

ARIZONA LEGISLATIVE COUNCIL

MEMO

April 10, 2015

TO: Basil Pebble, et al.

FROM: Michael Braun
Executive Director

RE: Text review; Re-legalize marijuana

Pursuant to section 19-111.01, Arizona Revised Statutes, the staff of the Arizona Legislative Council has reviewed the text of the enclosed initiative. We have limited our consideration to potential errors in the drafting of the text of the proposed language, confusing, conflicting or inconsistent provisions within the text of the proposed language and conflicts between the text of the proposed language and other state or federal laws. This review is predicated on the form and style used by our office in the preparation of bills and other legislative proposals for members of the Arizona Legislature and contained in the Arizona Legislative Bill Drafting Manual 2015-2016 [available electronically at: www.azleg.gov]. We have not reviewed the form of the proposed measure to determine if it complies with the required form for initiative petitions.

The information contained in this review does not constitute legal advice and no attorney/client relationship is created by providing this statutory review. We have not undertaken to perform a comprehensive analysis of the potential legal issues presented by the measure. Pursuant to section 19-111.01, subsection C, Arizona Revised Statutes, you may accept, modify or reject any recommendations contained in this review in your sole discretion.

Comments

1. We note that the proposed initiatives appear to conflict with federal law classifying marijuana as a Schedule I substance under the Controlled Substances Act.
2. Please see the attached edited copy of the submitted text for our additional recommendations.

OFFICIAL TITLE
AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA;
AMENDING ARTICLE II, CONSTITUTION OF ARIZONA BY ADDING SECTION
23; RELATING TO THE ~~RE-LEGALIZE~~ LEGALIZATION OF MARIJUANA

FULL TEXT OF PROPOSITION ~~PROPOSED~~ AMENDMENT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARIZONA:

Section 1. Article II, ~~THE~~ Constitution of ~~THE STATE OF~~ Arizona is proposed to be amended by adding section 23 as follows if approved by the voters and on proclamation of the Governor ~~IS AMENDED BY THE ADDITION OF A NEW ARTICLE TO READ:~~

~~23. RE-LEGALIZE~~ Legalization of marijuana

~~1. GOVERNMENT ENTITIES IN THE~~ **SECTION 23. A. THIS** STATE OF ARIZONA AND ITS POLITICAL SUBDIVISIONS SHALL NOT:

~~1. TAX, REGULATE, OR CONTROL, OR PASS ANY LAWS GOVERNING THE USE, SMOKING, CONSUMPTION, SALE, TRANSFER, GROWTH, CULTIVATING~~ **CULTIVATION**, MANUFACTURE, PRODUCTION, STORAGE, POSSESSION, TRANSPORTATION, OR IMPORTATION OF MARIJUANA OR ANY OF THE CHEMICALS IN ANY **A** MARIJUANA PLANT.

~~2. NOR SHALL ANY CITY, COUNTY, STATE OR OTHER GOVERNMENT AGENCY OR GOVERNMENT ENTITY IN ARIZONA ASSIST OTHER GOVERNMENT AGENCIES, SUCH AS THE FEDERAL GOVERNMENT, A FOREIGN GOVERNMENTS, INDIAN GOVERNMENTS~~ **A TRIBE** OR OTHER STATE GOVERNMENTS IN ENFORCING THEIR LAWS AGAINST MARIJUANA.

~~3. NOR SHALL ANY GOVERNMENT ENTITY IN THE STATE OF ARIZONA PASS~~ **ENACT** ANY REGULATIONS DISCRIMINATING AGAINST PEOPLE OR ENTITIES THAT ~~USE USE, SMOKE, CONSUME, SELL, TRANSFER, GROW, CULTIVATE, MANUFACTURE, PRODUCE, STORE, POSSESS, TRANSPORT, OR IMPORT~~ MARIJUANA.

~~4. B. FOR THIS INITIATIVE THE WORD IN THIS SECTION, "MARIJUANA" REFERS TO~~ **MEANS** ANY FORM OF MARIJUANA, MARIJUANA PRODUCTS, CANNABIS OR HEMP AND INCLUDES CONCENTRATED FORMS SUCH AS HASHISH, HASH OIL, WAX AND SHATTER.

~~5. C. ANY~~ **A PERSON WHO WAS** ARRESTED, ~~OR CONVICTED OR ACCEPTED A PLEA BARGAIN FOR REDUCED CHARGES~~ **OR** FOR ANY MARIJUANA OFFENSE ~~IN THE PAST PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL~~ AUTOMATICALLY HAVE THEIR CRIMINAL RECORD ~~CLEARED~~ **EXPUNGED** FOR ~~THOSE CHARGES THAT OFFENSE~~ AND **SHALL** AUTOMATICALLY RECEIVE A FULL PARDON FOR ~~THOSE CHARGES THAT OFFENSE.~~

~~6. ANY PERSON ARRESTED FOR ANY MARIJUANA OFFENSE IN THE PAST WHO ACCEPTED A PLEA BARGAIN FOR REDUCED CHARGES SHALL AUTOMATICALLY HAVE THEIR CRIMINAL RECORD CLEARED FOR THOSE REDUCED CHARGES AND AUTOMATICALLY RECEIVE A FULL PARDON FOR THOSE REDUCED CHARGES.~~

7. ~~THE~~ **THIS** STATE OF ARIZONA SHALL NOT EXTRADITE A PERSON TO ANOTHER STATE OR COUNTRY IF THE PERSON ~~COULD BE CHARGED WITH MARIJUANA CRIMES WHICH WOULD BE LEGAL IN ARIZONA~~ **IS ALLEGED TO HAVE VIOLATED A LAW IN THE OTHER STATE OR COUNTRY THAT WOULD BE PROHIBITED IN THIS STATE PURSUANT TO THIS SECTION .**

8. ~~ANY A~~ GOVERNMENT EMPLOYEE, ~~POLICE OFFICER OR PROSECUTOR THAT~~ **WHO** INTERFERES WITH A PERSON'S MARIJUANA RIGHTS ~~DEFINED AS PRESCRIBED~~ IN THIS INITIATIVE ~~SHALL BE PERSONALLY AND~~ **IS** CIVILLY LIABLE TO EACH **TO THE** PERSON FOR EACH INCIDENT FOR A MINIMUM OF ~~\$1~~ **IN THE AMOUNT OF ONE MILLION DOLLARS** IN DAMAGES OR ~~10~~ **TEN** TIMES THE ACTUAL AMOUNT OF DAMAGES, WHICH EVER IS GREATER. ~~THERE SHALL BE NO IMMUNITY TO~~ **NOTWITHSTANDING ANY OTHER LAW,** ~~A POLICE OFFICES OFFICER~~ OR PROSECUTORS WHO CLAIM TO BE "ACTING IN GOOD FAITH" OR OTHER REASONS **IS NOT IMMUNE FROM LIABILITY IMPOSED PURSUANT TO THIS SECTION.**

9. ~~THIS CONSTITUTIONAL AMENDMENT WILL NOT EFFECT THE ARIZONA MEDICAL MARIJUANA ACT WHICH SHALL CONTINUE TO EXIST IN PARALLEL.~~