

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title:

Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions

Ballot Summary:

Regulates marijuana (hereinafter "cannabis") for limited use and growing by persons twenty-one years of age or older. State shall adopt regulations to issue, renew, suspend, and revoke licenses for cannabis cultivation, product manufacturing, testing and retail facilities. Local governments may regulate facilities' time, place and manner and, if state fails to timely act, may license facilities. Does not affect compassionate use of low-THC cannabis, nor immunize federal law violations.

Article and Section Being Created or Amended:

Article X, Section 29

Full Text of the Proposed Amendment:

ARTICLE X, SECTION 29. Florida Cannabis Act —

(a) Purpose and findings.

(1) Short title. On the effective date of this amendment, it shall be known as the "Florida Cannabis Act."

(2) In the interest of the efficient use of law enforcement resources, enhancing revenue for public purposes, and individual freedom, the people of the State of Florida find and declare that the use of cannabis should be legal for persons twenty-one years of age or older.

(3) In the interest of the health and public safety of our citizenry, the people of the State of Florida further find and declare cannabis should be regulated in a manner similar to alcohol so that:

- a. Consumers will have to show proof of age before purchasing cannabis;
- b. Selling, distributing, or transferring cannabis to minors under the age of twenty-one shall remain illegal;
- c. Driving while impaired under the influence of cannabis shall remain illegal;
- d. Only legitimate, taxpaying business people will conduct sales of cannabis; and
- e. Cannabis sold in this state will be labeled and subject to additional regulations to ensure consumers are informed and protected.

(4) The people of the State of Florida further find and declare it is necessary to ensure consistency and fairness in the application of this section throughout the state and that, therefore, the matters addressed by this section are, except as specified herein, matters of statewide concern.

(b) Definitions. As used in this section, unless the context otherwise requires:

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- (1) "Applicant" means an individual person or any form of business that applies for a license to operate a cannabis establishment. Any person or business entity may hold multiple licenses, providing each license be applied for and renewed individually and independently of any other license.
- (2) "Business entity" means any form of business operation recognized under Florida law, including partnership that is registered to do business in Florida prior to filing for a license to operate a cannabis establishment.
- (3) "Cannabis" means all parts of the plant of the genus Cannabis, as defined in s. 893.02(3), Florida Statutes (2016). Nothing in this definition or this section shall be deemed to permit or prohibit the cultivation of the plant of the genus Cannabis as a raw material for use of its fiber or pectin, or its structural polymers (the polysaccharides cellulose and hemicelluloses and the aromatic polymer lignin) for any industrial purpose, including the preparation of functionalized textiles, or for any purpose other than human consumption.
- (4) "Cannabis cultivation facility" means an entity licensed to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, and to other cannabis cultivation facilities, but not to consumers.
- (5) "Cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store.
- (6) "Cannabis plant" means a plant, including, but not limited to, a seedling or cutting. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a cannabis plant.
- (7) "Cannabis product manufacturing facility" means an entity licensed to purchase cannabis; manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products to other cannabis product manufacturing facilities and to retail cannabis stores, but not to consumers.
- (8) "Cannabis products" means concentrated cannabis products and cannabis products that are comprised of cannabis and other ingredients intended for human consumption or human topical application, including but not limited to, edible products, infused products, ointments, and tinctures.
- (9) "Cannabis testing facility" means an entity licensed to analyze and certify the safety and potency of cannabis.
- (10) "Consumer" means a person twenty-one years of age or older who purchases cannabis or cannabis products for personal use by persons twenty-one years of age or older, but not for resale to others. Consumer does not include any form of business entity, partnership, or incorporation.

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(11) "Corporation" means any form of business entity, partnership, joint venture, limited liability company, cooperative, or other manner of incorporation.

(12) "County" means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

(13) "Department" means the Florida Department of Business & Professional Regulation or its successor agency.

(14) "Florida Cannabis Act" means this section of the Florida Constitution, and as may be codified.

(15) "Municipality" means a municipality created under general or special law or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

(16) "Retail cannabis store" means an entity licensed to purchase cannabis from cannabis cultivation facilities and cannabis products from cannabis product manufacturing facilities and to sell cannabis and cannabis products to consumers.

(c) Personal use of cannabis. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Florida law or the law of any county or municipality within Florida or be a basis for seizure or forfeiture of assets under Florida law for persons twenty-one years of age or older. These are minimum quantities, subject to increase by state, county, or municipal legislation, but not subject to decrease:

(1) Possessing, using, displaying, purchasing, or transporting cannabis, and cannabis products in quantities reasonably indicative of personal use or for use by household members;

(2) Growing six mature flowering cannabis plants per household member twenty-one years of age or older and possessing the harvest therefrom, provided the growing takes place indoors or in a locked greenhouse and the cannabis grown is not made available for sale; outdoor growing for personal consumption is not herein permitted statewide, but may be permitted locally if approved by legislation created at the county or municipal level; nothing in this subsection shall prevent the state legislature from creating laws that permit outdoor growing for personal consumption;

(3) Transfer of one ounce or less of cannabis without remuneration to a person who is twenty-one years of age or older;

(4) Allowing or restricting consumption of cannabis within a private business establishment or on its premises consistent with this section; or

(5) Assisting another person who is twenty-one years of age or older in any of the acts described in paragraphs (1) through (5) of this subsection.

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(d) Lawful operation of cannabis establishment. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Florida law or be a basis for seizure or forfeiture of assets under Florida law for persons twenty-one years of age or older:

(1) Possessing, displaying, or transporting cannabis or cannabis products; purchase of cannabis from a cannabis cultivation facility; purchase of cannabis or cannabis products from a cannabis product manufacturing facility; or sale of cannabis or cannabis product to consumers, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee or agent of a licensed retail cannabis store;

(2) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing cannabis; delivery or transfer of cannabis to a cannabis testing facility; selling cannabis to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store; or the purchase of cannabis from a cannabis cultivation facility, if the person conducting the activities described in this subsection has obtained a current, valid license to operate a cannabis cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis cultivation facility;

(3) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products; delivery or transfer of cannabis or cannabis products to a cannabis testing facility; selling cannabis or cannabis products to a retail cannabis store or a cannabis product manufacturing facility; the purchase of cannabis from a cannabis cultivation facility; or the purchase of cannabis or cannabis products from a cannabis product manufacturing facility, if the person conducting the activities described in this subsection has a current, valid license to operate a cannabis product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis product manufacturing facility;

(4) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering cannabis or cannabis products in connection with testing activities, if the person has obtained a current, valid license to operate a cannabis testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed cannabis testing facility; or

(5) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (1) through (5) of this subsection.

(e) Regulation of cannabis.

(1) No later than 6 months from the effective date, the department shall adopt regulations necessary for implementation of this section to include:

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- a. Procedures for the issuance, renewal, suspension, and revocation of a license to operate a cannabis establishment, with such procedures subject to all requirements of s. 120.54, Florida Statutes (2016) or as amended;
- b. Any license issued to an individual person shall only be issued to a person of good moral character who is not less than twenty-one years of age and who has resided in the United States for the preceding five years and who has been a U.S. citizen for the preceding five years or has established lawful permanent residence in the United States for the preceding five years as evidenced by a "Green Card" and has resided in the United States for the preceding five years.
- c. Any license issued to a business entity shall only be issued to a business entity of which all directors of a corporate applicant, members of a limited liability applicant, partners of a partnership applicant, or joint venturers of a joint venture applicant are of good moral character, are not less than twenty-one years of age, and at least 75% thereof have resided in the United States for the preceding five years and have been a U.S. citizen for the preceding five years or have established lawful permanent residence in the United States for the preceding five years as evidenced by a "Green Card" and have resided in the United States for the preceding five years;
- d. That in the case of an individual applicant, any license shall be issued only to a person who has been domiciled in the State of Florida for at least 6 months immediately prior to applying;
- e. That in the case of a business entity applicant, any license shall be issued only to business entities that can show at least 25% of the directors, members, partners, or joint venturor applicants have been domiciled in the State of Florida for at least 6 months immediately prior to applying;
- f. That no license under this section shall be issued to any person, director, member, partner, or joint venturor who has been convicted of a felony offense, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety. In making this determination the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include any felony conviction.
- g. In the case of a business entity applicant, the requirements stated in this subsection shall apply to each and every director, member, partner, or joint venturor in a business entity, but not to persons that are solely investors or owners; and

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h. The department may suspend or revoke a license under this section, or may refuse to issue a license under this section to:

1. Any person, firm, or corporation the license of which under this section has been revoked or has been abandoned after written notice that revocation or suspension proceedings had been or would be brought against the license;
2. Any corporation if an officer or director of the corporation has had her or his license under this section revoked or has abandoned her or his license after written notice that revocation or suspension proceedings had been or would be brought against her or his license; or
3. Any person who is or has been an officer or director of a corporation, or who directly or indirectly closely held an ownership interest in a corporation, the license of which has been revoked or abandoned after written notice that revocation or suspension proceedings had been or would be brought against the license.

i. Security requirements for cannabis establishments;

j. Requirements to prevent the sale or diversion of cannabis and cannabis products to persons under the age of twenty-one;

k. Labeling and packaging requirements for cannabis and cannabis products sold or distributed by a cannabis establishment;

l. Health and safety regulations and standards for the manufacture and testing of cannabis products and the cultivation of cannabis;

m. Guidelines on the advertising and display of cannabis and cannabis products; and

n. Civil penalties for the failure to comply with regulations made pursuant to this section.

(2) In order to protect consumer privacy, the department shall not require a consumer to provide a retail cannabis store with personal information other than government-issued identification to determine the consumer's age, and a retail cannabis store shall not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

(3) Nothing contained in this section shall be construed to create nor in any way limit any taxing authority to make, collect, administer, enforce or distribute any tax levy relating to this section under any taxing authority's power to tax authorized by the constitution or the laws of this state.

(4) No later than 6 months from the effective date, each county or municipality shall enact an ordinance or regulation specifying the entity within the county or municipality responsible for processing applications submitted for a license to operate a cannabis establishment within the boundaries of the county or municipality

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and for the issuance of any such license should the issuance by the county or municipality become necessary because of a failure by the department to adopt regulations pursuant to subsection (e)(1) or failure by the department to process a license application in accordance with subsection (e)(6).

(5) A county or municipality may enact ordinances or regulations not in conflict with this section or state regulations or legislation.

- a. Governing the time, place, manner, and number of cannabis establishment operations;
- b. Establishing procedures for the issuance, suspension, and revocation of a license issued by the county or municipality in accordance with subsections (e)(7) or (e)(8), such procedures to be subject to all requirements of s. 120.54, Florida Statutes (2016) or as amended; and
- c. Establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a cannabis establishment that may operate in such county or municipality, whether licensed by the state, a county or municipality.

(6) Each application for an annual license to operate a cannabis establishment shall be submitted to the department. The department shall:

- a. Begin accepting and processing applications 6 months from the effective date;
- b. Upon request by the county or municipality, immediately forward a copy of each application to the county in which the applicant desires to operate;
- c. Issue an annual license to the applicant between forty-five and ninety days after receipt of an application unless the department finds the applicant is not in compliance with regulations enacted pursuant to subsection (e)(1) or the department is notified by the relevant county or municipality that the applicant is not in compliance with subsection (e)(5) in effect at the time of application, provided, where a county or municipality has enacted a numerical limit on the number of cannabis establishments and a greater number of applicants seek licensing, the department shall solicit and consider input from the county or municipality as to the county or municipality's preference for licensure; and
- d. Upon denial of an application, notify the applicant in writing of the specific reason for its denial.

(7) If the department does not issue a license to an applicant within ninety days of receipt of the application filed in accordance with subsection (e)(6) and does not notify the applicant of the specific reason for its denial, or the specific reason as to why the applicant is not in compliance with regulations enacted pursuant to subsection (e)(1), in writing, within such time period, the applicant may resubmit the application directly to the county or municipality, pursuant to subsection (e)(5), and the county or municipality may issue an annual license to the applicant. A county or municipality issuing a license to an applicant shall do so within ninety days

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of receipt of the resubmitted application unless the county or municipality finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to subsection (e)(5) in effect at the time the application is resubmitted. The county or municipality shall notify the department if an annual license has been issued to the applicant. A license issued by a county or municipality in accordance with this subsection shall have the same force and effect as a license issued by the department in accordance with subsection (e)(6). A subsequent or renewed license may be issued under this subsection on an annual basis only upon resubmission to the county or municipality of a new application submitted to the department pursuant to subsection(e)(6), if the department does not issue a license to an applicant within ninety days of receipt of the application for a subsequent or renewed annual license filed in accordance with subsection (e)(6) and does not notify the applicant of the specific reason for its denial, or the specific reason as to why the applicant is not in compliance with regulations enacted pursuant to subsection (e)(1), in writing, within such time period. Nothing in this subsection shall limit such relief as may be available to an aggrieved party under ss. 120.56, 120.565, 120.569, 120.57, 120.573, or 120.574, Florida Statutes (2016) or as amended.

(8) If the department does not adopt regulations in accordance with subsection (e)(1), an applicant may submit an application directly to a county or municipality after 6 months from the effective date, and the county or municipality may issue an annual license to the applicant. A county or municipality issuing a license to an applicant shall do so within ninety days of receipt of the application, unless it finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to subsection (e)(5) in effect at the time of application, and shall notify the department if an annual license has been issued to the applicant. A license issued by a county or municipality in accordance with this subsection shall have the same force and effect as a license issued by the department in accordance with subsection (e)(6). A subsequent or renewed license may be issued under this subsection on an annual basis if the department has not adopted regulations in accordance with subsection (e)(1) at least ninety days prior to the date upon which such subsequent or renewed license would be effective or if the department has adopted regulations pursuant to subsection (e)(1) but has not, at least ninety days after the adoption of such regulations, issued the license pursuant to subsection (e)(6) and has not notified the applicant, in writing, of the specific reason for its denial.

(9) A county or municipality may prohibit the licensing of a cannabis establishment whether licensed by the department, county or municipality, providing the prohibition is approved by a vote of the electorate in a general election during an even numbered year. Grandfather clause. —If any county or municipality prohibits the licensing of any cannabis establishment under this subsection, any license issued prior to the effective date

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of any such county or municipal prohibition shall continue in full force, be subject to renewal, and in no way be affected by any post-licensing prohibition enacted under this subsection.

(f) Employers, driving, minors, control of property, and federal law.

(1) Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis in the workplace or to affect or repeal the ability of employers to have policies restricting the use of cannabis by employees during work hours.

(2) Nothing in this section is intended to allow driving while impaired by cannabis, nor shall this section prevent the state from criminal penalties pursuant to s. 316.193, Florida Statutes (2016) or as amended.

(3) Nothing in this section is intended to permit the transfer of cannabis, with or without remuneration, to a person under the age of twenty-one or to allow a person under the age of twenty-one to purchase, possess, use, transport, grow, or consume cannabis, except as otherwise permitted under state law or the Florida Constitution.

(4) Nothing in this section shall prohibit a person, employer, corporation or any other entity who occupies, owns or controls a residency or detention facility, whether public or private, when residence or detention is incidental to the provision of medical, geriatric, educational, counseling, rehabilitation, correctional, or similar services; transient occupancy in a hotel, condominium, motel, rooming house, or similar public lodging, or transient occupancy in a mobile home park; occupancy by a holder of a proprietary lease in a cooperative apartment; or occupancy by an owner of a condominium unit from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in that property.

(5) Nothing in this section purports to give immunity under federal law for possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis.

(g) The Florida Cannabis Act's effect on other Florida laws relating to cannabis or marijuana.

(1) Nothing in this section shall be construed to affect or repeal s. 112.0455, Florida Statutes (2016) (Drug-Free Workplace Act) except as stated herein.

(2) Nothing in this section shall be construed to affect or repeal s. 327.38, Florida Statutes (2016) (use of water skis, aquaplane, or similar device from a vessel while under the influence of marijuana).

(3) Nothing in this section shall be construed to limit or extend any privilege, right, or duty on the part of medical cannabis dispensing organizations, qualified patients, physicians, caregivers or any other persons, entities, or activities governed by Florida's Compassionate Use of low-THC Cannabis Act, s. 381.986 et seq., Florida Statutes (2016) or as amended.

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(4) The Florida Legislature shall, no later than 6 months from the effective date, revise s. 775.087(2)(a)1(q), Florida Statutes (2016) (actual possession of a firearm or destructive device) to qualify the word “cannabis” to accommodate possession consistent with this section.

(5) The Florida Legislature shall, no later than 6 months from the effective date, revise s. 775.087(3)(a)1(r), Florida Statutes (2016) or as amended (actual possession of a semiautomatic firearm and its high capacity detachable box magazine, or a machine gun) to qualify the word “cannabis” to accommodate possession consistent with this section.

(6) The Florida Legislature shall, no later than 6 months from the effective date, revise s. 812.14(6)(b), Florida Statutes (2016) or as amended (use of utility services to grow marijuana indoors) to accommodate use of utility services consistent with this section.

(7) The Florida Legislature shall, no later than 6 months from the effective date, revise ss. 893.145 -893.147, Florida Statutes (2016) or as amended, to qualify the definition of “drug paraphernalia,” the determination of paraphernalia, and the use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia consistent with this section, and shall otherwise revise, Chapter 893, Florida Statutes (2016) (drug abuse prevention and control) as needed to qualify and quantify cannabis possession and use consistent with this section.

(h) Self-executing, severability, conflicting provisions. All provisions of this section are self-executing except as specified herein. All provisions of this section are severable, and, except where otherwise indicated in the text, shall supersede conflicting state statutory, local charter, ordinance, or resolution, and other state and local provisions.

(i) Effective date. Except as otherwise provided herein, all provisions of this proposed amendment shall be effective as an amendment to the Constitution of the State of Florida on the first Tuesday after the first Monday in January following the election.

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