

**WARNING**

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER

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INITIATIVE PETITION

To the Honorable John Kevin Stitt, Governor of Oklahoma:

We the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed Amendment to the Constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the next regular general election (or at a special election as may be called by the Governor), and each for himself/herself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence is correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article 32 to the Oklahoma Constitution be approved?

BE IT ENACTED BY THE PEOPLE OF OKLAHOMA THAT A NEW ARTICLE 31 TO THE OKLAHOMA CONSTITUTION BE APPROVED:

CONSTITUTION OF OKLAHOMA, ARTICLE 32

THE OKLAHOMA MARIJUANA REGULATION AND RIGHT TO USE ACT

SECTION 1. Safeguarding Medical Marijuana

- (1) Nothing in this Article shall be construed to limit or abrogate any privilege, right, immunity or defense of medical marijuana patient licensees, caregiver licensees, or medical marijuana business licensees.

SECTION 2. Personal Rights and Protections

Possession

- (1) It shall be lawful for all persons twenty-one (21) years of age and older to grow, purchase, transport, transfer, receive, prepare and consume marijuana and marijuana products. It shall be lawful for all persons twenty-one (21) years of age and older to possess up to: twelve (12) marijuana plants; one (1) ounce by weight of concentrated marijuana; seventy-two (72) ounces by weight of topical marijuana; seventy-two (72) ounces by weight of edible marijuana; eight (8) ounces by weight of suppository marijuana; and eight (8) ounces by weight of commercially sold marijuana. These

amounts are cumulative. The legislature is permitted to increase these quantities as well as permit other forms of marijuana.

- (2) It shall be lawful for all persons twenty-one (21) years of age and older to purchase, possess and use marijuana paraphernalia.
- (3) Growing or processing amounts in excess of what this section permits for personal possession, or the distribution in any amount with consideration, shall require a business license issued by the agency responsible for regulating marijuana.

#### General Protection Language

- (4) No person shall be subject to arrest, prosecution or penalty in any manner under state law or municipal or county ordinance or resolution including without limitation a civil penalty or disciplinary action by a business, occupational or professional licensing board or bureau solely on the basis of conduct permitted under this Article.
- (5) No person shall be denied any form of healthcare, housing, employment, public assistance, public benefit, parental right, educational opportunity, extracurricular activity, licensure or licensed activity including but not limited to firearm use, firearm ownership and driving a motor vehicle solely on the basis of conduct permitted under this Article unless failure to do so would result in substantial imminent harm under federal law or regulations.
- (6) A bank, credit union, or other person or entity providing financial services to a licensed marijuana business in the State of Oklahoma shall not be liable pursuant to any state law or regulation solely for providing said financial services.
- (7) No person providing services to a marijuana business shall be subject to arrest, prosecution, disciplinary action, or penalty in any manner or denied any right or privilege under Oklahoma state, municipal or county statute, ordinance or resolution, including without limitation a civil penalty or disciplinary action by any business, occupational or professional licensing board or bureau, solely for providing services to businesses whose conduct is permitted under this Article.

#### Privacy

- (8) The handling of any records maintained by the agency responsible for regulating marijuana or by businesses licensed by or contracted with the agency responsible for regulating marijuana shall comply with all applicable state and federal privacy laws.

#### Impairment Testing

- (9) The mere presence of THC metabolites in a person's blood, urine, hair, hair follicle, or other body fluids or tissues carries no evidentiary weight with regards to current impairment or intoxication. No test which identifies the presence of THC metabolites in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as evidence of impairment or intoxication for the purposes of denying any form of healthcare, housing, employment, public assistance, license or licensed activity, public benefit, parental right, educational opportunity, or extracurricular activity.
- (10) No test which identifies the presence of THC metabolites or active THC in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as dispositive for the determination of any violation of federal or state law or local ordinance.

- (11) There is no presumption of impairment or intoxication solely on the basis of the use of marijuana, including the presence of active THC or THC metabolites. Proof of impairment requires confirmation of impairment through the use of cognitive, kinetic and/or behavioral evaluations, and all such tests shall be video recorded as evidence.

#### Employment

- (12) No employer may discipline, discharge, refuse to hire, or otherwise penalize an applicant or employee solely on the basis of conduct permitted under this Article. However, nothing in this Article shall be construed to exclude workplace policies which prohibit the use or being under the influence of marijuana during a work shift; and nothing in this Article shall be construed to prohibit the use of tests assessing the presence of active THC for the purpose of determining impairment.

#### Medical Care

- (13) For the purposes of medical care, including organ transplants, marijuana use does not constitute the use of an illicit substance or otherwise disqualify a marijuana user from medical care.
- (14) No medical practitioner shall deny or alter the treatment of a patient, including the prescribing of scheduled medications such as opioids or benzodiazepines, solely on the basis of conduct permitted under this Article, unless that denial or alteration is medically indicated.
- (15) It is within the standard of care for a medical practitioner with appropriate prescriptive authority to prescribe scheduled medications, including opioids and benzodiazepines, to patients without having to modify the patient's treatment solely on the basis of conduct permitted under this Article. No medical practitioner may be required by their employer to deny or alter the treatment of a patient solely on the basis of conduct permitted under this Article, unless that denial or alteration is medically indicated.

#### Parental Rights

- (16) For the purposes of assessing child endangerment, abuse or neglect, marijuana use does not constitute the use of an illicit substance. There is no presumption of endangerment, abuse or neglect solely on the basis of conduct permitted under this Article.
- (17) No person shall be denied custody of or visitation or parenting time with a minor solely on the basis of conduct permitted under this Article. There is no presumption of child endangerment, neglect or abuse solely on the basis of conduct permitted under this Article.
- (18) The mere presence of active THC or THC metabolites in birthing-related tissues is not solely in itself dispositive of child endangerment, abuse or neglect.

#### Licensure Rights (Firearms, Motor Vehicles, etc)

- (19) No conduct permitted under this Article shall be the basis for the denial, revocation or suspension of any state-issued license, including drivers' licenses, concealed carry permits, occupational or professional licensing.
- (20) Nothing in this Article shall be construed to permit operating a motor vehicle while impaired. Nothing in this Article shall be construed to prohibit testing for active THC as part of a determination of impairment. Nothing in this Article shall be construed to

prohibit the use of breathalyzers, blood tests or other technologies for assessing the presence of active THC. Nothing in this Article shall prohibit the use of cognitive, kinetic or behavioral tests for the purpose of determining impairment.

- (21) No licensee of the agency responsible for regulating marijuana shall be denied the right to own, purchase, possess or use a firearm, ammunition, or firearm accessories solely on the basis of conduct permitted under this Article.
- (22) No state or local agency, municipal or county governing authority shall restrict, revoke, suspend or otherwise infringe upon the right of a person to own, purchase or possess a firearm, ammunition, or firearm accessories or any related firearm license or certification solely on the basis of conduct permitted under this Article.
- (23) No state or local agency, municipal or county governing authority shall enforce or assist in enforcing a federal law that prohibits or restricts firearm use or ownership solely on the basis of conduct permitted under this Article.

#### Due Process and Equal Protection Rights

- (24) No person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing shall be punished, have their parole, probation or bail revoked, or otherwise be penalized solely on the basis of conduct permitted under this Article.
- (25) No conduct permitted under this Article shall constitute a reasonable articulable suspicion of any civil infraction or criminal act or be the basis for detention, search, or arrest; notwithstanding when law enforcement is investigating with a reasonable articulable suspicion that a person is operating a motor vehicle, motorboat, or other motorized form of transport while impaired.
- (26) Marijuana and marijuana products permitted for possession under this Article are not subject to seizure. This shall not be construed to prohibit law enforcement from such seizures on grounds outside the scope of conduct permitted under this Article.
- (27) No person shall be subject to increased punishment for any crime or civil infraction on the basis of any conduct permitted under this Article.

#### Local and Homegrow Rights

- (28) There shall be no additional licensing or fees related to homegrows. No municipal or county governing body or agency may charge any additional fees or require any additional licensing for homegrows.
- (29) No ordinance, regulation or statute relating to homegrows shall be unduly burdensome.
- (30) Municipal and county governing bodies shall not require additional licensing, permits or fees, or otherwise restrict or interfere with the rights of persons twenty-one (21) and older to possess, purchase, transport, transfer, receive, prepare, consume, or cultivate marijuana within the quantities permitted under this Article.
- (31) Nothing in this Article shall be construed to prohibit landlords from restricting homegrows or indoor smoking or vaping of marijuana or marijuana products in a private residence, except that a lease agreement shall not prohibit a tenant from lawfully possessing and consuming marijuana or marijuana products by means other than smoking or vaping. Nothing in this Article shall be construed to restrict business owners from prohibiting smoking or vaping of marijuana or marijuana products on their premises.

- (32) No ordinance, regulation or statute relating to the vaporization or smoking of cannabis shall be more restrictive than those relating to tobacco use.

### SECTION 3. No Further Regulatory Agency or Business Licenses Required

- (1) The same agency responsible for the regulation of medical marijuana is hereby authorized to regulate marijuana activities related to this Article.
- (2) All licensed marijuana dispensaries shall, sixty (60) days after the passage of this Article, be permitted to sell marijuana and marijuana products not only to all medical marijuana patient licensees and caregiver licensees, but also to all persons twenty-one (21) years of age and older.
- (3) Within one hundred and eighty (180) days of the passage of this Article, the agency responsible for regulating marijuana shall adopt regulations authorizing the residential delivery of marijuana and marijuana products.
- (4) Unless otherwise specified in this Article, there shall be no further licenses, fees or registrations required by a state agency, county or municipal government in order for medical marijuana business licensees to engage in business activities of the same business license type and at the same location for conduct related to this Article.

### SECTION 4. Taxes and Expenditures

- (1) The excise tax rate for marijuana and marijuana products purchased by persons without a valid Oklahoma medical marijuana patient license or Oklahoma caregiver license shall be fifteen percent (15%). This rate of fifteen percent (15%) may be lowered by the Oklahoma State Legislature. This tax shall be collected at the point of retail sale.
- (2) The Oklahoma Tax Commission shall be responsible for collecting this tax and for directing it to the fund managed by the agency responsible for regulating marijuana. Revenue in this fund shall first provide for the operational costs of the agency responsible for the regulation of marijuana in addition to the expenditures from the fund as specified in this section.
- (3) One hundred and eighty (180) days after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from seven percent (7%) to five percent (5%).
- (4) Two hundred and seventy (270) days after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from five percent (5%) to three percent (3%).
- (5) One (1) year after the passage of this Article, the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall be reduced from three percent (3%) to zero percent (0%).
- (6) Ten percent (10%) of the gross collection of the excise tax on retail marijuana sales shall be made available to the Oklahoma Water Resources Board for infrastructure financing programs to foster water supply reliability and economic and environmental resiliency.
- (7) Five percent (5%) of the gross collection of the excise tax on retail marijuana sales shall be transferred to the Department of Human Services to provide for Home and

Community-Based Services Waiver Programs for the benefit of persons with physical and developmental disabilities.

- (8) Five percent (5%) of the gross collection of the excise tax on retail marijuana sales shall be made available to agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment and to support job placement, housing, and counseling for those with substance use disorders.
- (9) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be set aside for the purpose of providing grants for prevention, treatment and recovery services related to addiction and mental health in the State of Oklahoma. Preference shall be given to those grant applications which directly provide benefits and services to honorably discharged members of the United States Military or the National Guard of any state. The OSCC may enter into an MOU with the Oklahoma Department of Mental Health and Substance Abuse Services for the purpose of overseeing this program. All such grants and any funding provided by the OSCC must be approved by the Board.
- (10) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be used to support mental health crisis training for law enforcement officers approved by the Oklahoma Department of Mental Health and Substance Abuse Services and administered by CLEET. This training shall be an annual mandatory minimum of eight (8) hours for all law enforcement officials certified by CLEET.
- (11) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be held in a fund for the purpose of providing grants to counties and municipalities for emergency mental health response programs. The OSCC shall make grant applications available within one (1) year of passage of this Article. All such allocation of funds authorized by the OSCC hereunder must be approved by the Board.
- (12) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be allotted and transferred into a Research Fund. These funds may be made available to Research or Education licensees for uses including but not limited to the research, study, production, development and testing of plant based medicinal, agricultural and industrial applications. The OSCC shall establish an application procedure and requirements for use of such funds by a research and/or educational licensee. All such allocation of funds authorized by the OSCC must be approved by the Board.
- (13) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be placed into a Rural Impact and Urban Waste Remediation Program Fund. The DEQ shall be responsible for administration of these funds through the Rural Impact and Waste Remediation Program as established in this Article and further directed by the Legislature.
- (14) Three percent (3%) of the gross collection of the excise tax on marijuana retail sales shall be placed into a fund to be established by the Department of Agriculture to provide mitigation support efforts and insurance related to crop damage caused by accidental overspray of pesticides, herbicide, and fungicides. The Department of Agriculture may enter into all necessary MOUs with any other state agency and the state Insurance Commissioner necessary to carry out the intended purposes of this section. These funds shall remain part of the insurance and mitigation fund and shall not be swept into the Oklahoma General Revenue Fund unless approved by a super majority of the Oklahoma Legislature on a bill having originated in the Oklahoma House of Representatives.

- (15) Three percent (3%) of the gross collection of the excise tax on retail marijuana sales shall be used to fund grants to pay for the expungement program outlined in section 5 of this Article.
- (16) Any unused funding for the allocations set forth in this Article shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (17) All taxes and fees collected by the agency responsible for the regulation of marijuana not utilized for the purposes specified in this Article shall transfer to the State General Revenue Fund. Seventy-five percent (75%) of such transferred funds shall only be expended for common education, unless otherwise specified in this Article.
- (18) Should the interstate transport or international export of marijuana or marijuana products be permitted by federal or state action, there shall be a three percent (3%) wholesale tax on all marijuana and marijuana products exported to entities outside of Oklahoma.
- (19) Funds generated by the three percent (3%) wholesale tax shall be collected by the Oklahoma Tax Commission and shall be deposited in the State General Revenue Fund.
- (20) Counties and municipalities shall not impose any additional taxes, fees, permits, charges or restrictions specific to any business or consumer activities regulated hereunder, unless otherwise specified in this Article. Counties and Municipalities may impose an annual registration or certificate of compliance fee of up to one hundred dollars (\$100).
- (21) Neither the excise tax designated in this Article for retail sales or state, county or municipal sale taxes in the State of Oklahoma shall apply to wholesale sales taxed as specified in this section.

#### SECTION 5. Retroactivity

- (1) Within one hundred and eighty (180) days of the passage of this Article, the Oklahoma Department of Corrections shall make publicly available a list of all persons currently incarcerated for any marijuana-related convictions issued by an Oklahoma court. Unless records are otherwise sealed, that list shall include the case number, specific charges and duration of sentence. The Oklahoma Department of Corrections may request reimbursement for any costs related to this directive from the agency responsible for the regulation of marijuana.
- (2) A person currently serving a sentence for a conviction, whether by trial or by plea of guilty or nolo contendere, whose conduct would have been lawful had this Article been in effect at the time of the offense, may file a petition for resentencing, reversal of conviction and dismissal of case, or modification of judgment and sentence before the trial court that entered the judgment of conviction in the person's case to request resentencing, modification, or reversal in accordance with this Article.
- (3) A person who has completed his or her sentence for a conviction, whether by trial or plea of guilty or nolo contendere, whose conduct would have been lawful had this Article been in effect at the time of the offense, may file a petition before the trial court that entered the judgment of conviction in the person's case to have the conviction dismissed, expunged, and vacated as legally invalid in accordance with this Article.
- (4) Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for dismissal, expungement, vacatur, resentencing, modification, or reversal, as applicable, and without delay resentence or reverse the conviction as legally invalid, modify the judgment and sentence, or expunge and vacate the charges.

- (5) Nothing in this section shall be construed to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant. The provisions of this section shall apply equally to juvenile cases as if the juvenile had been of legal age at the time of the offense. A completed expungement shall automatically restore the person's rights to possess and use firearms. A completed expungement of marijuana related felony convictions shall also automatically restore the person's right to vote.
- (6) Nothing in this section shall be construed as limiting the authority of the Legislature to make the process for ensuring retroactive application of this Article less burdensome or automatic for persons currently serving sentences or under criminal justice supervision or who have been previously convicted for conduct now permitted or reclassified under this Article, or to reduce or eliminate civil or criminal penalties for any cannabis-related conduct beyond what is set forth in this Article.

#### SECTION 6. Relations to Federal Law

- (1) Should the federal government legalize marijuana, then the State of Oklahoma shall have no restrictions on such conduct greater than the restrictions set under federal law.
- (2) Should the federal government legalize marijuana, the possession quantities permitted in this Article shall be raised to the maximums permitted by federal law. Should the federal government legalize marijuana, but not set specific possession maximums, the legislature shall determine maximum limits but they shall not be below the maximums indicated in this Article.
- (3) Should the federal government legalize marijuana, the Oklahoma Bureau of Narcotics and Dangerous Drugs shall retain the authority to enforce marijuana laws in Oklahoma. The Legislature shall have the power to change the agency responsible for enforcing marijuana laws and regulations.
- (4) Should federal action be taken to allow for the interstate transfer of marijuana, or a relevant court precedent occurs limiting federal supremacy or expanding states' rights, or the United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of marijuana and marijuana products, then said transfer shall be permitted by the State of Oklahoma. Such transfers must be in compliance with the laws and regulations of both the origin and destination states. The Legislature by statute and the Governor by executive order are further authorized to permit the interstate transfer of marijuana and marijuana products.

#### SECTION 7. Judicial Review

- (1) Any rule or regulation adopted pursuant to this Article must comply with the Oklahoma Administrative Procedures Act. Any person aggrieved by a final agency order is entitled to seek judicial review in accordance with Oklahoma law. If the regulatory agency fails to timely promulgate rules required by this Article, any resident of the state may commence a mandamus action in district court to compel performance by the regulatory agency in accordance with this Article.

#### SECTION 8. Legislative Authority

- (1) In addition to the specific provisions indicated herein whereby the Legislature is authorized to enact laws that modify provisions of this Article by simple majority, the Legislature is further authorized to enact laws that modify the following provisions



within this Article by way of a supermajority vote of seventy-five percent (75%) in both the House and Senate as well as the signature of the Governor: section 4, paragraphs 6-11, 13-14 and 18-21.

#### SECTION 9. Severability

- (1) The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.

#### SECTION 10. Effective Date

- (1) This Article shall become effective immediately upon its passage.

#### SECTION 11. Definitions

- (1) "Active THC" means unmetabolized tetrahydrocannabinol, as present in a person's body fluids or tissues, in contrast to its metabolites.
- (2) "Agency responsible for regulating marijuana" means the Oklahoma Medical Marijuana Authority or its successor(s) as established in law.
- (3) "Marijuana" means the flower of a female cannabis plant that contains more THC on a dry weight basis than does hemp as defined by federal law.
- (4) "Marijuana Product" means a product containing cannabinoids extracted from marijuana by physical or chemical means.
- (5) "Person" means a natural person and does not include any partnership, trust, estate, corporation, association, or any other non-natural person as created by operation of law.
- (6) "THC" means delta-9-tetrahydrocannabinol, the principal psychoactive constituent of cannabis, along with its double bond isomers and stereoisomers. For the purposes of this Article, THC excludes tetrahydrocannabinols approved for medical use by the FDA.
- (7) "THC metabolite" means a substance formed through the metabolization of THC.
- (8) "Homegrow" means marijuana grown in accordance with this Article by persons as opposed to commercially licensed businesses.
- (9) "Unduly burdensome" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this Article subject persons, licensees or potential licensees to such an investment of money, time, or any other resource or asset that a reasonably prudent person or business would not operate a marijuana business or engage in the personal use, storage or cultivation of marijuana.