



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

VETOED

AMENDED

FACT SHEET FOR H.B. 1408

~~legislative subpoenas; records; penalties~~
~~(NOW: legislative subpoena; records; privilege)~~
(NOW: medical marijuana; research; mental health)

Purpose

As passed by the Senate, S.B. 1408 prohibited specified county election material from being deemed privileged, confidential or protected from disclosure pursuant to a subpoena.

The House of Representatives adopted a strike-everything amendment that does the following:

Purpose

Requires the Department of Health Services (DHS) to provide grant monies from the Medical Marijuana Fund (Fund) for research on the correlation of marijuana use and mental illness. Transfers Fund monies in FY 22 as outlined. Requires DHS to develop warning labels to be affixed to marijuana packaging. Contains requirements for enactment for initiatives and referendums (Proposition 105).

Background

In 2010, Arizona voters approved the Arizona Medical Marijuana Act to establish a regulatory system, overseen by the Department of Health Services (DHS), that allows a dispensary to dispense a permissible amount of medical marijuana to a qualifying patient or the qualifying patient's designated caregiver. In 2020, Arizona voters approved Proposition 207 to establish a regulatory system for the use of marijuana by a person who is at least 21 years old ([Proposition 207](#); [A.R.S. Title 36, Chapter 28.2](#)).

DHS administers the Fund which consists of application and renewal fees from dispensaries, civil penalties and private donations received pursuant to the AMMA. The Director of DHS is authorized to accept and spend private gifts, donations, contributions and devises to assist in carrying out the requirements of the AMMA. Fund monies are continuously appropriated and do not revert to the state General Fund at the end of a fiscal year. According to the Joint Legislative Budget Committee, the year-end Fund balance in FY 2020 was \$92,503,800 ([A.R.S. § 36-2817](#); [JLBC Baseline](#)).

Statute requires DHS to advance research relating to: 1) the causes, epidemiology and diagnosis of diseases; 2) the formulation of cures for diseases; and 3) the development of medically accepted treatment and prevention of diseases, including the discovery and development of new drugs. ABRC identifies and supports innovative biomedical research to improve the health of Arizona residents. Funding is provided through a competitive grant process to accelerate promising research toward clinical testing and breakthroughs ([A.R.S. § 36-272](#); [DHS](#)).

Dispensaries are required to test medical marijuana products, prior to selling or dispensing marijuana or marijuana products to eligible individuals, in order to determine unsafe levels of contamination, heavy metals, pesticides, herbicides, fungicides, growth regulators and residual solvents and to confirm the marijuana's potency. DHS is currently required to adopt rules to certify and regulate independent third-party laboratories that analyze medical marijuana and is authorized to conduct proficiency testing and remediate problems with certified independent third-party laboratories. The statutory definition of *marijuana testing facility* refers to DHS or another entity that is licensed by DHS to analyze the potency of marijuana and test marijuana for harmful contaminants ([A.R.S. § 36-2850](#)).

There is no anticipated fiscal impact to the state General Fund (GF) associated with this legislation.

Provisions

1. Requires that patient application and renewal fees established by DHS be reasonable and related to the actual costs of processing applications and renewals.
2. Exempts the dried flowers of the marijuana plant from residual solvent testing requirements and removes herbicides from the list of contaminants for which marijuana and marijuana products must be tested.
3. Require DHS to develop a warning label that includes a statement that marijuana use may affect the health of a pregnant woman and the unborn child.
4. Directs DHS to require that the aforementioned label be affixed to any marijuana and marijuana product packaging.
5. Removes the requirement that a dispensary have a single secure entrance.
6. Permits DHS to visit and inspect marijuana dispensaries during regular operating hours as necessary to determine compliance with prescribed rules and regulations.
7. Requires DHS to provide grants from monies in the Fund for research on the correlation between marijuana use and mental illness, including psychosis and violent behavior.
8. Instructs the DHS Director to make a one-time transfer of \$250,000 from the to DHS to provide grants for marijuana research studies.
9. Obligates DHS to post all research conducted pursuant to a grant on its public website.
10. Requires DHS, after paying all FY 2022 administration and enforcement costs, to transfer the following amounts from the Fund and states that these monies do not revert to the state GF:
 - a) \$1,250,000 to DHS for suicide prevention;
 - b) \$1,250,000 to the Arizona Health Care Cost Containment System for suicide prevention;
 - c) \$2,000,000 to the Institute for Mental Health Research for research to improve mental health services, research and education in Arizona;

- d) \$2,000,000 to DHS for the primary care provider loan repayment program and the rural private primary care provider loan repayment program, with rural providers in the areas of mental health care and behavioral health care being prioritized if feasible and appropriate;
 - e) \$2,000,000 to the Board of Medical Student Loans, with students who intend to practice in the area of psychiatry or other areas of practice that treat mental illness being prioritized if feasible and appropriate;
 - f) \$5,000,000 to the county public health departments, in proportion to the population of each county, for the purposes of addressing important public health issues and communities affected by drug addiction and incarceration; and
 - g) \$1,000,000 to DHS for the health care directives registry.
11. Permits DHS to employ legal counsel to implement, advise or defend on the AMMA and rules and exempts DHS from requirements to utilize the Attorney General as counsel.
12. Exempts DHS from rulemaking for 36 months after the effective date of this legislation and requires DHS to provide the public with a reasonable opportunity to comment on proposed rules.
13. Makes technical, conforming and clarifying changes.
14. Requires for enactment the affirmative vote of at least three-fourths of the members of each house of the Legislature (Proposition 105)
15. Becomes effective on the general effective date.

Governor's Veto Message

The Governor indicates in his [veto message](#) that his priority at this time is the FY 2022 state budget.

House Action

HHS	3/22/21	W/D	
APPROP	3/24/21	DPA/SE	9-4-0-0
3 rd Read	5/25/21		60-0-0

Senate Action

Final Read	5/26/21	25-4-1-0
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Vetoed by the Governor 5/28/21

Prepared by Senate Research

June 3, 2021

CRS/gs