

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to the use of marijuana, is enacted to become valid law if approved by the voters and on proclamation of the Governor:

AN ACT

AMENDING SECTIONS

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

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

Section 2. Findings and Declaration of Purpose.

The Legislature hereby finds and declares that:

A.

B.

C.

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

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

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

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

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

D. The chairman may designate panels of not less than three members. A panel 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 DECENTRAL 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 SPECIFING 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 STANADARDS 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 POSSES 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 REPAYED 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.
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