STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

May 14, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on May 14, 2018:

HB 2371 mobile food vendors; state licensure (Payne)
SB 1098 industrial hemp; licensing (Borrelli)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

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Senate Engrossed

**FILED**

**MICHELE REAGAN**

**SECRETARY OF STATE**

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

**CHAPTER 287**

# SENATE BILL 1098

AN ACT

AMENDING TITLE 3, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.1; AMENDING SECTIONS 13-3405, 41-619.51, 41-1758, 41-1758.01 AND 41-1758.07, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO AGRICULTURAL LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 3, chapter 2, Arizona Revised Statutes, is amended by adding article 4.1, to read:

ARTICLE 4.1. INDUSTRIAL HEMP

3-311. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AGRICULTURAL PILOT PROGRAM" MEANS THE INDUSTRIAL HEMP PROGRAM THAT IS DESIGNED TO RESEARCH THE GROWTH, CULTIVATION AND MARKETING OF INDUSTRIAL HEMP, HEMP SEEDS AND HEMP PRODUCTS AS AUTHORIZED BY THIS ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

2. "CROP" MEANS ANY INDUSTRIAL HEMP THAT IS GROWN UNDER A SINGLE INDUSTRIAL HEMP LICENSE ISSUED BY THE DEPARTMENT.

3. "GROWER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT PROPAGATES INDUSTRIAL HEMP UNDER THIS ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

4. "HARVESTER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO HARVEST INDUSTRIAL HEMP FOR A LICENSED GROWER.

5. "HEMP PRODUCTS" MEANS ALL PRODUCTS MADE FROM INDUSTRIAL HEMP, INCLUDING CLOTH, CORDAGE, FIBER, FUEL, GRAIN, PAINT, PAPER, CONSTRUCTION MATERIALS, PLASTICS AND BY-PRODUCTS DERIVED FROM STERILE HEMP SEED OR HEMP SEED OIL. HEMP PRODUCTS EXCLUDES ANY PRODUCT MADE TO BE INGESTED EXCEPT FOOD MADE FROM STERILE HEMP SEED OR HEMP SEED OIL.

6. "HEMP SEED" MEANS ANY VIABLE CANNABIS SATIVA L. SEED THAT PRODUCES AN INDUSTRIAL HEMP PLANT THAT IS SUBJECT TO THIS ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

7. "INDUSTRIAL HEMP" MEANS THE PLANT CANNABIS SATIVA L. AND ANY PART OF SUCH A PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION OF NOT MORE THAN THREE-TENTHS PERCENT ON A DRY-WEIGHT BASIS.

8. "INDUSTRIAL HEMP SITE" MEANS THE LOCATION IN WHICH A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR POSSESSES A CROP, A HARVESTED CROP OR HEMP SEED.

9. "LICENSE" MEANS THE AUTHORIZATION THAT IS GRANTED BY THE DEPARTMENT TO PROPAGATE, HARVEST, TRANSPORT OR PROCESS INDUSTRIAL HEMP IN THIS STATE UNDER THIS ARTICLE AND RULES AND ORDERS ADOPTED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

10. "LICENSEE" MEANS A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR WITH A VALID LICENSE.

11. "PROCESSOR" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO RECEIVE INDUSTRIAL HEMP FOR PROCESSING INTO HEMP PRODUCTS OR HEMP SEED.

12. "TRANSPORTER" MEANS AN INDIVIDUAL, PARTNERSHIP, COMPANY OR CORPORATION THAT IS LICENSED BY THE DEPARTMENT TO TRANSPORT INDUSTRIAL HEMP FOR A LICENSED GROWER TO A PROCESSOR.

3-312. Legislative findings; purpose; authorization

A. THE LEGISLATURE FINDS AND DETERMINES THAT DEVELOPING AND USING INDUSTRIAL HEMP CAN IMPROVE THE ECONOMY AND AGRICULTURAL VITALITY OF THIS STATE AND THAT THE PRODUCTION OF INDUSTRIAL HEMP CAN BE REGULATED SO AS NOT TO INTERFERE WITH STRICT REGULATION OF MARIJUANA IN THIS STATE.

B. THE PURPOSES OF THIS ARTICLE ARE:

1. TO PROMOTE THE ECONOMY AND AGRICULTURE IN THIS STATE BY ALLOWING INSTITUTIONS OF HIGHER LEARNING AND THE DEPARTMENT TO DEVELOP AND REGULATE INDUSTRIAL HEMP AS PART OF AN AGRICULTURAL PILOT PROGRAM FOR THE PURPOSE OF RESEARCH INTO THE GROWTH, CULTIVATION AND MARKETING OF INDUSTRIAL HEMP AS AUTHORIZED BY THE AGRICULTURAL ACT OF 2014 (P.L. 113-79; 128 STAT. 649; 7 UNITED STATES CODE SECTION 5940).

2. TO ALLOW THE COMMERCIAL GROWTH, CULTIVATION AND MARKETING OF INDUSTRIAL HEMP IF THE COMMERCIAL GROWTH, CULTIVATION AND MARKETING OF INDUSTRIAL HEMP IS AUTHORIZED BY FEDERAL LAW, WHILE MAINTAINING STRICT CONTROL OF MARIJUANA.

C. INDUSTRIAL HEMP IS AN AGRICULTURAL PRODUCT THAT IS SUBJECT TO REGULATION BY THE DEPARTMENT.

D. INDUSTRIAL HEMP PROPAGATION, PROCESSING, MANUFACTURING, DISTRIBUTION AND MARKET RESEARCH ARE AUTHORIZED IN THIS STATE UNDER A PREAPPROVED AGRICULTURAL PILOT PROGRAM. HEMP SEED THAT IS AUTHORIZED FOR AN AGRICULTURAL PILOT PROGRAM SHALL BE CERTIFIED SOLELY THROUGH THE DEPARTMENT. UNAUTHORIZED HEMP SEED MAY NOT BE PLANTED. HEMP SEED THAT IS DERIVED FROM PREVIOUSLY AUTHORIZED HEMP SEED IS CONSIDERED AUTHORIZED HEMP SEED FOR THE PURPOSES OF THIS ARTICLE.

E. IF AUTHORIZED UNDER FEDERAL LAW, THE COMMERCIAL PRODUCTION, PROCESSING, MANUFACTURING, DISTRIBUTION AND COMMERCE OF INDUSTRIAL HEMP IN THIS STATE IS ALLOWED OUTSIDE OF THE AGRICULTURAL PILOT PROGRAM.

3-313. Rulemaking; fees; intent

A. FOR THE PURPOSES OF CARRYING OUT THIS ARTICLE, THE DIRECTOR SHALL:

1. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO OVERSEE THE LICENSING, PRODUCTION AND MANAGEMENT OF INDUSTRIAL HEMP AND HEMP SEED IN THIS STATE PURSUANT TO THIS ARTICLE.

2. ADOPT FEES BY RULE.

3. AUTHORIZE QUALIFIED APPLICANTS TO PROPAGATE, HARVEST, TRANSPORT OR PROCESS, OR ANY COMBINATION THEREOF, INDUSTRIAL HEMP ACCORDING TO RULES ADOPTED BY THE DIRECTOR.

B. THE LEGISLATURE INTENDS THAT THE FEES ADOPTED PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION BE USED TO FUND THE DEPARTMENT'S ACTIVITIES IN LICENSING, TESTING, INSPECTING AND SUPERVISING INDUSTRIAL HEMP PRODUCTION.

3-314. Industrial hemp licenses; applications; fees; fingerprinting requirements; renewal; revocation

A. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR SHALL OBTAIN AN INDUSTRIAL HEMP LICENSE FROM THE DEPARTMENT.

B. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR SHALL APPLY FOR A LICENSE PURSUANT TO RULES AND ORDERS ADOPTED BY THE DIRECTOR.

C. AN APPLICATION FOR AN ORIGINAL OR RENEWAL INDUSTRIAL HEMP LICENSE SHALL COMPLY WITH ALL OF THE FOLLOWING:

1. BE ON A FORM THAT IS PROVIDED BY THE DEPARTMENT.

2. INCLUDE COMPLETE AND ACCURATE INFORMATION.

3. BE ACCOMPANIED BY THE LICENSE FEE PRESCRIBED BY THE DIRECTOR. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, FEES COLLECTED UNDER THIS PARAGRAPH IN THE INDUSTRIAL HEMP TRUST FUND ESTABLISHED BY SECTION 3-315.

D. AN APPLICANT SHALL PROVIDE PROOF TO THE DEPARTMENT OF HAVING A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07 FOR THE PURPOSE OF VALIDATING APPLICANT ELIGIBILITY.

E. A LICENSE ISSUED PURSUANT TO THIS SECTION IS VALID FOR ONE YEAR, UNLESS REVOKED, AND MAY BE RENEWED AS PROVIDED BY THE DEPARTMENT. RATHER THAN RENEWING A LICENSEE'S LICENSE EVERY YEAR, A LICENSEE MAY RENEW THE LICENSEE'S LICENSE EVERY TWO YEARS BY PAYING A LICENSE FEE THAT IS TWICE THE AMOUNT DESIGNATED BY THE FEE SCHEDULE IN RULE THAT IS ADOPTED BY THE DIRECTOR AND OTHER APPLICABLE FEES. LICENSEES THAT RENEW EVERY TWO YEARS SHALL COMPLY WITH ANY ANNUAL REPORTING REQUIREMENTS.

F. THE DEPARTMENT MAY REVOKE OR REFUSE TO ISSUE OR RENEW A LICENSE FOR A VIOLATION OF ANY LAW OF THIS STATE, ANY FEDERAL LAW OR ANY RULE OR ORDER ADOPTED BY THE DIRECTOR.

G. A MEMBER OF AN INDIAN TRIBE MAY APPLY FOR A LICENSE PURSUANT TO THIS SECTION. IF A MEMBER OF AN INDIAN TRIBE IS ISSUED A LICENSE PURSUANT TO THIS SECTION, THE MEMBER IS SUBJECT TO THE REQUIREMENTS PRESCRIBED IN THIS ARTICLE.

3-315. Industrial hemp trust fund

A. THE INDUSTRIAL HEMP TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING INDUSTRIAL HEMP LICENSING. THE TRUST FUND CONSISTS OF MONIES RECEIVED FROM LEGISLATIVE APPROPRIATIONS, LICENSING FEES AND ALL OTHER SOURCES UNDER THIS ARTICLE. THE MONIES COLLECTED CONSTITUTE A SEPARATE AND PERMANENT FUND FOR USE BY THE DIRECTOR IN ADMINISTERING AND ENFORCING THIS ARTICLE.

B. THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND MAY NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS

35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST FUND.

C. THE DIRECTOR MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVISES TO ASSIST IN CARRYING OUT THE PURPOSES OF THIS ARTICLE.

D. THE BENEFICIARY OF THE TRUST IS THE INDUSTRIAL HEMP PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE, INCLUDING SALARIES, FEES AND OFFICE, ADMINISTRATIVE, BONDING AND TRAVEL EXPENSES THAT ARE INCURRED AS A RESULT OF THE INDUSTRIAL HEMP PROGRAM.

E. ANY MONIES REMAINING UNEXPENDED IN THE TRUST FUND ON JUNE 30 OF EACH YEAR SHALL BE CARRIED FORWARD TO THE FOLLOWING YEAR AND DO NOT REVERT TO THE STATE GENERAL FUND.

3-316. Recordkeeping, inspection, transportation and distribution requirements

A. A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR OF INDUSTRIAL HEMP THAT IS LICENSED PURSUANT TO THIS ARTICLE SHALL KEEP AND MAINTAIN RECORDS AS REQUIRED BY RULE OR ORDER. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY INSPECT OR AUDIT THE RECORDS DURING NORMAL BUSINESS HOURS TO ENSURE COMPLIANCE WITH THIS ARTICLE OR ANY DEPARTMENT RULE OR ORDER.

B. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY PHYSICALLY INSPECT AN INDUSTRIAL HEMP SITE TO ENSURE COMPLIANCE WITH THIS ARTICLE OR ANY DEPARTMENT RULE OR ORDER. DURING ANY PHYSICAL INSPECTION OF AN INDUSTRIAL HEMP SITE, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TAKE A REPRESENTATIVE SAMPLE FOR ANALYSIS BY THE STATE AGRICULTURAL LABORATORY OR A LABORATORY THAT IS CERTIFIED BY THE STATE AGRICULTURAL LABORATORY. IF A CROP CONTAINS AN AVERAGE CARBOXYLATED DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT EXCEEDS THREE-TENTHS PERCENT ON A DRY-WEIGHT BASIS OR VIOLATES ANY OTHER PESTICIDE LAW, THE DEPARTMENT MAY TAKE CORRECTIVE ACTION PURSUANT TO SECTION 3-317.

C. NOTWITHSTANDING SECTION 13-3405, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY POSSESS AND TRANSPORT SAMPLES OF CANNABIS SATIVA L. COLLECTED FOR TESTING TO DETERMINE DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION FOR ELIGIBILITY AS INDUSTRIAL HEMP.

D. ONLY A LICENSED GROWER, HARVESTER, PROCESSOR OR TRANSPORTER OR THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TRANSPORT INDUSTRIAL HEMP OFF THE INDUSTRIAL HEMP SITE. WHEN TRANSPORTING INDUSTRIAL HEMP OFF THE INDUSTRIAL HEMP SITE, THE LICENSED GROWER, PROCESSOR OR TRANSPORTER SHALL CARRY THE LICENSING DOCUMENTS AS EVIDENCE THAT THE INDUSTRIAL HEMP WAS GROWN BY A LICENSED GROWER. THIS SUBSECTION DOES NOT APPLY TO THE TRANSPORTATION OF HEMP PRODUCTS.

E. A LICENSED GROWER SHALL NOTIFY THE DEPARTMENT OF ALL OF THE FOLLOWING:

1. THE SALE OR DISTRIBUTION OF ANY INDUSTRIAL HEMP GROWN UNDER THE GROWER'S LICENSE.

2. THE NAME AND ADDRESS OF THE PERSON OR ENTITY RECEIVING THE INDUSTRIAL HEMP.

3. THE AMOUNT OF THE INDUSTRIAL HEMP SOLD OR DISTRIBUTED.

3-317. Corrective actions; hearing

A. THE DIRECTOR SHALL ADOPT RULES TO ADDRESS, CORRECT AND REMEDIATE VIOLATIONS OF THIS ARTICLE AND RULES OR ORDERS ADOPTED PURSUANT TO THIS ARTICLE.

B. THE DIRECTOR MAY:

1. ISSUE AND ENFORCE A WRITTEN CEASE AND DESIST ORDER AGAINST A GROWER, HARVESTER, TRANSPORTER OR PROCESSOR OF ANY INDUSTRIAL HEMP THAT THE DIRECTOR FINDS IS IN VIOLATION OF THIS ARTICLE. THE ORDER SHALL PROHIBIT THE FURTHER SALE, PROCESSING OR TRANSPORTATION OF THE INDUSTRIAL HEMP EXCEPT ON APPROVAL OF THE DIRECTOR.

2. ISSUE A STOP SALE ORDER.

3. SEIZE AND DESTROY ANY CROP, HARVESTED CROP OR HEMP SEED THAT DOES NOT COMPLY WITH THIS ARTICLE OR ANY RULE OR ORDER ADOPTED PURSUANT TO THIS ARTICLE.

4. TAKE ANY OTHER ACTION TO ENFORCE THIS ARTICLE AND THE RULES AND ORDERS ADOPTED PURSUANT TO THIS ARTICLE.

C. A PERSON WHO VIOLATES THIS ARTICLE OR ANY RULE OR ORDER ADOPTED PURSUANT TO THIS ARTICLE MAY REQUEST A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IS SUBJECT TO REVIEW BY THE DIRECTOR AS PROVIDED BY TITLE 41, CHAPTER 6, ARTICLE 10. A REQUEST PURSUANT TO THIS SUBSECTION DOES NOT STAY A CEASE AND DESIST ORDER ISSUED PURSUANT TO THIS SECTION.

3-318. Industrial hemp advisory council; members; duties

A. THE DIRECTOR SHALL ESTABLISH BY RULE OR ORDER AN INDUSTRIAL HEMP ADVISORY COUNCIL TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR REGARDING THE ADMINISTRATION AND IMPLEMENTATION OF THIS ARTICLE. THE DIRECTOR SHALL APPOINT FIVE MEMBERS TO THE COUNCIL, INCLUDING ONE PUBLIC MEMBER.

B. THE INDUSTRIAL HEMP ADVISORY COUNCIL SHALL:

1. ADVISE THE DIRECTOR REGARDING EXPENDITURES FROM THE INDUSTRIAL HEMP TRUST FUND.

2. PROVIDE ADDITIONAL ASSISTANCE AS THE DIRECTOR DEEMS NECESSARY.

3-319. Violations; classification; civil penalties

A. IN ADDITION TO ANY LIABILITY ESTABLISHED BY THIS ARTICLE OR ANY PENALTY PROVIDED BY LAW, THE DIRECTOR MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION OF ANY OF THE FOLLOWING:

1. A LICENSING REQUIREMENT.

2. A LICENSE TERM OR CONDITION.

3. A RULE OR ORDER ADOPTED BY THE DIRECTOR THAT RELATES TO PROPAGATING, HARVESTING, TRANSPORTING OR PROCESSING INDUSTRIAL HEMP.

B. A PERSON WHO INTENTIONALLY VIOLATES THIS ARTICLE OR ANY RULE OR ORDER RELATED TO THIS ARTICLE IS GUILTY OF A CLASS 1 MISDEMEANOR.

C. A PERSON WHO DOES NOT HOLD A LICENSE ISSUED BY THE DEPARTMENT OR WHO IS NOT A DESIGNEE OR AGENT OF A PERSON WHO HOLDS A LICENSE ISSUED BY THE DEPARTMENT MAY NOT PROPAGATE, HARVEST, TRANSPORT OR PROCESS INDUSTRIAL HEMP. A PERSON WHO VIOLATES THIS SUBSECTION IS SUBJECT TO SECTION 13-3405.

3-320. Affirmative defense

A. IT IS AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION FOR THE POSSESSION OR CULTIVATION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER 34 THAT THE DEFENDANT IS A LICENSEE, OR A DESIGNEE OR AGENT OF A LICENSEE, WHO IS IN COMPLIANCE WITH THIS ARTICLE.

B. THIS SECTION IS NOT A DEFENSE TO A CHARGE OF POSSESSION, SALE, TRANSPORTATION OR DISTRIBUTION OF MARIJUANA PURSUANT TO TITLE 13, CHAPTER 34 THAT IS NOT INDUSTRIAL HEMP.

Sec. 2. Section 13-3405, Arizona Revised Statutes, is amended to read:

13-3405. Possession, use, production, sale or transportation of marijuana; classification; exceptions

A. A person shall not knowingly:

1. Possess or use marijuana.

2. Possess marijuana for sale.

3. Produce marijuana.

4. Transport for sale, import into this state or offer to transport for sale or import into this state, sell, transfer or offer to sell or transfer marijuana.

B. A person who violates:

1. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight of less than two pounds is guilty of a class 6 felony.

2. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight of at least two pounds but less than four pounds is guilty of a class 5 felony.

3. Subsection A, paragraph 1 of this section involving an amount of marijuana not possessed for sale having a weight of four pounds or more is guilty of a class 4 felony.

4. Subsection A, paragraph 2 of this section involving an amount of marijuana having a weight of less than two pounds is guilty of a class 4 felony.

5. Subsection A, paragraph 2 of this section involving an amount of marijuana having a weight of at least two pounds but not more than four pounds is guilty of a class 3 felony.

6. Subsection A, paragraph 2 of this section involving an amount of marijuana having a weight of more than four pounds is guilty of a class 2 felony.

7. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight of less than two pounds is guilty of a class 5 felony.

8. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight of at least two pounds but not more than four pounds is guilty of a class 4 felony.

9. Subsection A, paragraph 3 of this section involving an amount of marijuana having a weight of more than four pounds is guilty of a class 3 felony.

10. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight of less than two pounds is guilty of a class 3 felony.

11. Subsection A, paragraph 4 of this section involving an amount of marijuana having a weight of two pounds or more is guilty of a class 2 felony.

C. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial equals or exceeds the statutory threshold amount, a person who is sentenced pursuant to subsection B, paragraph 5, 6, 8, 9 or 11 of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

D. In addition to any other penalty prescribed by this title, the court shall order a person who is convicted of a violation of any provision of this section to pay a fine of not less than seven hundred fifty dollars or three times the value as determined by the court of the marijuana involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

E. A person who is convicted of a felony violation of any provision of this section for which probation or release before the expiration of the sentence imposed by the court is authorized is prohibited from using any marijuana, dangerous drug or narcotic drug except as lawfully administered by a practitioner and as a condition of any probation or release shall be required to submit to drug testing administered under the supervision of the probation department of the county or the state department of corrections as appropriate during the duration of the term of probation or before the expiration of the sentence imposed.

F. If the aggregate amount of marijuana involved in one offense or all of the offenses that are consolidated for trial is less than the statutory threshold amount, a person who is sentenced pursuant to subsection B, paragraph 4, 7 or 10 and who is granted probation by the court shall be ordered by the court that as a condition of probation the

person perform not less than two hundred forty hours of community restitution with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

G. If a person who is sentenced pursuant to subsection B, paragraph 1, 2 or 3 of this section is granted probation for a felony violation of this section, the court shall order that as a condition of probation the person perform not less than twenty-four hours of community restitution with an agency or organization providing counseling, rehabilitation or treatment for alcohol or drug abuse, an agency or organization that provides medical treatment to persons who abuse controlled substances, an agency or organization that serves persons who are victims of crime or any other appropriate agency or organization.

H. If a person is granted probation for a misdemeanor violation of this section, the court shall order as a condition of probation that the person attend eight hours of instruction on the nature and harmful effects of narcotic drugs, marijuana and other dangerous drugs on the human system, and on the laws related to the control of these substances, or perform twenty-four hours of community restitution.

I. THIS SECTION DOES NOT APPLY TO EITHER:

1. A PERSON WHO IS LICENSED PURSUANT TO TITLE 3, CHAPTER 2, ARTICLE 4.1 AND WHO POSSESSES, USES, SELLS, PRODUCES, MANUFACTURES OR TRANSPORTS INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311.

2. A PERSON WHO ENGAGES IN THE COMMERCIAL PRODUCTION, PROCESSING, MANUFACTURING, DISTRIBUTION OR COMMERCE OF INDUSTRIAL HEMP AS DEFINED IN SECTION 3-311 IN THIS STATE OUTSIDE OF THE AGRICULTURAL PILOT PROGRAM ESTABLISHED PURSUANT TO TITLE 3, CHAPTER 2, ARTICLE 4.1 IF THE PERSON'S ACTIONS ARE AUTHORIZED UNDER FEDERAL LAW.

Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to read:

41-619.51. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of financial institutions, the Arizona game and fish department, THE ARIZONA DEPARTMENT OF AGRICULTURE, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy or the board of physical therapy or the state board of technical registration.

2. "Board" means the board of fingerprinting.

3. "Central registry exception" means notification to the department of economic security, the department of child safety or the department of health services, as appropriate, pursuant to section 41-619.57 that the person is not disqualified because of a central registry check conducted pursuant to section 8-804.

4. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

5. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

6. "Person" means a person who is required to be fingerprinted pursuant to this article or who is subject to a central registry check and any of the following:

(a) SECTION 3-314.

~~(a)~~ (b) Section 8-105.

~~(b)~~ (c) Section 8-322.

~~(c)~~ (d) Section 8-463.

~~(d)~~ (e) Section 8-509.

~~(e)~~ (f) Section 8-802.

~~(f)~~ (g) Section 8-804.

~~(g)~~ (h) Section 15-183.

~~(h)~~ (i) Section 15-503.

~~(i)~~ (j) Section 15-512.

~~(j)~~ (k) Section 15-534.

~~(k)~~ (l) Section 15-763.01.

~~(l)~~ (m) Section 15-782.02.

~~(m)~~ (n) Section 15-1330.

~~(n)~~ (o) Section 15-1881.

~~(o)~~ (p) Section 17-215.

~~(p)~~ (q) Section 28-3228.

~~(q)~~ (r) Section 28-3413.

~~(r)~~ (s) Section 32-122.05.

~~(s)~~ (t) Section 32-122.06.

~~(t)~~ (u) Section 32-1232.

~~(u)~~ (v) Section 32-1284.

~~(v)~~ (w) Section 32-1297.01.

~~(w)~~ (x) Section 32-1904.

~~(x)~~ (y) Section 32-1941.

~~(y)~~ (z) Section 32-2022.

~~(z)~~ (aa) Section 32-2108.01.

~~(aa)~~ (bb) Section 32-2123.

~~(bb)~~ (cc) Section 32-2371.

~~(cc)~~ (dd) Section 32-3620.

~~(dd)~~ (ee) Section 32-3668.

~~(ee)~~ (ff) Section 32-3669.
~~(ff)~~ (gg) Section 36-207.
~~(gg)~~ (hh) Section 36-411.
~~(hh)~~ (ii) Section 36-425.03.
~~(ii)~~ (jj) Section 36-446.04.
~~(jj)~~ (kk) Section 36-594.01.
~~(kk)~~ (ll) Section 36-594.02.
~~(ll)~~ (mm) Section 36-882.
~~(mm)~~ (nn) Section 36-883.02.
~~(nn)~~ (oo) Section 36-897.01.
~~(oo)~~ (pp) Section 36-897.03.
~~(pp)~~ (qq) Section 36-3008.
~~(qq)~~ (rr) Section 41-619.53.
~~(rr)~~ (ss) Section 41-1964.
~~(ss)~~ (tt) Section 41-1967.01.
~~(tt)~~ (uu) Section 41-1968.
~~(uu)~~ (vv) Section 41-1969.
~~(vv)~~ (ww) Section 41-2814.
~~(ww)~~ (xx) Section 46-141, subsection A.
~~(xx)~~ (yy) Section 46-321.

Sec. 4. Section 41-1758, Arizona Revised Statutes, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of child safety, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the department of public safety, the department of transportation, the state real estate department, the department of financial institutions, the board of fingerprinting, the Arizona game and fish department, THE ARIZONA DEPARTMENT OF AGRICULTURE, the board of examiners of nursing care institution administrators and assisted living facility managers, the state board of dental examiners, the Arizona state board of pharmacy or the board of physical therapy or the state board of technical registration.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Electronic or internet-based fingerprinting services" means a secure system for digitizing applicant fingerprints and transmitting the applicant data and fingerprints of a person or entity submitting fingerprints to the department of public safety for any authorized purpose under this title. For the purposes of this paragraph, "secure system" means a system that complies with the information technology security policy approved by the department of public safety.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an applicant pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) SECTION 3-314.

~~(a)~~ (b) Section 8-105.

~~(b)~~ (c) Section 8-322.

~~(c)~~ (d) Section 8-463.

~~(d)~~ (e) Section 8-509.

~~(e)~~ (f) Section 8-802.

~~(f)~~ (g) Section 15-183.

~~(g)~~ (h) Section 15-503.

~~(h)~~ (i) Section 15-512.

~~(i)~~ (j) Section 15-534.

~~(j)~~ (k) Section 15-763.01.

~~(k)~~ (l) Section 15-782.02.

~~(l)~~ (m) Section 15-1330.

~~(m)~~ (n) Section 15-1881.

~~(n)~~ (o) Section 17-215.

~~(o)~~ (p) Section 28-3228.

~~(p)~~ (q) Section 28-3413.

~~(q)~~ (r) Section 32-122.05.

~~(r)~~ (s) Section 32-122.06.

~~(s)~~ (t) Section 32-1232.

~~(t)~~ (u) Section 32-1284.

~~(u)~~ (v) Section 32-1297.01.

~~(v)~~ (w) Section 32-1904.

~~(w)~~ (x) Section 32-1941.

~~(x)~~ (y) Section 32-2022.

~~(y)~~ (z) Section 32-2108.01.

~~(z)~~ (aa) Section 32-2123.

~~(aa)~~ (bb) Section 32-2371.

~~(bb)~~ (cc) Section 32-3620.

~~(cc)~~ (dd) Section 32-3668.

~~(dd)~~ (ee) Section 32-3669.

~~(ee)~~ (ff) Section 36-207.

~~(ff)~~ (gg) Section 36-411.

~~(gg)~~ (hh) Section 36-425.03.

~~(hh)~~ (ii) Section 36-446.04.

~~(ii)~~ (jj) Section 36-594.01.

~~(jj)~~ (kk) Section 36-594.02.

~~(kk)~~ (ll) Section 36-882.

~~(ll)~~ (mm) Section 36-883.02.

~~(mm)~~ (nn) Section 36-897.01.

~~(nn)~~ (oo) Section 36-897.03.

~~(oo)~~ (pp) Section 36-3008.
~~(pp)~~ (qq) Section 41-619.52.
~~(qq)~~ (rr) Section 41-619.53.
~~(rr)~~ (ss) Section 41-1964.
~~(ss)~~ (tt) Section 41-1967.01.
~~(tt)~~ (uu) Section 41-1968.
~~(uu)~~ (vv) Section 41-1969.
~~(vv)~~ (ww) Section 41-2814.
~~(ww)~~ (xx) Section 46-141, subsection A.
~~(xx)~~ (yy) Section 46-321.

6. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 5. Section 41-1758.01, Arizona Revised Statutes, is amended to read:

41-1758.01. Fingerprinting division; powers and duties

A. The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3228, 28-3413, 32-122.05, 32-122.06, 32-1232, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-2022, 32-2108.01, 32-2123, 32-2371, 32-3620, 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the right to petition the board of fingerprinting for a good cause exception pursuant to section 41-1758.03, 41-1758.04 or 41-1758.07.

5. If after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, inform the person in writing that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial

was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

6. Notify the person in writing if the division suspends, revokes or places a driving restriction notation on a fingerprint clearance card pursuant to section 41-1758.04. The notice shall include the criminal history information on which the suspension, revocation or placement of the driving restriction notation was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

7. Administer and enforce this article.

B. The fingerprinting division may contract for electronic or internet-based fingerprinting services through an entity or entities for the acquisition and transmission of applicant fingerprint and data submissions to the department, including identity verified fingerprints pursuant to section 15-106. The entity or entities contracted by the department of public safety may charge the applicant a fee for services provided pursuant to this article. The entity or entities contracted by the department of public safety shall comply with:

1. All information privacy and security measures and submission standards established by the department of public safety.

2. The information technology security policy approved by the department of public safety.

Sec. 6. Section 41-1758.07, Arizona Revised Statutes, is amended to read:

41-1758.07. <u>Level I fingerprint clearance cards; definitions</u>

A. On receiving the state and federal criminal history record of a person who is required to be fingerprinted pursuant to this section, the fingerprinting division in the department of public safety shall compare the record with the list of criminal offenses that preclude the person from receiving a level I fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the fingerprinting division shall issue the person a level I fingerprint clearance card.

B. A person who is subject to registration as a sex offender in this state or any other jurisdiction or who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a level I fingerprint clearance card:

1. Sexual abuse of a vulnerable adult.

2. Incest.

3. Homicide, including first or second degree murder, manslaughter and negligent homicide.

4. Sexual assault.

5. Sexual exploitation of a minor.

6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child sex trafficking as prescribed in section 13-3212.
10. Child abuse.
11. Felony child neglect.
12. Abuse of a vulnerable adult.
13. Sexual conduct with a minor.
14. Molestation of a child.
15. Molestation of a vulnerable adult.
16. Dangerous crimes against children as defined in section 13-705.
17. Exploitation of minors involving drug offenses.
18. Taking a child for the purpose of prostitution as prescribed in section 13-3206.
19. Neglect or abuse of a vulnerable adult.
20. Sex trafficking.
21. Sexual abuse.
22. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
23. Furnishing harmful items to minors as prescribed in section 13-3506.
24. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
25. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.
26. Luring a minor for sexual exploitation.
27. Enticement of persons for purposes of prostitution.
28. Procurement by false pretenses of person for purposes of prostitution.
29. Procuring or placing persons in a house of prostitution.
30. Receiving earnings of a prostitute.
31. Causing one's spouse to become a prostitute.
32. Detention of persons in a house of prostitution for debt.
33. Keeping or residing in a house of prostitution or employment in prostitution.
34. Pandering.
35. Transporting persons for the purpose of prostitution, polygamy and concubinage.
36. Portraying adult as a minor as prescribed in section 13-3555.
37. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
38. Any felony offense involving contributing to the delinquency of a minor.
39. Unlawful sale or purchase of children.
40. Child bigamy.

41. Any felony offense involving domestic violence as defined in section 13-3601 except for a felony offense only involving criminal damage in an amount of more than two hundred fifty dollars but less than one thousand dollars if the offense was committed before June 29, 2009.

42. Any felony offense in violation of title 13, chapter 12 if committed within five years before the date of applying for a level I fingerprint clearance card.

43. Felony drug or alcohol related offenses if committed within five years before the date of applying for a level I fingerprint clearance card.

44. Felony indecent exposure.

45. Felony public sexual indecency.

46. Terrorism.

47. Any offense involving a violent crime as defined in section 13-901.03.

48. Trafficking of persons for forced labor or services.

C. A person who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a level I fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Any misdemeanor offense in violation of title 13, chapter 12.

2. Misdemeanor indecent exposure.

3. Misdemeanor public sexual indecency.

4. Aggravated criminal damage.

5. Theft.

6. Theft by extortion.

7. Shoplifting.

8. Forgery.

9. Criminal possession of a forgery device.

10. Obtaining a signature by deception.

11. Criminal impersonation.

12. Theft of a credit card or obtaining a credit card by fraudulent means.

13. Receipt of anything of value obtained by fraudulent use of a credit card.

14. Forgery of a credit card.

15. Fraudulent use of a credit card.

16. Possession of any machinery, plate or other contrivance or incomplete credit card.

17. False statement as to financial condition or identity to obtain a credit card.

18. Fraud by persons authorized to provide goods or services.

19. Credit card transaction record theft.
20. Misconduct involving weapons.
21. Misconduct involving explosives.
22. Depositing explosives.
23. Misconduct involving simulated explosive devices.
24. Concealed weapon violation.
25. Misdemeanor possession and misdemeanor sale of peyote.
26. Felony possession and felony sale of peyote if committed more than five years before the date of applying for a level I fingerprint clearance card.
27. Misdemeanor possession and misdemeanor sale of a vapor-releasing substance containing a toxic substance.
28. Felony possession and felony sale of a vapor-releasing substance containing a toxic substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
29. Misdemeanor sale of precursor chemicals.
30. Felony sale of precursor chemicals if committed more than five years before the date of applying for a level I fingerprint clearance card.
31. Misdemeanor possession, misdemeanor use or misdemeanor sale of marijuana, dangerous drugs or narcotic drugs.
32. Felony possession, felony use or felony sale of marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.
33. Misdemeanor manufacture or misdemeanor distribution of an imitation controlled substance.
34. Felony manufacture or felony distribution of an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.
35. Misdemeanor manufacture or misdemeanor distribution of an imitation prescription-only drug.
36. Felony manufacture or felony distribution of an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
37. Misdemeanor manufacture or misdemeanor distribution of an imitation over-the-counter drug.
38. Felony manufacture or felony distribution of an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.
39. Misdemeanor possession or misdemeanor possession with intent to use an imitation controlled substance.
40. Felony possession or felony possession with intent to use an imitation controlled substance if committed more than five years before the date of applying for a level I fingerprint clearance card.

41. Misdemeanor possession or misdemeanor possession with intent to use an imitation prescription-only drug.

42. Felony possession or felony possession with intent to use an imitation prescription-only drug if committed more than five years before the date of applying for a level I fingerprint clearance card.

43. Misdemeanor possession or misdemeanor possession with intent to use an imitation over-the-counter drug.

44. Felony possession or felony possession with intent to use an imitation over-the-counter drug if committed more than five years before the date of applying for a level I fingerprint clearance card.

45. Misdemeanor manufacture of certain substances and drugs by certain means.

46. Felony manufacture of certain substances and drugs by certain means if committed more than five years before the date of applying for a level I fingerprint clearance card.

47. Adding poison or other harmful substance to food, drink or medicine.

48. A criminal offense involving criminal trespass under title 13, chapter 15.

49. A criminal offense involving burglary under title 13, chapter 15.

50. A criminal offense under title 13, chapter 23, except terrorism.

51. Misdemeanor offenses involving child neglect.

52. Misdemeanor offenses involving contributing to the delinquency of a minor.

53. Misdemeanor offenses involving domestic violence as defined in section 13-3601.

54. Felony offenses involving domestic violence if the offense only involved criminal damage in an amount of more than two hundred fifty dollars but less than one thousand dollars and the offense was committed before June 29, 2009.

55. Arson.

56. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs if committed more than five years before the date of applying for a level I fingerprint clearance card.

57. Criminal damage.

58. Misappropriation of charter school monies as prescribed in section 13-1818.

59. Taking identity of another person or entity.

60. Aggravated taking identity of another person or entity.

61. Trafficking in the identity of another person or entity.

62. Cruelty to animals.

63. Prostitution, as prescribed in section 13-3214.

64. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513.

65. Welfare fraud.

66. Any felony offense in violation of title 13, chapter 12 if committed more than five years before the date of applying for a level I fingerprint clearance card.

67. Kidnapping.

68. Robbery, aggravated robbery or armed robbery.

D. A person who is awaiting trial on or who has been convicted of committing or attempting to commit a misdemeanor violation of section 28-1381, 28-1382 or 28-1383 in this state or the same or a similar offense in another state or jurisdiction within five years from the date of applying for a level I fingerprint clearance card is precluded from driving any vehicle to transport employees or clients of the employing agency as part of the person's employment. The division shall place a notation on the level I fingerprint clearance card that indicates this driving restriction. This subsection does not preclude a person from driving a vehicle alone as part of the person's employment.

E. Notwithstanding subsection C of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the fingerprinting division shall issue a level I fingerprint clearance card to the applicant.

F. If the fingerprinting division denies a person's application for a level I fingerprint clearance card pursuant to subsection C of this section and a good cause exception is requested pursuant to section 41-619.55, the fingerprinting division shall release, on request by the board of fingerprinting, the person's criminal history record to the board of fingerprinting.

G. A person shall be granted a level I fingerprint clearance card pursuant to this section if either of the following applies:

1. An agency granted a good cause exception before August 16, 1999 and no new precluding offense is identified. The fingerprint clearance card shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the fingerprinting division in writing of the date on which the prior good cause exception was granted, the date of the conviction and the name of the offense for which the good cause exception was granted.

2. The board granted a good cause exception and no new precluding offense is identified.

H. The licensee or contract provider shall assume the costs of fingerprint checks conducted pursuant to this section and may charge these costs to persons who are required to be fingerprinted.

I. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the level I fingerprint clearance card requirements of this section. At all times the person shall be under the direct visual supervision of personnel who have valid level I fingerprint clearance cards.

J. The fingerprinting division shall conduct periodic state criminal history records checks and may conduct federal criminal history records checks when authorized pursuant to federal law for the purpose of updating the clearance status of current level I fingerprint clearance cardholders pursuant to this section and may notify the board of fingerprinting and the agency of the results of the records check.

K. The fingerprinting division shall revoke a person's level I fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to section 41-619.55.

L. If a person's criminal history record contains an offense listed in subsection B or C of this section and the final disposition is not recorded on the record, the division shall conduct research to obtain the disposition within thirty business days after receipt of the record. If the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the offenses listed in subsection B or C of this section in this state or the same or a similar offense in another state or jurisdiction, the division shall not issue a level I fingerprint clearance card to the person. If the division is unable to make the determination required by this section and does not issue a level I fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

M. If after conducting a state and federal criminal history records check the fingerprinting division determines that it is not authorized to issue a level I fingerprint clearance card to an applicant, the division shall notify the agency that the fingerprinting division is not authorized to issue a level I fingerprint clearance card. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

N. The fingerprinting division is not liable for damages resulting from:

1. The issuance of a level I fingerprint clearance card to an applicant who is later found to have been ineligible to receive a level I fingerprint clearance card at the time the card was issued.

2. The denial of a level I fingerprint clearance card to an applicant who is later found to have been eligible to receive a level I fingerprint clearance card at the time issuance of the card was denied.

O. Notwithstanding any law to the contrary, an individual may apply for and receive a level I fingerprint clearance card pursuant to this section to satisfy a requirement that the person have a valid fingerprint clearance card issued pursuant to section 41-1758.03.

P. Notwithstanding any law to the contrary, except as prescribed pursuant to subsection Q of this section, an individual who receives a level I fingerprint clearance card pursuant to this section also satisfies a requirement that the individual have a valid fingerprint clearance card issued pursuant to section 41-1758.03.

Q. Unless a cardholder commits an offense listed in subsection B or C of this section after June 29, 2009, a fingerprint clearance card issued pursuant to section 41-1758.03 before June 29, 2009 and its renewals are valid for all requirements for a level I fingerprint clearance card except those relating to the requirements of section 8-105 or 8-509. A fingerprint clearance card issued before June 29, 2009 to meet the requirements of section 8-105 or 8-509 and its renewals are valid after June 29, 2009 to meet all requirements for a level I fingerprint clearance card, including the requirements of section 8-105 or 8-509, if the cardholder has been certified by the court to adopt or has been issued a foster home license before June 29, 2009.

R. The issuance of a level I fingerprint clearance card does not entitle a person to employment.

S. For the purposes of this section:

1. "Person" means a person who is fingerprinted pursuant to:

(a) Section 3-314, 8-105, 8-463, 8-509, 8-802, 17-215, 36-207, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 or 46-141.

(b) Subsection O of this section.

2. "Renewal" means the issuance of a fingerprint clearance card to an existing fingerprint clearance cardholder who applies before the person's existing fingerprint clearance card expires.

Sec. 7. <u>Rulemaking authority; exemption</u>

A. The Arizona department of agriculture may adopt rules to carry out title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added by this act.

B. For the purposes of this act, the Arizona department of agriculture is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the general effective date of the fifty-third legislature, second regular session.

Sec. 8. <u>Appropriations; Arizona department of agriculture; industrial hemp</u>

A. The sum of $250,000 and 3 FTE positions are appropriated from the state general fund in fiscal year 2019-2020 to the Arizona department of agriculture plant services division for the purposes provided in this act.

B. The sum of $500,000 is appropriated from the state general fund in fiscal year 2019-2020 to the Arizona department of agriculture for the purposes provided in this act.

Sec. 9. Effective date

Title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added by this act, and sections 13-3405, 41-619.51, 41-1758, 41-1758.01 and 41-1758.07, Arizona Revised Statutes, as amended by this act, are effective one year from and after the general effective date of the fifty-third legislature, second regular session.

**APPROVED BY THE GOVERNOR MAY 14, 2018**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2018**

Passed the House May 3, 2018,

by the following vote: 56 Ayes,

3 Nays, 1 Not Voting

Speaker of the House Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate February 15, 2018,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Reeves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of May, 2018,

at 11:14 o'clock A. M.

Secretary to the Governor

Approved this 14th day of

May, 2018,

at 9:30 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14 day of May, 2018,

at 3:22 o'clock P. M.

Michele Reagan

Secretary of State

S.B. 1098