



# THE GRIN



SPECIAL EDITION

GILA RIVER INDIAN NEWS || www.GRICNEWS.org

JULY 15, 2022

## Proposed Legislation to Legalize Marijuana Within the Gila River Indian Community

Office of General Counsel  
Gila River Indian Community

This special edition of the Gila River Indian News (the "GRIN") is being published because the Legislative Standing Committee is considering proposed legislation that would decriminalize marijuana and permit medical marijuana. If the Legislative Standing Committee decides to move forward with the proposed legislation, it will be submitted to the Gila River Indian Community Council for consideration. The Community Council will have an opportunity to vote on the proposed legislation and if the legislation is approved, it will become the law of the Gila River Indian Community.

Starting in 2019, the Office of General Counsel (the "OGC") began meeting with various Community departments determined to be stakeholders in permitting the use of medical marijuana, and later the decriminalization of marijuana. The various departments provided feedback as to how they expect the proposed legislation to impact their department's functions. There has been ongoing contact between the departments and the OGC regarding the proposed legislation. Page 3 and 4 outline the remarks made by GRIC departments and stakeholders if this legislation is adopted.

In accordance with the pre-adoption notification procedures in Title 8, Chapter 7 of the GRIC Code, copies of the proposed Code sections were published in the GRIN on Dec. 3, 2021 and Dec. 21, 2021 and posted at all district service centers. The OGC scheduled two Community outreach meetings with notices of the scheduled outreach meetings published in the GRIN on Jan. 24, 2022 and posted to the Community's Facebook page on Jan. 24, 2022 and Feb. 4, 2022. The OGC held two Community outreach meetings on Saturday, Feb. 5, 2022 (one meeting was at

**\*\* NOTICE OF PROPOSED LEGISLATION \*\***

**REVISIONS TO TITLE 5, CRIMINAL CODE, TO DECRIMINALIZE MARIJUANA AND TO ALLOW MEDICAL MARIJUANA ON THE GILA RIVER INDIAN RESERVATION**

The Legislative Standing Committee ("LSC") will be considering proposed revisions to Title 5 of the GRIC Code to decriminalize marijuana and allow medical marijuana on the Reservation at their regular meeting on Aug. 9, 2022 at 1:00 p.m. A copy of the proposed revisions to Title 5 of the GRIC Code in their entirety is available for review at each District Service Center, the Community Council Secretary's Office, or by contacting the Office of General Counsel at OGC.HelpDesk@gric.nsn.us

If you are interested in providing comments on the proposed revision of Title 5 of the GRIC Code, you may contact your Council representative or the LSC Chairperson at (520) 562-9720, or provide written comments by July 31, 2022 by email to the Office of General Counsel at OGC.HelpDesk@gric.nsn.us, or by mail to the Office of the General Counsel, P.O. Box 97, Sacaton, AZ 85147.

10:00 a.m. and the other meeting was at 1:00 p.m.). The outreach meetings were held via Webex. During the meetings, the OGC presented a copy of the proposed legislation and various departments provided information as to how the proposed legislation would affect their operations. The OGC provided all comments from Community members at the meetings and from Community members who emailed the OGC with comments regarding the proposed legislation to the Legislative Standing Committee. This publication provides Community members another opportunity to review the proposed legislation (see pages 5-8) and provide comments to the Chair of the Legislative Standing Committee, your elected Community Council representatives, or the OGC.

**What does this Legislation mean for GRIC?**

Currently, the Gila River Indian Community (the "Community") has a zero tolerance policy on marijuana, and therefore does not permit medical marijuana or recreational marijuana on the Gila River Indian Reservation (the "Reservation").

If the proposed legislation is passed, it will permit medical

marijuana and will decriminalize possessing limited amounts of marijuana for individuals 21 years or older. This change will not affect the current Gila River Indian Community Employee Policies and Procedures Reference Guide. (See Departmental Remarks on page 3-4)

**Adult Use Marijuana**

This section of the proposed legislation, allows individuals 21 years or older, to possess, cultivate and use marijuana up to certain weight limits. An individual will be able to possess up to one ounce of marijuana as long as not more than five grams is in the form of marijuana concentrate. It would still be illegal to have more than one ounce of marijuana and the punishment varies depending on the weight of the marijuana. The use of marijuana remains illegal for individuals under the age of 21 years old.

Individuals will be able to possess up to six marijuana plants for personal use at your homesite as long as you meet certain conditions and are registered with the Department of Land Use Planning and Zoning. A homesite can have a maximum of six plants even if there are multiple residents who are 21 and older. The

plants will need to be in a locked, secure room that is hidden from public view and unable to be accessed by individuals under 21 years old. (See page 6)

**Medical Marijuana**

This section of the proposed legislation allows an individual to engage in the medical use of marijuana if they have a registry identification card issued by the Arizona Department of Health Services and possess an amount of marijuana at or below the allowable amount set by Arizona Revised Statutes § 36-2801(1)(a) (i). This amount is currently two and one-half ounces of usable marijuana. This section also allows a designated caregiver to possess marijuana and marijuana paraphernalia to assist a registered patient with their treatment

as long as it is at or below the allowable amount set by Arizona Statute. (See page 7)

Registered patients or designated caretakers will be able to possess no more than six marijuana plants at the registered patient's homesite as long as certain conditions are met and they are registered with the Department of Land Use Planning and Zoning. The plants will need to be in a locked, secure room that is hidden from public view and unable to be accessed by individuals under 21 years old.

**If you are 21 years old and over**

- You can possess 1 ounce or less of marijuana as long as not more than five (5) grams of marijuana be in the form of marijuana concentrate.

- You can possess up to six (6) marijuana plants for personal use at a homesite if the following conditions are met:

- One person is at least 21 years old
- The cultivation/ growing takes place in a locked, secure room that prevents access by individuals under 21.
- The plants are not visible from public view
- You register with the Department of Land Use Planning and Zoning and follow their policies and procedures.

It is still illegal for you to possess greater than one (1) ounce of marijuana. Depending on the amount of marijuana, you can be guilty of a petty offense, misdemeanor or a felony. (See below for details)

Amount of marijuana	Offense
Greater than 1 ounce, less than 2.5 ounces. (no more than 12.5 ounces is in the form of marijuana concentrate)	Petty Offense - only a fine is authorized. The fine shall be no more than \$300
Greater than 2.5 ounces, less than 2 pounds	Category I Misdemeanor
Greater than 2 pounds	Category II Felony

Above are the penalties for possession of criminal amounts of marijuana if the proposed legislation is adopted.

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# MARIJUANA LEGISLATION FREQUENTLY ASKED QUESTIONS

## What happens next?

The proposed revisions of the code are going through the legislative process. The Legislative Standing Committee ("LSC") will be considering the proposed revisions to Title 5 of the GRIC Code to decriminalize marijuana and allow medical marijuana on the Reservation at their regular meeting on **Aug. 9, 2022** at 1:00 p.m.

If the LSC wants to move forward with the proposed revisions and is satisfied that the pre-adoption notification procedures required by Title 8, Chapter 7 of the GRIC Code were properly followed, the proposed code revisions will be sent to the Gila River Indian Community Council for approval.

## Can I provide comments or feedback on the proposed legislation?

Yes, If you are interested in providing comments on the proposed revisions of Title 5 of the GRIC Code, you may contact your Council representative or the LSC Chairperson at (520) 562-9720, or provide written comments by email to the Office of General Counsel at [OGC.HelpDesk@gric.nsn.us](mailto:OGC.HelpDesk@gric.nsn.us), or by mail to the Office of the General Counsel, P.O. Box 97, Sacaton, AZ 85147. Any written comments need to be received by **July 31, 2022** in order to be provided to LSC prior to the Aug. 9, 2022 meeting.

## I am a Community employee, if this legislation passes does this mean I will no longer be tested for marijuana as a condition of employment?

No, nothing in this legislation prevents the Gila River Indian Community and its entities from enforcing policies restricting the use of marijuana by employees or prospective employees.

## Will I be able to obtain a registry identification card and receive medical marijuana treatment through Gila River Health Care?

No, Gila River Health Care will not issue medical marijuana licenses, make medical marijuana referrals or provide medical marijuana treatment to any patients.

## There are multiple residents over the age of 21 living in my home, would we able to possess six marijuana plants each?

No, the limit of six marijuana plants is per homesite and not per person.

## I have a criminal conviction for the possession of marijuana in the Gila River Indian Community Court, will this proposed legislation drop that conviction from my criminal record?

No, this proposed legislation will not remove any old convictions for possession of marijuana as it was still illegal at the time the offense occurred. However, individuals can reach out to Defense Services Office at (520) 562-5700 to discuss the possibility of having the conviction expunged from their criminal record under GRIC Code § 5.409.



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# GRIC Departmental Remarks on Proposed Marijuana Legislation



During public outreach meetings various GRIC Departments and stakeholders provided their input and remarks on marijuana legalization and how it may affect their services.

The following statements are considerations to legalizing marijuana within the Gila River Indian Community.

## Department of Land Use Planning and Zoning

If marijuana is legalized, cultivation can be attained by registering and obtaining a permit, approved by the Department of Land Use Planning and Zoning.

No more than six plants per homesite will be allowed for cannabis cultivation and must be within a closeted space, room, green house or other enclosed area on the homesite.

All cultivation must be secured and are not to be visible or accessible to the public or anyone under the age of 21.

Registration packets would be made available from LUPZ and will include a FAQ sheet, checklist for requirements, request and registration forms, and homesite assignment and consent form from the assignee.

All applicants will be required to attend a class on cannabis cultivation and provide a completed certificate for registration.

If registration is approved by LUPZ, the registrant will receive a registration/permit and notice will be given to the Gila River Police Department along with registration/permit number and issued plant tags.

## Gila River Police Department



The Gila River Police Department presented concerns about public safety risks due to the legalization of medical/recreational marijuana in the Community such as an increase in DUI's, property crimes, and domestic violence related incidents.

While GRPD understands the reasonable use of medical marijuana, there are additional concerns for recreational marijuana use and abuse, such as unwanted second-hand smoke to a child or individual, and possible risk of a child ingesting marijuana (if edible) creating an increase to child endangerment and Child Protective Services cases.

## Department of Community Housing

The Department of Community Housing is funded by the U.S Department of Housing and Urban Development (HUD) and is required to comply and adhere to federal regulations.

Marijuana remains illegal at the federal level and any facility that receives federal funding cannot permit the use of marijuana.

Federal housing law allows landlords and public housing authorities to evict tenants who use marijuana in any form, and those convicted of marijuana offenses are mandated to be barred from federally assisted housing, according to the HUD 2014 Metcalf Memo.

DCH will not support the use of medical or recreational marijuana for individuals residing in Public Housing units managed by DCH.



## Department of Rehabilitation & Supervision

The Department of Rehabilitation & Supervision provided a statement to the Office of General Counsel, regarding potential impacts and concern for the legalization of medical and recreational marijuana in the Community.

Concerns of medical marijuana use among employees and inmates, "would increase safety and security risks in an inherently dangerous environment."

DRS further stated, "All jail employees must report to work without any lingering effects of impairment that can be caused by medical/recreational marijuana."

Concerns of inmates possessing and/or using marijuana while incarcerated could lead to disturbances and acts of gambling and bartering among other inmates.

## Protective Services Office

The Protective Services Office represents Tribal Social Services in child dependency cases in the Gila River Indian Community's Children's Court and prosecutes juvenile delinquency cases.

Legalizing marijuana could impact dependency cases and would be akin to alcohol abuse. While alcohol is legal, it can still be abused and lead to children being removed from the home and lead to the need for treatment to cure the chemical dependency.

Chemical dependency can affect results in cases and can result in violation of probation in delinquency cases. It can also affect reunification in child welfare cases.

Marijuana use remains illegal for anyone under the age of 21. Minors could be charged for possessing and/or using marijuana, or possessing and/or using paraphernalia to ingest marijuana.

Although there may be a legalization of medical and recreational marijuana, it still remains illegal under federal law.



## Gila River Health Care



Gila River Health Care also operates under a federal compact and is subject to federal law requirements, including prohibiting medical marijuana.

GRHC employees are restricted from the use of medical marijuana and GRHC cannot issue medical marijuana licenses, make medical marijuana referrals, or help with state paperwork to obtain such licenses or referrals.

Patients being treated with marijuana from an outside provider would need to forego that treatment while receiving care from GRHC. Use of medical marijuana may limit the types of medications and treatment that GRHC will be able to provide.

GRHC understands that there may be unique needs for residents of the Caring House Skilled Nursing facility. Elders with chronic pain may seek medical marijuana use, however the Caring House is also restricted from allowing any medical/recreational marijuana on the premises due to a federal compact.

## Human Resources Department



The Community's Employee Policies and Procedures Reference Guide explicitly states "the Community does not recognize or honor the use, possession, or transportation of medical marijuana as authorized [by] the laws of any state, including the State of Arizona." Gila River Indian Community Employee Policies and Procedures Reference Guide, Page 45 (revised Aug. 2015).

Our position in Human Resources, is to continue to apply the Drug and Alcohol policy, "Drug and Alcohol Abuse" Employee Policies and Procedures Reference Guide that states, "GRIC is dedicated to preserving a workplace that is free from the effects of drug and alcohol abuse and to assure that all employees who report for work any day of the week are fit for duty and do not abuse drugs or consume alcohol while at work or on GRIC Property."



## DRAFTED PROPOSED LEGISLATION PER TITLE 5, CHAPTER 12. CONTROLLED SUBSTANCES

### 5.1207. Possession, Use, or Production of Marijuana

A. Notwithstanding any other law, a person who is at least 21 years of age who possesses an amount of marijuana greater than one (1) ounce, but not more than two and one-half (2.5) ounces of marijuana, or more than twelve and one-half (12.5) grams is in the form of marijuana concentrate, is guilty of a petty offense.

B. Notwithstanding any other law, a person who is at least 21 years of age who possesses an amount of marijuana greater than two and one-half (2.5) ounces, but not more than two (2) pounds, or more than twelve and one-half (12.5) grams in the form of marijuana concentrate, is guilty of a category I misdemeanor.

C. Notwithstanding any other law, a person who is at least 21 years of age who possesses an amount of marijuana greater than two (2) pounds shall be guilty of a category II felony.

D. Notwithstanding any other law, a person who is under 21 years of age and who possesses, consumes, transports or transfers without remuneration one (1) ounce or less of marijuana, of which not more than five (5) grams is in the form of marijuana concentrate, or paraphernalia relating to the consumption of marijuana or marijuana products:

1. For a first violation, is guilty of a petty offense, and in the court's discretion, may be ordered to attend up to four (4) hours of drug education or counseling.
2. For a second violation, is guilty of a category III misdemeanor, and shall be ordered to attend at least four (4) and no more than eight (8) hours of drug education or counseling.
3. For a third or subsequent violation, is guilty of a category II misdemeanor.

E. A person who smokes marijuana in a public place or open space is guilty of a petty offense.

F. Notwithstanding any other law, any person who cultivates marijuana plants pursuant to section 5.1213.A.2 where they are visible from public view without using binoculars, aircraft or other optical aids or outside of an enclosed area that is equipped with a lock or other security device that prevents access by persons under 21 years of age is guilty of:

1. For a first violation, a petty offense.
2. For a second or subsequent violation, a category III misdemeanor.

G. A person who is under 21 years of age and who misrepresents the person's age to any other person by means of a written instrument of identification or who uses a fraudulent or false written instrument of identification with the intent to induce a person to sell or otherwise transfer marijuana or a marijuana product to the person who is under 21 years of age is guilty of:

1. For a first violation, a petty offense.
2. For a second violation, is guilty of a category III misdemeanor.
3. For a third or subsequent violation, is guilty of a category II misdemeanor.

H. A person who is under 21 years of age and who solicits another person to purchase marijuana or a marijuana product in violation of this chapter is guilty of:

1. For a first violation, a petty offense.
2. For a second violation, is guilty of a category III misdemeanor.
3. For a third or subsequent violation, is guilty of a category II misdemeanor.

#### 5.1207.1 Sale of Marijuana

A. A person commits the offense of sale of marijuana if he:

1. Possesses marijuana or marijuana concentrate in violation of this chapter;
2. Possesses, transports, cultivates, or processes marijuana in violation of this chapter; or
3. Transports for sale, or offers to transport for sale, sells, transfers or offers to sell or transfer marijuana in violation of this chapter.

B. The penalty for misdemeanor sale of marijuana shall be imprisonment not to exceed one year, or a fine of not less than \$1,000.00 but not more than \$5,000.00, or both.



## DRAFTED PROPOSED LEGISLATION PER TITLE 5, CHAPTER 12. CONTROLLED SUBSTANCES

C. The penalty for felony sale of marijuana shall be imprisonment not to exceed three years, or a fine of not less than \$5,000.00 but not more than \$15,000.00, or both.

HISTORY: GRIC Code §§5.702, 703 (2009).

Felony Comparability References: Ariz. Rev. Stat §13-3405.

### 5.1213. Adult Use Marijuana

A. Except as specifically and expressly provided in subsection C and notwithstanding any other law, the following acts by a person who is at least 21 years of age are lawful, are not an offense under the laws of the Community, may not constitute the basis for detention, search or arrest, and cannot serve as the sole basis for seizure or forfeiture of assets, for imposing penalties of any kind under the laws of the Community or for abrogating or limiting any right or privilege conferred or protected by the laws of the Community:

1. Possessing, consuming, purchasing, processing, transporting, or manufacturing by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis one (1) ounce or less of marijuana, except that not more than five (5) grams of marijuana may be in the form of marijuana concentrate.
  2. Possessing, transporting, cultivating or processing not more than six (6) marijuana plants for personal use at the person's homesite, and possessing, processing and manufacturing by manual or mechanical means, including sieving or ice water separation but excluding chemical extraction or chemical synthesis, the marijuana produced by the plants on the premises where the marijuana plants were grown if all of the following apply:
    - a. Not more than six (6) plants are produced at a homesite where at least one person is at least 21 years of age.
    - b. Cultivation takes place within a closet, room, greenhouse or other enclosed area on the grounds of the homesite equipped with a lock or other security device that prevents access by persons under 21 years of age.
    - c. Cultivation takes place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids.
    - d. The person cultivating the plants has registered with the Department of Land Use Planning and Zoning in accordance with the policies and procedures the Department of Land Use Planning and Zoning adopts to implement and enforce this subsection.
  3. Acquiring, possessing, manufacturing, using, purchasing, selling or transporting paraphernalia relating to the cultivation, manufacture, processing or consumption of marijuana or marijuana products.
  4. Assisting another person who is at least 21 years of age in any of the acts described in this subsection.
  5. Notwithstanding any other law, a person with metabolites or components of marijuana in the person's body is not guilty of violating Title 6, Chapter 6 unless the person is also impaired to the slightest degree.
- B. Notwithstanding any other law, the odor of marijuana or burnt marijuana does not by itself constitute reasonable articulable suspicion of a crime. This subsection does not apply when a law enforcement officer is investigating whether a person has violated Title 6, Chapter 6.

C. This chapter does not:

1. Allow driving, flying or boating while impaired to even the slightest degree by marijuana or prevent the Community from enacting and imposing penalties for driving, flying or boating while impaired to even the slightest degree by marijuana.
2. Allow a person who is under 21 years of age to purchase, possess, transport or consume marijuana or marijuana products.
3. Allow the sale, transfer or provision of marijuana or marijuana products to a person who is under 21 years of age.
4. Allow any person to:
  - a. Consume or smoke marijuana within 100 feet of a public place or open space.
  - b. Consume marijuana or marijuana products while driving, operating or riding in the passenger seat or compartment of an operating motor vehicle, boat, vessel, aircraft or another vehicle used for transportation.
  - c. Possess, consume or smoke marijuana on the grounds of any preschool, primary school, or secondary school, on a school bus, or in any correction facility.
5. Restrict the rights of the Community and its entities to maintain a drug- and-alcohol-free workplace or affect the ability of the Community to have workplace policies restricting the use of marijuana by employees or prospective employees.
6. Require the Community to allow or accommodate the use, consumption, possession, transfer, display, transportation, sale or cultivation of marijuana in a place of employment.
7. Prohibit the Community or any of its entities, enterprises, affiliates or subdivisions from prohibiting or regulating conduct otherwise allowed by this chapter when such conduct occurs on or in property that is occupied, owned, controlled or operated by the Community or any or any of its entities, enterprises, affiliates or subdivisions.



## DRAFTED PROPOSED LEGISLATION PER TITLE 5, CHAPTER 12. CONTROLLED SUBSTANCES

8. Restrict the rights of the Community, its entities, schools, day care centers, adult day care facilities, health care facilities or corrections facilities to prohibit or regulate conduct otherwise allowed by this chapter when such conduct occurs on or in their properties.
9. Restrict the ability of a person, partnership, limited liability company, private corporation, private entity or private organization of any character that occupies, owns or controls property on the Gila River Indian Reservation to prohibit or regulate conduct otherwise allowed by this chapter on or in such property.
9. Require a person to violate federal law or to implement or fail to implement a restriction on the possession, consumption, display, transfer, processing, manufacturing or cultivation of marijuana if by so doing the person will lose a monetary or licensing-related benefit under federal law.
10. Supersede or eliminate any existing rights or privileges of any person except as specifically set forth in this chapter.
11. Limit any privilege or right of a qualifying patient or designated caregiver under section 5.1214 of this chapter.

HISTORY: New Section

Ariz. Rev. Stat. Ann. § 36-2851 et seq.

### 5.1214. Medical Marijuana.

- A. There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana if the qualifying patient or designated caregiver possesses:
1. A Registry Identification Card issued in his or her name by the Arizona Department of Health Services pursuant to Arizona Revised Statutes § 36-2804.02, as the same may be amended from time to time; and
  2. An amount of marijuana that does not exceed the allowable amount of marijuana permitted pursuant to Arizona Revised Statutes § 36-2801(1)(a)(i), as the same may be amended from time to time.
- B. The presumption may be rebutted by evidence that the qualifying patient's conduct or the designated caregiver's conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to the Arizona Administrative Code § R9-17-201, as the same may be amended from time to time.
- C. A registered qualifying patient or designated caregiver is not subject to arrest, prosecution or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau:
1. For the registered qualifying patient's medical use of marijuana pursuant to this chapter, if the registered qualifying patient does not possess more than the allowable amount of marijuana permitted pursuant to Arizona Revised Statutes § 36-2801(1)(a)(i), as the same may be amended from time to time.
  2. For the registered designated caregiver assisting a registered qualifying patient to whom he or she is connected through the Arizona Department of Health Services registration process with the registered qualifying patient's medical use of marijuana pursuant to this chapter if the registered designated caregiver does not possess more than the allowable amount of marijuana permitted pursuant to Arizona Revised Statutes § 36-2801(1)(a)(i), as the same may be amended from time to time.
- D. No person may be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:
1. Providing a registered qualifying patient or a registered designated caregiver with drug paraphernalia for purposes of a qualifying patient's medical use of marijuana.
  2. Being in the presence or vicinity of the medical use of marijuana authorized under this chapter.
  3. Assisting a registered qualifying patient with administering marijuana as authorized by this chapter.
- E. A qualifying patient or a designated caregiver may possess, transport, cultivate, and process not more than six (6) marijuana plants at the qualified patient's homesite. The marijuana plants shall be contained within a closet, room, greenhouse or other enclosed area on the grounds of the homesite equipped with a lock or other security device that prevents access by persons under 21 years of age. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft or other optical aids. The qualifying patient or the designated caregiver must register with the Department of Land Use Planning and Zoning in accordance with the policies and procedures the Department of Land Use Planning and Zoning adopts to implement and enforce this subsection.
- F. This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal or other penalties for engaging in, the following conduct:
1. Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice.



# DRAFTED PROPOSED LEGISLATION

## PER TITLE 5, CHAPTER 12. CONTROLLED SUBSTANCES

2. Possessing or engaging in the medical use of marijuana:
  - a. On a school bus.
  - b. On the grounds of any preschool or primary or secondary school.
  - c. In any correctional facility.
  - d. On any form of public transportation.
  - e. In any public place, including the casinos.
3. Operating, navigating or being in actual physical control of any motor vehicle, aircraft or motorboat while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
4. Using marijuana except as authorized under this chapter.

HISTORY: New Section

Ariz. Rev. Stat. Ann. § 36-2801 et seq.

### 5.1215. Definitions as Used in this Chapter.

A. **Administer** means to apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person.

B. **Allowable amount of marijuana means:**

1. With respect to a qualifying patient:
  - a. The amount of marijuana permitted pursuant to Arizona Revised Statutes § 36-2801(1)(a)(i), as the same may be amended from time to time.
  - b. If the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana, six (6) marijuana plants kept pursuant to this chapter.
2. With respect to a designated caregiver, for each patient assisted by the designated caregiver under this chapter:
  - a. The amount of marijuana permitted pursuant to Arizona Revised Statutes § 36-2801(1)(b)(i), as the same may be amended from time to time..
  - b. If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana, six (6) marijuana plants kept pursuant to this chapter.
3. Does not include marijuana that is incidental to medical use, but is not usable marijuana.

C. **Controlled substance analogue** means, except as provided in subsection (c), a substance: (i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II; (ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or (iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

1. Controlled substance analogue does not include:
  - a. A controlled substance;
  - b. Any substance for which there is an approved new drug application; or
  - c. Any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

D. **Controlled substance** means any drug or other substance, or immediate precursor, included in Schedules I, II, III, IV, or V, of 21 U.S.C. § 812, including any future amendments to Schedules I through V, as may be enacted by Congress, or is listed in current or future schedules issued pursuant to authority vested in the Attorney General of the United States pursuant to 21 U.S.C. § 811. Controlled substance does not include distilled spirits, wine, malt beverages or tobacco. The term does not include marijuana, marijuana concentrate or any vapor-releasing substance that contains a toxic substance.

E. **Counterfeit substance** means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

F. **Crime of violence** means an offense that has an element the use, attempted use or threatened use of physical force against the person or property of another; or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

G. **Debilitating medical condition** means one or more of the following:

1. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, crohn's disease, agitation of alzheimer's disease or the treatment of these conditions.
2. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis.
3. Any other medical condition or its treatment added by the Arizona Department of Health Services pursuant to Arizona Revised Statutes § 36-2801.01.

H. **Designated caregiver** means a person who is authorized by the Arizona Department of Health Services pursuant to Arizona Revised Statutes § 36-2804.02 to assist a qualifying patient with medical use of marijuana.

I. **Manufacture** means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding packaging, or labeling of a drug or other substance in conformity with applicable Community, Federal or state law by a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted by the United States or the Community in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

J. **Marijuana** means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. Marijuana does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

K. **Marijuana concentrate** means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

L. **Open Space** means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

M. **Public place** means any enclosed area to which the public is invited or in which the public is permitted, including bars, casinos, common areas of multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotels and motels, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms.

N. **Qualifying patient** means a person who has been diagnosed by a physician as having a debilitating medical condition.

HISTORY: GRIC Code §5.701 (2009).