORE THAN THREE HUNDRED DOLLARS.

I. THE LEGISLATURE MAY REDUCE OR ELIMINATE THE PENALTIES PROVIDED FOR IN THIS SECTION.

**36-2867.** Marijuana fund

A. THE MARIJUANA FUND IS ESTABLISHED CONSISTING OF ALL MONIES DEPOSITED PURSUANT TO SECTIONS 36-2857 AND 42-3384 AND INTEREST EARNED ON THOSE MONIES. THE STATE TREASURER SHALL DEPOSIT ALL MONIES RECEIVED UNDER SECTION 42-3384 INTO THIS FUND. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND MAY NOT BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS PROVIDED IN THIS SECTION.

B. THE DEPARTMENT OF HEALTH SERVICES SHALL TRANSFER MONIES FROM THE MEDICAL MARIJUANA FUND ESTABLISHED BY SECTION 36-2817 WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION TO THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL TO BE DEPOSITED INTO THE MARIJUANA FUND AND EXPENDED TO PAY THE COSTS INCURRED BY THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL OR BY THE DEPARTMENT OF REVENUE BEFORE MONIES ARE DEPOSITED PURSUANT TO SECTIONS 36-2857 AND 42-3384. ANY MONIES TRANSFERRED BY THE DEPARTMENT OF HEALTH SERVICES TO THE MARIJUANA FUND SHALL BE REPAID TO THE MEDICAL MARIJUANA FUND AT SUCH TIME AS FUNDS ARE AVAILABLE FROM THE MARIJUANA FUND.

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C. ALL MONIES IN THE MARIJUANA FUND MUST FIRST BE EXPENDED TO PAY THE COSTS INCURRED BY THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL IN CARRYING OUT THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

D. THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL SHALL TRANSFER MONIES FROM THE MARIJUANA FUND TO THE DEPARTMENT OF REVENUE FOR THE REASONABLE ADMINISTRATION AND ENFORCEMENT COSTS INCURRED BY THE DEPARTMENT OF REVENUE IN ADMINISTERING THE LEVY OF TAXES THAT ARE DEPOSITED IN THE FUND UNDER SECTION 42-3384.

E. THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL SHALL DISTRIBUTE EACH QUARTER ONE-HALF OF THE LICENSE FEES COLLECTED FROM MARIJUANA ESTABLISHMENTS IN A LOCALITY TO THE LOCALITY IN WHICH THE MARIJUANA ESTABLISHMENT IS LOCATED.

F. THE DEPARTMENT OF MARIJUANA LICENSES AND CONTROL SHALL TRANSFER EACH QUARTER ALL MONIES IN EXCESS OF THE AMOUNT NEEDED TO IMPLEMENT AND ENFORCE THIS CHAPTER IN ANY FISCAL YEAR AS FOLLOWS:

1. FORTY PERCENT TO THE DEPARTMENT OF EDUCATION FOR CONSTRUCTION, MAINTENANCE AND OPERATION COSTS, INCLUDING COMPENSATION OF TEACHERS OF KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH TWELVE.

2. FORTY PERCENT TO THE DEPARTMENT OF EDUCATION FOR FULL-DAY KINDERGARTEN PROGRAMS.

3. TWENTY PERCENT TO THE DEPARTMENT OF HEALTH SERVICES.

G. MONIES IN THE FUND OR ITS ACCOUNTS MAY NOT REVERT TO THE STATE GENERAL FUND. MONIES IN THE FUND AND ITS ACCOUNTS ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

**36-2868.** Enforcement of this chapter; mandamus

A. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY FOR THE IMPLEMENTATION OF THIS CHAPTER ON OR BEFORE SEPTEMBER 1, 2017, OR IF THE DEPARTMENT FAILS TO BEGIN ACCEPTING APPLICATIONS AS PROVIDED IN SECTION 36-2854, ANY CITIZEN MAY COMMENCE A MANDAMUS 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 NINETY DAYS AFTER RECEIVING OF A COMPLETE MARIJUANA ESTABLISHMENT APPLICATION PURSUANT TO SECTION 36-2858, THE APPLICANT MAY COMMENCE A MANDAMUS ACTION IN SUPERIOR COURT TO COMPEL THE DEPARTMENT TO PERFORM THE ACTIONS MANDATED UNDER THIS CHAPTER.

C. IF THE DEPARTMENT FAILS TO ADOPT RULES NECESSARY FOR THE IMPLEMENTATION OF THIS CHAPTER ON OR BEFORE SEPTEMBER 1, 2018, NOTWITHSTANDING CHAPTER 28.1 OF THIS TITLE, EACH NONPROFIT MEDICAL MARIJUANA DISPENSARY THAT IS REGISTERED AND IN GOOD STANDING PURSUANT TO CHAPTER 28.1 OF THIS TITLE MAY BEGIN TO PRODUCE, PROCESS, MANUFACTURE, TRANSPORT AND TEST MARIJUANA AND MARIJUANA PRODUCTS AND MAY SELL OR OTHERWISE TRANSFER MARIJUANA TO ANY PERSON WHO IS AT LEAST TWENTY-ONE YEARS OF AGE UNTIL THE DEPARTMENT ISSUES LICENSES TO OPERATE MARIJUANA ESTABLISHMENTS TO QUALIFYING REORGANIZED MARIJUANA BUSINESSES THAT HAVE APPLIED.

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**Sec. 4.** Title 42, Chapter 3, Arizona Revised Statutes, is amended by adding Article 10 to read:

ARTICLE 10.
MARIJUANA AND MARIJUANA PRODUCTS

**42-3381.** Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MARIJUANA", "MARIJUANA ESTABLISHMENT", "MARIJUANA PRODUCTS", "MARIJUANA RETAILER" AND "UNREASONABLY IMPRACTICABLE" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 36-2851.

**42-3382.** Levy and rates of tax

A. IN ADDITION TO ALL OTHER TAXES, THERE IS LEVIED AND IMPOSED AND THERE SHALL BE COLLECTED BY THE DEPARTMENT A TAX ON ALL MARIJUANA AND MARIJUANA PRODUCTS SOLD TO ANY PERSON OTHER THAN A MARIJUANA ESTABLISHMENT BY A MARIJUANA RETAILER AT A RATE OF FIFTEEN PERCENT OF THE PRICE OF THE MARIJUANA OR MARIJUANA PRODUCT SOLD.

B. 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.

C. NOTWITHSTANDING SECTION 42-3102, THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, MONIES LEVIED AND COLLECTED PURSUANT TO THIS SECTION IN THE MARIJUANA FUND ESTABLISHED BY SECTION 36-2867.

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**42-3383.** Return and payment by marijuana retailer; penalty; interest

A. EVERY MARIJUANA RETAILER IN THIS STATE SHALL PAY THE TAX DUE UNDER THIS ARTICLE TO THE DEPARTMENT MONTHLY AND SHALL PREPARE ON THE FORM PRESCRIBED BY THE DEPARTMENT A SWORN RETURN FOR EACH MONTH IN WHICH THE TAX ACCRUES.

B. A MARIJUANA RETAILER WHO FAILS TO PAY THE TAX PRESCRIBED BY THIS ARTICLE WITHIN TEN DAYS AFTER THE DATE UPON WHICH THE PAYMENT BECOMES 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 RETAILER HAS MADE A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE.

**42-3384.** Disposition of revenue

ALL TAXES AND PENALTIES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE MARIJUANA FUND ESTABLISHED BY SECTION 36-2867.

**42-3385.** Rules

NOT LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE DEPARTMENT SHALL ADOPT RULES THAT ARE NOT IN CONFLICT WITH TITLE 36, CHAPTER 28.2 AND PURSUANT TO TITLE 41, CHAPTER 6 THAT ARE NECESSARY OR CONVENIENT FOR THE ENFORCEMENT OF THIS ARTICLE, INCLUDING THE ESTABLISHMENT OF A PROCESS FOR THE PAYMENT, COLLECTION, AND ENFORCEMENT OF THE TAX LEVIED UNDER THIS ARTICLE. THE RULES MAY NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REQUIREMENTS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE.

**Sec. 5.** Title 43, Chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 43-108, to read:

**43-108.** Subtraction from gross income for ordinary and necessary expenses of a marijuana establishment

NOTWITHSTANDING ANY LAW TO THE CONTRARY, IN COMPUTING ARIZONA ADJUSTED GROSS INCOME OR ARIZONA TAXABLE INCOME FOR A CORPORATION, ALL ORDINARY AND NECESSARY EXPENSES PAID OR INCURRED DURING THE TAXABLE YEAR IN CARRYING ON A TRADE OR BUSINESS AS A MARIJUANA ESTABLISHMENT SHALL BE SUBTRACTED FROM ARIZONA GROSS INCOME TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME.

**Sec. 6.** Initial terms of members of the Marijuana Commission

A. Notwithstanding section 36-2853, the initial terms of members of the Marijuana Commission are:

1. Two terms ending on the third Monday in January 2018.

2. Three terms ending on the third Monday in January 2019.

3. Two terms ending on the third Monday in January 2020.

B. Notwithstanding section 36-2853, subsection C, no member appointed to the Marijuana Commission before March 1, 2019 is required to be a controlling person of a marijuana establishment. Three members serving on the marijuana commission before March 1, 2019 shall, at the time of appointment, be principal officers of nonprofit medical marijuana dispensaries registered pursuant to chapter 28.1 of this title.

C. The governor shall make all subsequent appointments as prescribed by statute.

**Sec. 7.** Exemption from rulemaking

For the purposes of this Act, the department of revenue and the department of marijuana licenses and control are exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, until January 1, 2018, except that each department shall provide the public with an opportunity to comment on proposed rules and shall publish otherwise exempted rules.

**Sec. 8.** Severability

If a provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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