

Bill Number: S.B. 1715

Gowan Floor Amendment

Reference to: printed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- 1. Changes the defined term from hemp-derived manufactured psychotropic cannabinoids to hemp-derived manufactured impairing cannabinoids.
- 2. Excludes any cannabinoid derived from hemp that is produced by decarboxylation from naturally occurring cannabinoid without the use of a chemical catalyst or nonintoxicating cannabinoids derived from hemp including cannabidiol, cannabinol, cannabigerol, cannabichromene, cannabicyclol, cannabidivarin and cannabivarin.
- 3. Removes tetrahydrocannabivarin from the definition of *hemp-derived* manufactured impairing cannabinoids.
- 4. Prohibits a nonprofit medical marijuana dispensary or a marijuana establishment from acquiring, cultivating, possessing, manufacturing, delivering, processing, transferring, transporting, supplying, using, selling or dispensing hemp-derived manufactured impairing cannabinoids.
- 5. Removes hemp-derived manufactured psychotropic cannabinoids from the definition of *marijuana*, *marijuana concentrate*, *usable marijuana* and *marijuana products*.
- 6. Makes conforming changes.

Amendment explanation prepared by Liam Maher 03/10/2022

GOWAN FLOOR AMENDMENT

SENATE AMENDMENTS TO S.B. 1715

(Reference to printed bill)

1 Page 1, lines 19 and 22, strike "PSYCHOTROPIC" insert "IMPAIRING" 2 Strike line 30 3 Line 32. strike "ACID" Line 33. after "CATALYST" insert "OR NONINTOXICATING CANNABINOIDS DERIVED FROM 4 5 HEMP, INCLUDING CANNABIDIOL, CANNABINOL, CANNABIGEROL, CANNABICHROMENE, 6 CANNABICYCLOL, CANNABIDIVARIN AND CANNABIVARIN" 7 Page 2. line 5. strike "PSYCHOTROPIC" insert "IMPAIRING" 8 Page 6, lines 5 and 8, strike "PSYCHOTROPIC" insert "IMPAIRING" 9 Strike line 16 Line 18, strike "ACID" 10 Line 19. after "CATALYST" insert "OR NONINTOXICATING CANNABINOIDS DERIVED FROM 11 HEMP. INCLUDING CANNABIDIOL. CANNABINOL. CANNABIGEROL. CANNABICHROMENE. 12 13 CANNABICYCLOL. CANNABIDIVARIN AND CANNABIVARIN" 14 Page 7, strike line 24 15 Page 8, between lines 5 and 6, insert: 16 "Sec. 4. Subject to the requirements of article IV, part 1, 17 section 1, Constitution of Arizona, section 36-2803, Arizona Revised 18 Statutes, is amended to read: 19 36-2803. Rulemaking; notice; testing of marijuana and 20 marijuana products; fees 21 A. The department shall adopt rules: 22 Governing the manner in which the department considers petitions 23 from the public to add debilitating medical conditions or treatments to the 24 list of debilitating medical conditions set forth in section 36-2801. 25 paragraph 3, including public notice of, and an opportunity to comment in a 26 public hearing on, petitions.

- 1 -

- 2. Establishing the form and content of registration and renewal applications submitted under this chapter.
- 3. Governing the manner in which the department considers applications for and renewals of registry identification cards.
- 4. Governing nonprofit medical marijuana dispensaries to protect against diversion and theft without imposing an undue burden on nonprofit medical marijuana dispensaries or compromising the confidentiality of cardholders, including:
- (a) The manner in which the department considers applications for and renewals of registration certificates.
- (b) Minimum oversight requirements for nonprofit medical marijuana dispensaries.
- (c) Minimum recordkeeping requirements for nonprofit medical marijuana dispensaries.
- (d) Minimum security requirements for nonprofit medical marijuana dispensaries, including requirements to protect each registered nonprofit medical marijuana dispensary location by a fully operational security alarm system.
- (e) Procedures for suspending or revoking the registration certificate of nonprofit medical marijuana dispensaries that violate this chapter or the rules adopted pursuant to this section.
- 5. Establishing application and renewal fees for registry identification cards, nonprofit medical marijuana dispensary registration certificates and independent third-party laboratory certificates, according to the following:
- (a) The total amount of all fees shall generate revenues that are sufficient to implement and administer this chapter, except that fee revenue may be offset or supplemented by private donations.
- (b) Nonprofit medical marijuana dispensary application fees may not exceed \$5,000.

- 2 -

2

3

5

6

7

8

9

10

11

12

1314

15

16

17

1819

20

21

22

23

24

25

26

27

2829

30

31

- (c) Nonprofit medical marijuana dispensary renewal fees may not exceed \$1,000.
- (d) The total amount of revenue generated from nonprofit medical marijuana dispensary application and renewal fees, registry identification card fees for nonprofit medical marijuana dispensary agents and independent third-party laboratory agents and application and renewal fees for independent third-party laboratories shall be sufficient to implement and administer this chapter, including the verification system, except that the fee revenue may be offset or supplemented by private donations.
- (e) The department may establish a sliding scale of patient application and renewal fees that are based on a qualifying patient's household income and that are reasonable and related to the actual costs of processing applications and renewals.
- (f) The department may consider private donations under section 36-2817 to reduce application and renewal fees.
- B. The department of health services shall adopt rules that require each nonprofit medical marijuana dispensary to display in a conspicuous location a sign that warns pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report. The rules shall include the specific warning language that must be included on the sign. The cost and display of the sign required by rule shall be borne by the nonprofit medical marijuana dispensary. The rules shall also require each certifying physician to attest that the physician has provided information to each qualifying female patient that warns about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.

- 3 -

- C. The department is authorized to adopt the rules set forth in subsections A and B of this section and shall adopt those rules pursuant to title 41, chapter 6.
- D. The department of health services shall post prominently on its public website a warning about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report.
- E. Before selling or dispensing marijuana or marijuana products to registered qualified patients or registered designated caregivers, nonprofit medical marijuana dispensaries shall test marijuana and marijuana products for medical use to determine unsafe levels of contamination, including unsafe levels of microbial contamination, heavy metals, pesticides, fungicides, growth regulators and residual solvents and confirm the potency of the marijuana to be dispensed. The dried flowers of the marijuana plant are not required to be tested for residual solvents. If a nonprofit medical marijuana dispensary's test results for heavy metals comply with the prescribed requirements for a period of six consecutive months, heavy metal testing for that dispensary's marijuana and marijuana products is required only on a quarterly basis.
 - F. Nonprofit medical marijuana dispensaries shall:
- 1. Provide test results to a registered qualifying patient or designated caregiver immediately on request.
- 2. Display in a conspicuous location a sign that notifies patients of their right to receive the certified independent third-party laboratory test results for marijuana and marijuana products for medical use.
- G. The department shall adopt rules to certify and regulate independent third-party laboratories that analyze marijuana cultivated for medical use. The department shall establish certification fees for laboratories pursuant to subsection A of this section. In order to be

- 4 -

certified as an independent third-party laboratory that is allowed to test marijuana and marijuana products for medical use pursuant to this chapter, an independent third-party laboratory:

- 1. Must meet requirements established by the department, including reporting and health and safety requirements.
- 2. May not have any direct or indirect familial or financial relationship with or interest in a nonprofit medical marijuana dispensary or related medical marijuana business entity or management company, or any direct or indirect familial or financial relationship with a designated caregiver for whom the laboratory is testing marijuana and marijuana products for medical use in this state.
 - 3. Must have a quality assurance program and standards.
- 4. Must have an adequate chain of custody and sample requirement policies.
- 5. Must have an adequate records retention process to preserve records.
- 6. Must establish procedures to ensure that results are accurate, precise and scientifically valid before reporting the results.
- 7. Must be accredited by a national or international accreditation association or other similar accrediting entity, as determined by the department.
- 8. Must establish policies and procedures for disposal and reverse distribution of samples that are collected by the laboratory.
- H. Through December 31, 2022, the department may conduct proficiency testing and remediate problems with independent third-party laboratories that are certified and regulated pursuant to this chapter and marijuana testing facilities that are licensed and regulated pursuant to chapter 28.2 of this title.
- I. Beginning January 1, 2023, the department shall conduct proficiency testing and remediate problems with independent third-party laboratories that are certified and regulated pursuant to this chapter and

- 5 -

- marijuana testing facilities that are licensed and regulated pursuant to chapter 28.2 of this title. The department may contract for proficiency testing with laboratories that have a national or international accreditation.
- J. For the purposes of subsections H and I of this section, remediation may include assessing civil penalties and suspending or revoking a laboratory's certification or a marijuana testing facility's license.
- 9 K. The department shall adopt rules that prescribe reasonable time 10 frames for testing marijuana and marijuana products.
- 11 L. NOTWITHSTANDING ANY OTHER LAW, A NONPROFIT MEDICAL MARIJUANA
 12 DISPENSARY MAY NOT ACQUIRE, CULTIVATE, POSSESS, MANUFACTURE, DELIVER,
 13 PROCESS, TRANSFER, TRANSPORT, SUPPLY, USE, SELL OR DISPENSE HEMP-DERIVED
- 14 MANUFACTURED IMPAIRING CANNABINOIDS."
- 15 Renumber to conform
- 16 Page 10, lines 6 and 9, strike "PSYCHOTROPIC" insert "IMPAIRING"
- 17 Strike line 17
- 18 Line 19, strike "ACID"
- 19 Line 20, after "CATALYST" insert "OR NONINTOXICATING CANNABINOIDS DERIVED FROM
- 20 HEMP, INCLUDING CANNABIDIOL, CANNABINOL, CANNABIGEROL, CANNABICHROMENE,
- 21 CANNABICYCLOL, CANNABIDIVARIN AND CANNABIVARIN"
- 22 Lines 36 and 37, strike "HEMP-DERIVED MANUFACTURED PSYCHOTROPIC CANNABINOIDS,"
- 23 Page 11, lines 1 and 2, strike ", HEMP-DERIVED MANUFACTURED PSYCHOTROPIC
- 24 CANNABINOIDS"
- 25 Line 23, strike ", and" insert "and"
- 26 Line 25, after "tinctures" strike remainder of line
- 27 Line 26, strike "PSYCHOTROPIC CANNABINOIDS"
- 28 After line 44, insert:
- "Sec. 7. Subject to the requirements of article IV, part 1,
- 30 section 1, Constitution of Arizona, section 36-2854, Arizona Revised
- 31 Statutes, is amended to read:

36-2854. Rules; licensing; early applicants; fees; civil penalty; legal counsel

- A. The department shall adopt rules to implement and enforce this chapter and regulate marijuana, marijuana products, marijuana establishments and marijuana testing facilities. Those rules shall include requirements for:
- 1. Licensing marijuana establishments and marijuana testing facilities, including conducting investigations and background checks to determine eligibility for licensing for marijuana establishment and marijuana testing facility applicants, except that:
- (a) An application for a marijuana establishment license or marijuana testing facility license may not require the disclosure of the identity of any person who is entitled to a share of less than ten percent of the profits of an applicant that is a publicly traded corporation.
- (b) The department may not issue more than one marijuana establishment license for every ten pharmacies that have registered under section 32-1929, that have obtained a pharmacy permit from the Arizona board of pharmacy and that operate within this state.
- (c) Notwithstanding subdivision (b) of this paragraph, the department may issue a marijuana establishment license to not more than two marijuana establishments per county that contains no registered nonprofit medical marijuana dispensaries, or one marijuana establishment license per county that contains one registered nonprofit medical marijuana dispensary. Any license issued pursuant to this subdivision shall be for a fixed county and may not be relocated outside of that county.
- (d) The department shall accept applications for marijuana establishment licenses from early applicants beginning January 19, 2021 through March 9, 2021. Not later than sixty days after receiving an application pursuant to this subdivision, the department shall issue a marijuana establishment license to each qualified early applicant. If the department has not adopted final rules pursuant to this section at the time

- 7 -

marijuana establishment licenses are issued pursuant to this subdivision, licensees shall comply with the rules adopted by the department to implement chapter 28.1 of this title except those that are inconsistent with this chapter.

- (e) After issuing marijuana establishment licenses to qualified early applicants, the department shall issue marijuana establishment licenses available under subdivisions (b) and (c) of this paragraph by random selection and according to rules adopted pursuant to this section. At least sixty days before any random selection, the department shall prominently publicize the random selection on its website and through other means of general distribution intended to reach as many interested parties as possible and shall provide notice through an email notification system to which interested parties can subscribe.
- (f) Notwithstanding subdivisions (b) and (c) of this paragraph, and not later than six months after the department adopts final rules to implement a social equity ownership program pursuant to paragraph 9 of this subsection, the department shall issue twenty-six additional marijuana establishment licenses to entities that are qualified pursuant to the social equity ownership program.
- (g) Licenses issued by the department to marijuana establishments and marijuana testing facilities shall be valid for a period of two years. A dual licensee's initial renewal date, which will be the ongoing renewal date for both the dual licensee's marijuana establishment license and nonprofit medical marijuana dispensary registration, is the earlier of:
 - (i) The date of the marijuana establishment license renewal.
- (ii) The date of the nonprofit medical marijuana dispensary registration renewal.
- (h) Beginning September 29, 2021, the department may not issue a marijuana establishment or marijuana testing facility license to an applicant who has an ownership interest in an out-of-state marijuana

- 8 -

establishment or marijuana testing facility, or the other state's equivalent, that has had its license revoked by the other state.

- 2. Licensing fees and renewal fees for marijuana establishments and marijuana testing facilities in amounts that are reasonable and related to the actual cost of processing applications for licenses and renewals and that do not exceed five times the fees prescribed by the department to register or renew a nonprofit medical marijuana dispensary.
- 3. The security of marijuana establishments and marijuana testing facilities.
- 4. Marijuana establishments to safely cultivate, process and manufacture marijuana and marijuana products. Not later than December 31, 2023, the department shall require licensees to procure, develop, acquire and maintain a system to track marijuana and marijuana products at all points of cultivation, manufacturing and sale. The system developed and maintained pursuant to this paragraph shall:
- (a) Ensure an accurate accounting and reporting of the production, processing and sale of marijuana and marijuana products.
 - (b) Ensure compliance with rules adopted by the department.
 - (c) Be capable of tracking, at a minimum:
- (i) The propagation of immature marijuana plants and the production of marijuana by a marijuana establishment.
- (ii) The processing of marijuana and marijuana products by a marijuana establishment.
- (iii) The sale and purchase of marijuana and marijuana products between licensees.
- (iv) The transfer of marijuana and marijuana products between premises for which licenses have been issued.
 - (v) The disposal of marijuana waste.
- (vi) The identity of the person making the entry in the system and the time, date and location of each entry into the system, including any corrections or changes to that information.

- 9 -

- (vii) Any other information that the department determines is reasonably necessary to accomplish the duties, functions and powers of the department.
- (d) Contain a transactional stamp to ensure accuracy, provide for chain of custody of the information and foreclose tampering of the data, human error or intentional misreporting.
- 5. Tracking, testing, labeling consistent with section 36-2854.01 and packaging marijuana and marijuana products, including requirements that marijuana and marijuana products be:
- (a) Sold to consumers in clearly and conspicuously labeled containers that contain accurate warnings regarding the use of marijuana or marijuana products.
- (b) Placed in child-resistant packaging on exit from a marijuana establishment.
- 6. Forms of government-issued identification that are acceptable by a marijuana establishment verifying a consumer's age and procedures related to verifying a consumer's age consistent with section 4-241. Until the department adopts final rules related to verifying a consumer's age, marijuana establishments shall comply with the proof of legal age requirements prescribed in section 4-241.
- 7. The potency of edible marijuana products that may be sold to consumers by marijuana establishments at reasonable levels on consideration of industry standards, except that the rules:
- (a) Shall limit the strength of edible marijuana products to not more than ten milligrams of tetrahydrocannabinol per serving or one hundred milligrams of tetrahydrocannabinol per package.
- (b) Shall require that if a marijuana product contains more than one serving, it must be delineated or scored into standard serving sizes and homogenized to ensure uniform disbursement throughout the marijuana product.

- 10 -

- 8. Ensuring the health, safety and training of employees of marijuana establishments and marijuana testing facilities.
- 9. The creation and implementation of a social equity ownership program to promote the ownership and operation of marijuana establishments and marijuana testing facilities by individuals from communities disproportionately impacted by the enforcement of previous marijuana laws.
- 10. Prohibiting a marijuana testing facility from having any direct or indirect familial relationship with or financial ownership interest in a marijuana establishment or related marijuana business entity or management company. The rules shall include prohibiting a marijuana establishment from having any direct or indirect familial relationship with or financial ownership interest in a marijuana testing facility or related marijuana business entity or management company.
- 11. Requiring marijuana establishments to display in a conspicuous location a sign that warns pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding and the risk of being reported to the department of child safety during pregnancy or at the birth of the child by persons who are required to report. The rules shall include the specific warning language that must be included on the sign. The cost and display of the sign required by rule shall be borne by the marijuana establishment.
 - B. The department may:
- 1. Subject to title 41, chapter 6, article 10, deny any application submitted or deny, suspend or revoke, in whole or in part, any registration or license issued under this chapter if the registered or licensed party or an officer, agent or employee of the registered or licensed party does any of the following:
- (a) Violates this chapter or any rule adopted pursuant to this chapter.

- 11 -

- (b) Has been, is or may continue to be in substantial violation of the requirements for licensing or registration and, as a result, the health or safety of the general public is in immediate danger.
- 2. Subject to title 41, chapter 6, article 10, and unless another penalty is provided elsewhere in this chapter, assess a civil penalty against a person that violates this chapter or any rule adopted pursuant to this chapter in an amount not to exceed \$2,000 for each violation. Each day a violation occurs constitutes a separate violation. In determining the amount of a civil penalty assessed against a person, the department shall consider all of the factors set forth in section 36-2816, subsection H. All civil penalties collected by the department pursuant to this paragraph shall be deposited in the smart and safe Arizona fund established by section 36-2856.
- 3. At any time during regular hours of operation, visit and inspect a marijuana establishment, marijuana testing facility or dual licensee to determine if it complies with this chapter and rules adopted pursuant to this chapter. The department shall make at least one unannounced visit annually to each facility licensed pursuant to this chapter.
- 4. Adopt any other rules that are not expressly stated in this section and that are necessary to ensure the safe and responsible cultivation, sale, processing, manufacture, testing and transport of marijuana and marijuana products.
- C. Until the department adopts rules permitting and regulating delivery by marijuana establishments pursuant to subsection D of this section, delivery is unlawful under this chapter.
- D. On or after January 1, 2023, the department may, and not later than January 1, 2025 the department shall, adopt rules to permit and regulate delivery by marijuana establishments. The rules shall:
- 1. Require that delivery and the marijuana and marijuana products to be delivered originate from a designated retail location of a marijuana

- 12 -

establishment and only after an order is made with the marijuana establishment by a consumer.

- 2. Prohibit delivery to any property owned or leased by the United States, this state, a political subdivision of this state or the Arizona board of regents.
- 3. Limit the amount of marijuana and marijuana products based on retail price that may be in a delivery vehicle during a single trip from the designated retail location of a marijuana establishment.
- 4. Prohibit extra or unallocated marijuana or marijuana products in delivery vehicles.
- 5. Require that deliveries be made only by marijuana facility agents in unmarked vehicles that are equipped with a global positioning system or similar location tracking system and video surveillance and recording equipment, and that contain a locked compartment in which marijuana and marijuana products must be stored.
- 6. Require delivery logs necessary to ensure compliance with this subsection and rules adopted pursuant to this subsection.
- 7. Require inspections to ensure compliance with this subsection and rules adopted pursuant to this subsection.
- 8. Include any other provisions necessary to ensure safe and restricted delivery.
- 9. Require dual licensees to comply with the rules adopted pursuant to this subsection.
- E. Except as provided in subsection D of this section, the department may not permit delivery of marijuana or marijuana products under this chapter by any individual or entity. In addition to any other penalty imposed by law, an individual or entity that delivers marijuana or marijuana products in a manner that is not authorized by this chapter shall pay a civil penalty of \$20,000 per violation to the smart and safe Arizona fund established by section 36-2856. This subsection may be enforced by the attorney general.

- 13 -

- F. All rules adopted by the department pursuant to this section shall be consistent with the purpose of this chapter.
 - G. The department may not adopt any rule that:
- 1. Prohibits the operation of marijuana establishments, either expressly or through requirements that make the operation of a marijuana establishment unduly burdensome.
- 2. Prohibits or interferes with the ability of a dual licensee to operate a marijuana establishment and a nonprofit medical marijuana dispensary at shared locations.
- H. Notwithstanding section 41-192, the department may employ legal counsel and make an expenditure or incur an indebtedness for legal services for the purposes of:
 - 1. Defending this chapter or rules adopted pursuant to this chapter.
- 2. Defending chapter 28.1 of this title or rules adopted pursuant to chapter 28.1 of this title.
- I. The department shall deposit all license fees, application fees and renewal fees paid to the department pursuant to this chapter in the smart and safe Arizona fund established by section 36-2856.
- J. On request, the department shall share with the department of revenue information regarding a marijuana establishment, marijuana testing facility or dual licensee, including its name, physical address, cultivation site and transaction privilege tax license number.
 - K. Notwithstanding any other law, the department may:
- 1. License an independent third-party laboratory to also operate as a marijuana testing facility.
 - 2. Operate a marijuana testing facility.
- L. The department shall maintain and publish a current list of all marijuana establishments and marijuana testing facilities by name and license number.
- M. Notwithstanding any other law, the issuance of an occupational, professional or other regulatory license or certification to a person by a

- 14 -

- jurisdiction or regulatory authority outside this state does not entitle that person to be issued a marijuana establishment license, a marijuana testing facility license, or any other license, registration or certification under this chapter.
 - N. Until the department adopts rules as required by subsection A, paragraph 10 of this section:
 - 1. A marijuana testing facility is prohibited from having any direct or indirect familial relationship with or financial ownership interest in a marijuana establishment or related marijuana business entity or management company.
 - 2. A marijuana establishment is prohibited from having any direct or indirect familial relationship with or financial ownership interest in a marijuana testing facility or related marijuana business entity or management company.
- 15 O. NOTWITHSTANDING ANY OTHER LAW, A MARIJUANA ESTABLISHMENT MAY NOT
 16 ACQUIRE, CULTIVATE, POSSESS, MANUFACTURE, DELIVER, PROCESS, TRANSFER,
 17 TRANSPORT, SUPPLY, USE, SELL OR DISPENSE HEMP-DERIVED MANUFACTURED
 18 IMPAIRING CANNABINOIDS."
- 19 Renumber to conform

6 7

8

10

11

12

13

14

- 20 Page 13, line 23, strike "PSYCHOTROPIC" insert "IMPAIRING"
- 21 Page 16, line 10, after "36-2801," insert "36-2803,"; after "36-2850," insert 22 "36-2854."
- 23 Amend title to conform

DAVID GOWAN

1715FloorGOWAN.docx 03/09/2022 4:00 PM C: MH