

1 Be it resolved by the House of Representatives of the State of Arizona, the Senate  
2 concurring:  
3 1. Under the power of the referendum, as vested in the Legislature, the following  
4 measure, relating to the use of marijuana, is enacted to become valid law if  
5 approved by the voters and on proclamation of the Governor:  
6

7 AN ACT

8 AMENDING SECTIONS

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

10 Section 1. This Act may be cited as the Small Business Liberty Act.

11 Section 2. Findings and Declaration of Purpose.

12 The Legislature hereby finds and declares that:

13 A.

14 B.

15 C.

16 Section 3. Title 4, Chapter 1, Article 1, Section 112 is amended to read:

17 4.112. State liquor AND MARIJUANA CONTROL board; department of liquor  
18 AND MARIJUANA licenses and control; members; director; appointment and removal

19 A. The department of liquor AND MARIJUANA licenses and control is  
20 established consisting of the state liquor AND MARIJUANA CONTROL board and the  
21 office of director of the department.

22 B. From and after January 31, 2003, the board consists of ~~seven~~ ELEVEN  
23 members to be appointed by the governor pursuant to section 38-211. Five of the  
24 members of the board shall not be financially interested directly or indirectly in business  
25 licensed to deal with spirituous liquors OR MARIJUANA. Two members shall currently  
26 be engaged in business in the spirituous liquor industry or have been engaged in the past  
27 in business in the spirituous liquor industry, at least one of whom shall currently be a  
28 retail licensee or employee of a retail licensee. TWO MEMBERS SHALL  
29 CURRENTLY BE ENGAGED IN BUSINESS IN THE MARIJUANA INDUSTRY OR  
30 HAVE BEEN ENGAGED IN THE PAST IN BUSINESS IN THE MARIJUANA  
31 INDUSTRY, AT LEAST ONE OF WHOM SHALL CURRENTLY BE AN OFFICER  
32 OF A CORPORATION CURRENTLY ENGAGED IN THE PRODUCTION OR  
33 RETAIL SALES OF MARIJUANA PRODUCTS. THREE MEMBERS SHALL BE  
34 PUBLIC MEMBERS INCLUDING ~~One~~ ONE member THAT shall be a member of a  
35 neighborhood association recognized by a county, city or town. The term of members is  
36 three years. Members' terms expire on the third Monday in January of the appropriate  
37 year. The governor may remove any member of the board for cause. No member may  
38 represent another licensee before the board for a period of one year after the conclusion  
39 of the member's service on the board.

40 C. The board shall annually elect from its membership a chairman and vice-  
41 chairman. A majority of the board constitutes a quorum, and a concurrence of a majority  
42 of a quorum is sufficient for taking any action. If there are unfilled positions on the  
43 board, a majority of those persons appointed and serving on the board constitutes a  
44 quorum.

45 D. The chairman may designate panels of not less than three members. A panel  
46 may take any action that the board is authorized to take pursuant to this title. Such action

1 includes the ability to hold hearings and hear appeals of administrative disciplinary  
2 proceedings of licenses issued pursuant to this chapter. A panel shall not, however, adopt  
3 rules as provided in section 4-112, subsection A, paragraph 2. The chairman may from  
4 time to time add additional members or remove members from a panel. A majority of a  
5 panel may on the concurrence of a majority of the members of the panel take final action  
6 on hearings and appeals of administrative disciplinary proceedings concerning licenses  
7 issued pursuant to this chapter.

8 E. Members of the board are entitled to receive compensation at the rate of fifty  
9 dollars per day while engaged in the business of the board.

10 F. A person shall not be appointed to serve on the board unless the person has  
11 been a resident of this state for not less than five years before the person's appointment.  
12 Not more than four members may be of the same political party. Persons eligible for  
13 appointment shall have a continuous recorded registration pursuant to title 16, chapter 1  
14 with the same political party or as an independent for at least two years immediately  
15 preceding appointment. Not more than three members may be appointed from the same  
16 county.

17 G. The governor shall appoint the director, pursuant to section 38-211, who shall  
18 be a qualified elector of the state and experienced in administrative matters and  
19 enforcement procedures. The director shall serve at the pleasure of the governor.

20 H. The director is entitled to receive a salary as determined pursuant to section  
21 38-611.

22 Section 4. Title 4, Chapter 1, Article 1 is amended by adding a new  
23 section 4-112.01 to read:

24 Section 4-112.01. Conforming laws and regulation.

25 A. THIS TITLE SHALL BE DESIGNATED AS "ALCOLHOLIC  
26 BEVERAGES AND MARIJUANA CONTROL."

27 B. GROWING, PROCESSING, MANUFACTURING AND THE SALE OF  
28 PRODUCTS CONTAINING MARIJUANA SHALL ONLY BE CONDUCTED BY  
29 HOLDERS OF A MARIJUANA PRODUCTION AND SALES LICENSE. THE  
30 BOARD SHALL ESTABLISH REASONABLE CRITERIA FOR OBTAINING A  
31 LICENSE, INCLUDING REGULATIONS FOR GROWING, PRODUCING,  
32 MARKETING, ADVERTISING AND SELLING OF MARIJUANA AND PRODUCTS  
33 CONTAINING MARIJUANA. SUCH REGULATIONS SHALL BE  
34 SUBSTANTIALLY SIMILAR TO REGULATIONS FOR THE PRODUCTION,  
35 DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES.

36 C. THE BOARD SHALL ADOPT REGULATIONS REGARDING THE  
37 FEES FOR THE ISSUANCE, TRANSFER, SUSPENSION AND REVOCATION OF  
38 LICENSES.

39 1. NOT LATER THAN JUNE 2, 2021 THE HOLDER OF A DISPENSARY  
40 REGISTRATION CERTIFICATE ISSUED PURSUANT TO TITLE 36, CHAPTER  
41 28.1 MAY REQUEST THAT THE BOARD ISSUE THE HOLDER A CLASS ONE  
42 LICENSE. THE BOARD SHALL ISSUE THE LICENSE FOR HOLDERS OF THE  
43 CERTIFICATE AT THE LOCATION SPECIFIED IN THE CERTIFICATE. THE FEE  
44 TO OBTAIN A CLASS ONE LICENSE IS ONE HUNDRED THOUSAND DOLLARS.  
45 WHEN THE BOARD SHALL ISSUE THE LICENSE THE CERTIFICATE SHALL BE  
46 CANCELED. A CLASS ONE LICENSEE MAY GROW, MANUFACTURE OR SELL

1 MARIJUANA AND PRODUCTS CONTAINING MARIJUANA.

2 2. FROM AND AFTER JUNE 2, 2022 THE BOARD MAY ISSUE UP TO ONE  
3 HUNDRED AND TWENTY FIVE MARIJUANA PRODUCTION AND SALES  
4 LICENSES.

5 a. TWENTY-FIVE CLASS TWO LICENSES MAY BE ISSUED FOR A FEE  
6 TO BE DETERMINED AT AUCTION. THE BOARD SHALL ADOPT RULES FOR  
7 THE AUCTION. A LICENSEE THAT OBTAINS A CLASS TWO LICENSE MAY  
8 OPERATE A FACILITY THAT SHALL NOT EXCEED 10,000 SQUARE FEET OF  
9 SPACE. CLASS TWO LICENSEES ARE NOT AUTHORIZED TO GROW OR  
10 MANUFACTURE MARIJUANA AND PRODUCTS CONTAINING MARIJUANA.  
11 THE AUCTION PROVIDED FOR IN THIS SUBSECTION SHALL OCCUR PRIOR  
12 TO THE ISSUANCE OF ANY OTHER LICENSES UNDER THIS SUBSECTION.

13 b. TWENTY-FIVE CLASS THREE LICENSES MAY BE ISSUED TO  
14 APPLICANTS WHO CERTIFY THAT THEIR PLACE OF OPERATION IS AT  
15 LEAST TWENTY-FIVE MILES FROM ANY OTHER MARIJUANA PRODUCTION  
16 AND SALES LICENSEE OR FROM A DISPENSARY REGISTERED PURSUANT  
17 TO TITLE 36, CHAPTER 28.1. A LICENSEE THAT OBTAINS A CLASS THREE  
18 LICENSE MAY OPERATE A FACILITY THAT SHALL NOT EXCEED 2,500  
19 SQUARE FEET OF SPACE. CLASS THREE LICENSEES ARE NOT AUTHORIZED  
20 TO GROW OR MANUFACTURE MARIJUANA AND PRODUCTS CONTAINING  
21 MARIJUANA.

22 c. FIFTY CLASS FOUR LICENSES MAY BE ISSUED. A LICENSEE THAT  
23 OBTAINS A CLASS FOUR LICENSE MAY OPERATE A FACILITY THAT SHALL  
24 NOT EXCEED 2,500 SQUARE FEET OF SPACE. CLASS FOUR LICENSEES ARE  
25 NOT AUTHORIZED TO GROW OR MANUFACTURE MARIJUANA AND  
26 PRODUCTS CONTAINING MARIJUANA. IN THE EVENT MORE THAN FIFTY  
27 APPLICATIONS ARE RECEIVED BY JUNE 2, 2022 FOR CLASS FOUR LICENSES  
28 THE BOARD SHALL AWARD LICENSES PURSUANT TO A LOTTERY. THE  
29 BOARD MAY ADOPT RULES FOR THE CONDUCT OF THE LOTTERY.

30 d. TWENTY-FIVE LICENSES CLASS FIVE LICENSES MAY BE ISSUED.  
31 A LICENSEE THAT OBTAINS A CLASS FIVE LICENSE MAY OPERATE A  
32 FACILITY THAT SHALL NOT EXCEED A TOTAL OF 10,000 SQUARE FEET OF  
33 SPACE. CLASS FIVE LICENSEES MAY GROW, MANUFACTURE AND SELL  
34 MARIJUANA AND PRODUCTS CONTAINING MARIJUANA TO OTHER  
35 LICENSEES AT THEIR LICENSED LOCATION. CLASS FIVE LICENSEES ARE  
36 NOT ALLOWED TO SELL MARIJUANA OR PRODUCTS CONTAINING  
37 MARIJUANA TO PERSONS OTHER THAN LICENSEES. IN THE EVENT MORE  
38 THAN TWENTY-FIVE APPLICATIONS ARE RECEIVED BY JUNE 2, 2022 FOR  
39 CLASS FIVE LICENSES THE BOARD SHALL AWARD LICENSES PURSUANT  
40 TO A LOTTERY. THE BOARD MAY ADOPT RULES FOR THE CONDUCT OF  
41 THE LOTTERY.

42 e. IN THE YEAR FOLLOWING EACH DECENIAL CENSUS OF THE  
43 UNITED STATES THE LEGISLATURE MAY INCREASE THE NUMBER OF EACH  
44 CLASS OF LICENSE BY A NUMBER NOT TO EXCEED THE PERCENTAGE  
45 INCREASE IN THE STATE'S POPULATION SINCE THE PREVIOUS CENSUS. IN  
46 THE EVENT OF A PERCENTAGE DECREASE IN THE STATE'S POPULATION

1 NO CHANGE IN THE NUMBER OF EXISTING LICENSES SHALL OCCUR.

2 3. ALL CLASSES OR MARIJUANA SALES AND PRODUCTION LICENSES  
3 ARE TRANSFERABLE. THE BOARD SHALL DETERMINE THE RULES FOR  
4 APPROVING THE TRANSFER OF A LICENSE AND THE FEE FOR THE  
5 TRANSFER OF A LICENSE. THE MINIMUM TRANSFER FEE SHALL BE ONE  
6 HUNDRED THOUSAND DOLLARS.

7 D. THE BOARD SHALL SUSPEND OR REVOKE THE LICENSE OF ANY  
8 LICENSEE IF THE LICENSEE OR ANY OFFICER OF THE LICENSEE IS  
9 CONVICTED OF A FELONY OR UPON THE ENTRY OF A FINAL  
10 DETERMINATION THAT THE LICENSEE OR ANY OFFICER OF THE LICENSEE  
11 HAS VIOLATED ANY STATE, FEDERAL OR LOCAL REGULATION OR RULE.  
12 THE BOARD SHALL ADOPT REGULATIONS TO ENFORCE THIS  
13 REQUIREMENT.

14 E. ALL PRODUCTS SOLD BY ANY LICENSEE SHALL CONFORM TO THE  
15 REQUIREMENTS OF TITLE 36, CHAPTER 28.1, SECTION 2821 AND ANY  
16 REGULATIONS ADOPTED PURSUANT TO THIS STAUTE.

17 F. THE BOARD SHALL ADOPT REGULATIONS SPECIFYING THE  
18 NUMBER OF LICENSES ANY ONE PERSON MAY OBTAIN. SUCH  
19 REGULATIONS SHALL BE SUBSTANTIALLY SIMILAR TO THE REGULATIONS  
20 FOR THE PRODUCTION, DISTRIBUTION AND SALE OF ALCOHOLIC  
21 BEVERAGES.

22 G. THE BOARD SHALL ADOPT REGULATIONS REQUIRING THAT ALL  
23 LICENSEES SHALL ADHERE TO ALL STATE, FEDERAL AND LOCAL  
24 WORKPLACE SAFETY REQUIREMENTS, REGARDLESS OF THE NUMBER OF  
25 EMPLOYEES OF THE LICENSEE. THESE REGULATIONS SHALL REQUIRE  
26 THAT SUPERVISORY PERSONNEL OF LICENSEES SHALL, WITHIN NINETY  
27 DAYS OF EMPLOYMENT, HAVE SUCCESSFULLY COMPLETED A 30 HOUR  
28 GENERAL INDUSTRY OUTREACH COURSE OFFERED BY A TRAINING  
29 PROVIDER THAT IS AUTHORIZED BY AN OSHA TRAINING INSTITUTE  
30 EDUCATION CENTER TO PROVIDE THE COURSE. THIS PARAGRAPH DOES  
31 NOT ALTER OR AMEND ANY OTHER REQUIREMENT FOR EMPLOYERS TO  
32 PROVIDE OCCUPATIONAL SAFETY AND HEALTH TRAINING TO  
33 EMPLOYEES. FOR PURPOSES OF THIS PARAGRAPH "OSHA" MEANS THE  
34 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION CREATED BY  
35 THE OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970.

36 H. NO STATUTE OR REGULATION MAY BE ADOPTED THAT:

37 1. LIMITS THE RIGHTS OF EMPLOYERS TO MAINTAIN A DRUG AND  
38 ALCOHOL FREE WORK PLACE OR LIMIT THE ABILITY OF EMPLOYERS TO  
39 HAVE WORK PLACE POLICIES RESTRICTING THE USE OF MARIJUANA BY  
40 EMPLOYEES OR PROSPECTIVE EMPLOYEES. THE BOARD MAY ADOPT  
41 REGULATIONS SETTING FORTH A STANDARD FOR IMPAIRMENT ON  
42 ACCOUNT OF CONSUMING MARIJUANA AS WELL AS STANDARDS FOR  
43 TESTING FOR MARIJUANA IMPAIRMENT.

44 2. LIMITS THE AUTHORITY OF COUNTIES, CITIES AND TOWNS TO  
45 RESTRICT THE LOCATION OR USE OF ANY FACILITY LICENSED PURSUANT  
46 TO THIS TITLE SO LONG AS RESTRICTIONS ARE SUBSTANTIALLY SIMILAR

1 TO THOSE THAT RESTRICT THE LOCATIONS OR USE OF ALCOHOLIC  
2 BEVERAGE LICENSEES.

3 3. LIMITS THE RIGHTS OF ANY RESIDENT OF ARIZONA OVER 21  
4 YEARS OF AGE TO POSSESS AND USE THE PRODUCE OF SIX MARIJUANA  
5 PLANTS. NOTWITHSTANDING THE NUMBER OF PERSONS OVER 21 YEARS  
6 OF AGE RESIDENT IN ANY LOCATION THE MAXIMUM NUMBER OF  
7 MARIJUANA PLANTS IS LIMITED TO 12 REGARDLESS OF THE MAXIMUM  
8 OCCUPANCY ALLOWED IN THE RESIDENCE.

9 I. THE BOARD SHALL ADOPT REGULATIONS RELATING TO  
10 ELECTRONIC PAYMENT OPTIONS FOR LICENSEES. AT A MINIMUM THESE  
11 REGULATIONS SHALL REQUIRE THAT ANY PERSON OFFERING  
12 ELECTRONIC PAYMENT OPTIONS SHALL BE REGISTERED WITH THE  
13 UNITED STATES GOVERNMENT AS A MONEY SERVICE BUSINESS AND  
14 SHALL HOLD A MONEY TRANSMITTER LICENSE ISSUED BY THE STATE OF  
15 ARIZONA. THE BOARD SHALL ADOPT RULES TO PROHIBIT LICENSEES  
16 FROM ACCEPTING PAYMENTS IN A MANNER DECEPTIVE TO CARD  
17 ISSUERS, NETWORKS OR MERCHANT PROVIDERS REGARDING THE  
18 NATURE OF TRANSACTIONS, INCLUDING ACCEPTING PAYMENTS USING  
19 INACCURATE MERCHANT CATEGORY CODES.

20 Section 5. Title 4, Chapter 1, Article 1 is amended by adding a new  
21 section 4-112.02 to read:

22 Section 4-112.02. Marijuana Production and Sales Regulation Fund.

23 A. THE MARIJUANA PRODUCTION AND SALES REGULATION FUND IS  
24 ESTABLISHED CONSISTING OF FIVE HUNDRED THOUSAND DOLLARS  
25 TRANSFERRED FROM THE FUND ESTABLISHED PURSUANT TO TITLE 36,  
26 CHAPTER 28.2, SECTION 2817. THE BOARD SHALL ADMINISTER THE FUND  
27 FOR THE PURPOSES OF THIS CHAPTER.

28 B. ONE HUNDRED AND EIGHTY DAYS FOLLOWING THE  
29 ESTABLISHMENT OF THE FUND THE BOARD SHALL SUBMIT A PLAN TO THE  
30 JOINT LEGISLATIVE BUDGET COMMITTEE FOR THE REGULATION OF THE  
31 PRODUCTION AND SALES OF MARIJUANA AND PRODUCTS CONTAINING  
32 MARIJUANA AS REQUIRED BY THIS CHAPTER. UPON THE APPROVAL OF  
33 THE PLAN THE TREASURER SHALL TRANSFER FROM THE FUND  
34 ESTABLISHED PURSUANT TO TITLE 36, CHAPTER 28.2, SECTION 2817 SUCH  
35 FUNDS AS MAY BE NECESSARY TO THE ADMINISTER THE APPROVED  
36 PLAN.

37 C. THE BOARD SHALL DEPOSIT ALL FEES AND PENALTIES RECEIVED  
38 PURSUANT TO SECTION 112.01 OF THIS ARTICLE AND ALL REGULATIONS  
39 RELATED TO THE REGULATION OF MARIJUANA AND PRODUCTS  
40 CONTAINING MARIJUANA INTO THE FUND. SUBJECT TO LEGISLATIVE  
41 APPROPRIATION, MONIES IN THE FUND SHALL BE USED FOR THE  
42 REGULATION OF THE PRODUCTION AND SALE OF MARIJUANA AND  
43 PRODUCTS CONTAINING MARIJUANA. ALL FUNDS TRANSFERRED INTO  
44 THE FUND PURSUANT TO SUBSECTIONS A OR B SHALL BE REPAID BY  
45 DECEMBER 21, 2025.

46 Section 6. Title 13, Chapter 34, Section 3405 is amended to read:

1 13-3405. Possession, use, production, sale or transportation of marijuana; classification;  
2 exceptions

3 A. A person shall not knowingly:

- 4 1. Possess or use marijuana.  
5 2. Possess marijuana for sale.  
6 3. Produce marijuana.  
7 4. Transport for sale, import into this state or offer to transport for sale or import  
8 into this state, sell, transfer or offer to sell or transfer marijuana.

9 B. A person who violates:

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

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

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

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

19 5. Subsection A, paragraph 2 of this section involving an amount of marijuana  
20 having a weight of at least two pounds but not more than four pounds is guilty of a class  
21 3 felony.

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

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

26 8. Subsection A, paragraph 3 of this section involving an amount of marijuana  
27 having a weight of at least two pounds but not more than four pounds is guilty of a class  
28 4 felony.

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

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

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

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

42 D. In addition to any other penalty prescribed by this title, the court shall order a  
43 person who is convicted of a violation of any provision of this section to pay a fine of not  
44 less than seven hundred fifty dollars or three times the value as determined by the court  
45 of the marijuana involved in or giving rise to the charge, whichever is greater, and not

1 more than the maximum authorized by chapter 8 of this title. A judge shall not suspend  
2 any part or all of the imposition of any fine required by this subsection.

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

11 F. If the aggregate amount of marijuana involved in one offense or all of the  
12 offenses that are consolidated for trial is less than the statutory threshold amount, a  
13 person who is sentenced pursuant to subsection B, paragraph 4, 7 or 10 and who is  
14 granted probation by the court shall be ordered by the court that as a condition of  
15 probation the person perform not less than two hundred forty hours of community  
16 restitution with an agency or organization providing counseling, rehabilitation or  
17 treatment for alcohol or drug abuse, an agency or organization that provides medical  
18 treatment to persons who abuse controlled substances, an agency or organization that  
19 serves persons who are victims of crime or any other appropriate agency or organization.

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

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

33 I. This section does not apply to either:

34 1. A person who is licensed pursuant to title 3, chapter 2, article 4.1 and who  
35 possesses, uses, sells, produces, manufactures or transports industrial hemp as defined in  
36 section 3-311.

37 2. A person who engages in the commercial production, processing,  
38 manufacturing, distribution or commerce of industrial hemp as defined in section 3-311  
39 in this state outside of the agricultural pilot program established pursuant to title 3,  
40 chapter 2, article 4.1 if the person's actions are authorized under federal law.

41 J. THE FOLLOWING ACTS BY AN INDIVIDUAL WHO IS AT LEAST  
42 TWENTY-ONE YEARS OF AGE ARE LAWFUL, ARE NOT AN OFFENSE UNDER  
43 THE LAWS OF THIS STATE OR ANY LOCALITY, CANNOT CONSTITUTE THE  
44 BASIS FOR DETENTION, SEARCH OR ARREST, AND CANNOT SERVE AS THE  
45 SOLE BASIS FOR SEIZURE OR FORFEITURE OF ASSETS, FOR THE  
46 IMPOSITION OF PENALTIES OF ANY KIND UNDER THE LAWS OF THIS STATE

1 OR ANY LOCALITY, OR FOR ABROGATING OR LIMITING ANY RIGHT OR  
2 PRIVILEGE CONFERRED OR PROTECTED BY THE LAWS OF THIS STATE OR  
3 ANY LOCALITY:

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

10 2. POSSESSING, TRANSPORTING, CULTIVATING, OR PROCESSING NOT  
11 MORE THAN SIX MARIJUANA PLANTS FOR PERSONAL USE AT THE  
12 INDIVIDUAL'S PRIMARY RESIDENCE, AND POSSESSING, PROCESSING AND  
13 MANUFACTURING BY MANUAL OR MECHANICAL MEANS, INCLUDING  
14 SIEVING OR ICE WATER SEPARATION BUT EXCLUDING CHEMICAL  
15 EXTRACTION OR CHEMICAL SYNTHESIS, THE MARIJUANA PRODUCED BY  
16 THE PLANTS ON THE PREMISES WHERE THE MARIJUANA PLANTS WERE  
17 GROWN.

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

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

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

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

33 B. NOTWITHSTANDING ANY OTHER LAW, A PERSON WITH  
34 METABOLITES OR COMPONENTS OF MARIJUANA IN THE PERSON'S BODY IS  
35 GUILTY OF VIOLATING \_\_\_\_\_.

36 C. NOTWITHSTANDING ANY OTHER LAW, THE ODOR OF MARIJUANA  
37 OR BURNT MARIJUANA DOES NOT CONSTITUTE REASONABLE  
38 ARTICULABLE SUSPICION OF A CRIME. THIS SUBSECTION DOES NOT  
39 APPLY WHEN A LAW ENFORCEMENT OFFICER IS INVESTIGATING  
40 WHETHER A PERSON HAS VIOLATED SECTION \_\_\_\_\_.

41 Section 7. Title 13, Chapter 7, is amended by adding a new section to  
42 read:

43 13-719 Marijuana Violations; classification

44 A. NOTWITHSTANDING ANY OTHER LAW, AND EXCEPT AS  
45 OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON WHO POSSESSES AN  
46 AMOUNT OF MARIJUANA IN EXCESS OF THE AMOUNT PERMITTED



1 PURSUANT TO SECTION 36-2852, BUT NOT MORE THAN TWO AND ONE-  
2 HALF OUNCES OF MARIJUANA OF WHICH NOT MORE THAN TWELVE AND  
3 ONE-HALF GRAMS MAY BE IN THE FORM OF MARIJUANA CONCENTRATE,  
4 IS GUILTY OF A PETTY OFFENSE.

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

11 1. FOR A FIRST VIOLATION, SHALL PAY A CIVIL PENALTY OF NOT  
12 MORE THAN \$100, AND SHALL BE ORDERED TO ATTEND UP TO FOUR  
13 HOURS OF DRUG EDUCATION OR COUNSELING.

14 2. FOR A SECOND VIOLATION, IS GUILTY OF A PETTY OFFENSE, AND  
15 SHALL BE ORDERED TO ATTEND UP TO EIGHT HOURS OF DRUG  
16 EDUCATION OR COUNSELING.

17 3. FOR A THIRD OR SUBSEQUENT VIOLATION, IS GUILTY OF A CLASS  
18 1 MISDEMEANOR.

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

21 D. EXCEPT AS OTHERWISE PROVIDED IN CHAPTER \_\_\_\_\_ OF TITLE  
22 \_\_\_\_\_ AND NOTWITHSTANDING ANY OTHER LAW, ANY UNLICENSED  
23 PERSON WHO PRODUCES MARIJUANA PLANTS PURSUANT TO SECTION  
24 \_\_\_\_\_ WHERE THEY ARE VISIBLE FROM PUBLIC VIEW WITHOUT THE USE  
25 OF BINOCULARS, AIRCRAFT OR OTHER OPTICAL AIDS OR OUTSIDE OF AN  
26 ENCLOSED AREA THAT IS EQUIPPED WITH A LOCK OR OTHER SECURITY  
27 DEVICE THAT PREVENTS ACCESS BY MINORS IS GUILTY OF:

28 1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

29 2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CLASS  
30 MISDEMEANOR.

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

37 1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

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

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

43 1. FOR A FIRST VIOLATION, A PETTY OFFENSE.

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

46 G. IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW, EXCEPT

1 THOSE PROVIDED IN THIS SECTION, AN ENTITY THAT ADVERTISES OR  
2 FACILITATES THE SALE OR DELIVERY OF MARIJUANA OR MARIJUANA  
3 PRODUCTS, OR TRANSPORTS MARIJUANA OR MARIJUANA PRODUCTS, IN A  
4 MANNER THAT IS NOT AUTHORIZED BY THIS CHAPTER OR RULES  
5 ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO THIS  
6 CHAPTER SHALL PAY AN ADDITIONAL FINE OF NOT LESS THAN \$20,000 PER  
7 VIOLATION. THIS SUBSECTION MAY BE ENFORCED BY THE ATTORNEY  
8 GENERAL.

9 Section 8. Title 42, Chapter 3, Article 6, Section 3201 is amended to read:

10 42-3251. Levy and collection of tobacco AND MARIJUANA tax

11 A. In addition to all other taxes, and in addition to the tax levied and imposed by  
12 article 2 of this chapter, there is levied and shall be collected by the department and paid  
13 to the state treasurer in the manner provided by this chapter on all cigarettes, cigars,  
14 smoking tobacco, plug tobacco, snuff and other forms of tobacco the following tax:

15 1. On each cigarette, 2 cents.

16 2. On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated  
17 tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings,  
18 cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used  
19 exclusively for agricultural or horticultural purposes and unfit for human consumption,  
20 4.5 cents per ounce or major fraction of an ounce.

21 3. On all cavendish, plug or twist tobacco, 1.1 cents per ounce or fractional part of  
22 an ounce.

23 4. On each twenty small cigars or fractional part weighing not more than three  
24 pounds per thousand, 8.9 cents.

25 5. On cigars of all descriptions, except those included in paragraph 4, made of  
26 tobacco or any tobacco substitute:

27 (a) If manufactured to retail at not more than 5 cents each at 4.4 cents on each  
28 three cigars.

29 (b) If manufactured to retail at more than 5 cents each, 4.4 cents on each cigar.

30 6. ON EACH \_\_\_\_\_ OF PRODUCTS SOLD BY A PERSON LICENSED  
31 PURSUANT TO TITLE 4, ARTICLE 1, SECTION 112.01, A USE TAX IN AN  
32 AMOUNT EQUAL TO \_\_\_\_\_ OF THE TOTAL PRICE OF EACH RETAIL  
33 TRANSACTION INCLUSIVE OF THE TRANSACTION PRIVILEGE TAX. SALES  
34 TO PERSONS HOLDING A VALID REGISTRY IDENTIFICATION CARD ISSUED  
35 PURSUANT TO TITLE 36, CHAPTER 28.1, SECTION 2804.03 ARE EXEMPT  
36 FROM THIS USE TAX.

37 Section 9. Exemption from rulemaking.

38 For purposes of this Act, the State Liquor and Marijuana and Control Board and the  
39 Department of Liquor and Marijuana Licensing and Control are exempt from the  
40 rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes except  
41 that the Board and the Department shall consider and adopt any rules pursuant to 30 days  
42 notice to the Public. During the period between notice of a proposed rulemaking and a  
43 meeting to consider adopting the rule the Board and Department shall accept public  
44 comment on the rule and shall consider such comment in any meeting called to consider  
45 adopting the rule.

46 Section 10. Severability.

1 If any provision of this Act or its application to any person or circumstance is declared  
2 invalid by a court of competent jurisdiction, such invalidity does not affect other  
3 provisions or applications of the Act that can be given effect without the invalid provision  
4 or application. The invalidated provisions shall be deemed reformed to the extent  
5 necessary to conform the applicable law and to give maximum effect to the intent of this  
6 Act and, to the fullest extent possible, the provisions of this Act, including without  
7 limitation each portion of any section of this Act containing any invalidated provision  
8 that is not itself invalid shall be construed so as to give effect to the intent thereof.  
9

DRAFT