

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1049

As Engrossed: 1/25/2017

Bill Subtitle: TO AMEND THE DEFINITION OF "EXCLUDED FELONY OFFENSE" WITHIN THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016.

Basic Change :

Sponsor: Representative House

Engrossment 01/25/17 --- House Amendment 1 --- The amendment redefines "excluded felony offense" for purposes of licensure by the Medical Marijuana Commission, the Department of Health, and the Alcoholic Beverage Control Division. "Excluded felony offense" would mean a felony offense as determined by the jurisdiction where the felony offense occurred. The Medical Marijuana Commission, the Department of Health, and the Alcoholic Beverage Control Division would determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense when determining eligibility for licensure.

Original Bill --- HB1049 as originally introduced would have amended the Arkansas Medical Marijuana Amendment of 2016 to clarify the definition of "excluded felony offense" as well as the definition of "felony of violence". "Excluded felony offense" would have included a felony of violence and also a felony of moral turpitude, a felony of gross immorality, or dishonesty.

Revenue Impact :

None.

Taxpayer Impact :

The proposal defines "excluded felony offense" when determining eligibility for marijuana licensure.

Resources Required :

None.

Time Required :

None.

Procedural Changes :

None.

Other Comments :

None.

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1049

As Engrossed: 1/25/2017

Bill Subtitle: TO AMEND THE DEFINITION OF "EXCLUDED FELONY OFFENSE" WITHIN THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016.

Legal Analysis :

HB1049 amends the definition of "excluded felony offense" as defined by the Arkansas Medical Marijuana Amendment of 2016 ("Amendment"). The definition of "excluded felony offense" is used to determine the eligibility to be a designated caregiver, (governed by Arkansas Department of Health), a cultivation facility or dispensary licensee (governed by the Arkansas Medical Marijuana Commission) and individuals seeking to work in either a cultivation facility or dispensary (governed by Alcoholic Beverage Control Division).

The bill changes the definition of "excluded felony offense" from "a felony of violence" to strictly a "felony offense." It also retains the language contained in the Amendment exempting felony drug convictions with sentences completed more than ten years ago from the definition of "excluded felony offense". This bill provides similar restrictions on owning a cultivation facility or dispensary license as are placed on liquor licenses. Paring down the definition of "excluded felony offense" in this manner clarifies eligibility requirements and reduces the chance for subjective application of the law.

HB1049 (as engrossed: 1/25/2017) cures previous concerns regarding undefined terms and subjective waiver claims that could have given rise to litigation. This version of the bill also resolves earlier issues with improper delegation of power, as this bill gives each agency the final determination on whether the felonies are "excluded felony offenses" under Arkansas law.