



Florida

## **Marijuana initiative estimated to generate between \$200M and \$430M**

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The Florida Financial Impact Estimating Conference released a report on July 13 finding that approval of the marijuana initiative would generate between \$195.6 million and \$431.3 million in annual state and local revenue if approved by voters.

The initiative would legalize marijuana for adults 21 years old and older. Individuals would be allowed to possess up to 3 ounces of marijuana (about 85 grams), with up to 5 grams in the form of concentrate.

Existing Medical Marijuana Treatment Centers would be authorized under the initiative to sell marijuana to adults for personal use. The Legislature could provide by state law for the licensure of entities other than existing medical marijuana treatment centers to cultivate and sell marijuana products.

Smart & Safe Florida, the campaign behind the initiative, has submitted 1,013,353 valid signatures as of July 20, surpassing the required 891,523 signatures. State officials confirmed on June 1 that the campaign had submitted enough valid signatures to qualify for the ballot and had met the signature distribution requirement mandating that signatures equaling at least 8% of the district-wide vote in the last presidential election be collected from at least half (14) of the state's 28 congressional districts.

In Florida, proposed initiatives are reviewed by the state Supreme Court to ensure compliance with the single-subject rule, the appropriateness of the title and summary, and whether the measure “is facially valid under the United States Constitution.”

Florida Attorney General Ashley Moody argued in the Supreme Court that “the proposed amendment fails to meet the requirements” because marijuana would still be illegal under federal law.

In 2021, Moody argued similarly against a proposed 2022 initiative to legalize marijuana sponsored by Make It Legal Florida. The court ultimately prevented the measure from appearing

on the ballot because, “A constitutional amendment cannot unequivocally ‘permit’ or authorize conduct that is criminalized under federal law. And a ballot summary suggesting otherwise is affirmatively misleading.”

Justices Jorge Labarga and Alan Lawson dissented. Lawson said, “Because the ballot summary in this case complies with the constitutional and statutory requirements by which we are to judge ballot summaries, I would apply our precedent and approve this measure for placement on the ballot.”

The ballot language for the proposed 2024 initiative includes a sentence stating, “Applies to Florida law; does not change, or immunize violations of, federal law.”

The Florida Chamber of Commerce filed a brief in the case arguing for the measure to be blocked from appearing on the ballot, alleging that it violates the single-subject rule, which requires initiatives to concern only one subject because it “both decriminalizes marijuana and commercializes it.”

The Cato Institute responded to the chamber’s brief, saying that “the ‘commercialization’ here does not change the subject. It is an effort to head off governmental opposition. Opposition is reasonable to expect as many recreational marijuana bills have died in the legislature. So the initiative includes what the Chamber calls ‘commercialization’ provisions, which ensure that a means of distribution is available, and that some dispensaries (those currently dispensing medical marijuana) are immediately licensed. If that makes for a single-subject violation, then the government, contrary to design, will always have a veto over such amendments, sapping them of their power to overcome governmental hostility.”

If the state Supreme Court approves the initiative or does not issue a ruling by April 1, the proposal will appear on the November 2024 ballot.

In Florida, constitutional amendments require a 60% supermajority vote of approval to pass. This requirement was added to the state constitution through voter approval of Amendment 3 in 2006. Since then, nine constitutional amendments (including a 2014 medical marijuana initiative) received a majority of votes in favor but failed to reach the 60% threshold and were therefore defeated.

As of June 1, 23 states and Washington, D.C., had legalized the possession and personal use of marijuana for recreational purposes. In 12 states and D.C., the ballot initiative process was used to legalize marijuana. In two states, the legislature referred a measure to the ballot for voter approval. In nine states, bills to legalize marijuana were enacted into law. The average yes vote was 57.86% and the average no vote was 42.21%. Of the 15 marijuana legalization ballot measures, four received a vote of approval of 60% or higher.

The measure with the highest margin of victory was Washington, D.C.’s 2014 initiative, which was approved by a vote of 70.06% to 29.94% for a margin of victory of 40.12%. The measure with the lowest margin of victory was Maine’s 2016 initiative, which was approved by a vote of 50.26% to 49.74% for a margin of victory of 0.52%.