
ORCA - OKLAHOMANS FOR RESPONSIBLE CANNABIS ACTION



405.706.0124
kris@masterman.us

816 NW 45th Street
Oklahoma City, OK

Thursday, October 28, 2021

The Honorable Brian Bingman

CC: Amy Canton

RE: Initiative Petition

2300 N Lincoln Blvd, Ste. 122

Oklahoma City, OK 73105

FILED

OCT 28 2021

**OKLAHOMA SECRETARY
OF STATE**

Dear Mr. Secretary

Please accept for filing the enclosed copy of an initiative petition and suggested ballot title. A self-addressed stamped envelope is included; we would appreciate a file stamped copy.

Sincerely yours,



Kris Masterman

Secretary



Jed Green

Chair

Advocates of the Proponents

PROPONENTS' SUGGESTED BALLOT TITLE

The Oklahoma Marijuana Regulation and Right to Use Act

This constitutional amendment: grants the right to use marijuana to persons 21 years of age and older; establishes individual patient, professional, privacy, employment, medical, parental, student, firearm ownership, state-licensure, and due process rights; has a fiscal impact and pays for itself with taxes on marijuana sales; sets a tax rate of 15% on marijuana sales, except for persons with a medical marijuana patient or caregiver license; directs surplus revenue to pay for education, local and military veterans mental health programs, programs for families with disabled children, rural water infrastructure, law enforcement training, research, marijuana waste clean-up, and agricultural damage insurance, and individual criminal record expungement; adapts to future federal legalization of marijuana, including a 3% wholesale export tax; allows persons with minor marijuana convictions to apply for resentencing, vacatur and/or expungement; provides for judicial review, severability and provides definitions of terms used in this amendment; becomes effective upon passage and provides time for implementation.

Shall the proposal be approved?

For the proposal - Yes

Against the proposal - No

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

FILED

OCT 28 2021

**OKLAHOMA SECRETARY
OF STATE**

STATE QUESTION 819

INITIATIVE PETITION 433

State Question No. 819, Initiative Petition No. 433

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

FILED

INITIATIVE PETITION

OCT 28 2021

To the Honorable John Kevin Stitt, Governor of Oklahoma:

OKLAHOMA SECRETARY
OF STATE

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 32 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.

Name and Address of Proponents



Jed Green

Residence: Oklahoma , Oklahoma County

Mailing: 2900 Venice Boulevard 73107

Oklahoma City Oklahoma



Kristopher Masterman

Residence: Oklahoma , Oklahoma County

Mailing: 816 NW 45th Street

Oklahoma City Oklahoma

STATE QUESTION 819 INITIATIVE PETITION 433

PROPONENTS PROPOSED “GIST OF THE PROPOSITION” TO BE AFFIXED TO THE TOP OF THE SIGNATURE SHEET FOR CIRCULATION OF SIGNATURES

The gist of the proposition is:

The Oklahoma Marijuana Regulation and Right to Use Act

This constitutional amendment: grants the right to use marijuana to persons 21 years of age and older; establishes individual patient, professional, privacy, employment, medical, parental, student, firearm ownership, state-licensure, and due process rights; has a fiscal impact and pays for itself with taxes on marijuana sales; sets a tax rate of 15% on marijuana sales, except for persons with a medical marijuana patient or caregiver license; directs surplus revenue to pay for education, local and military veterans mental health programs, programs for families with disabled children, rural water infrastructure, law enforcement training, research, marijuana waste clean-up, and agricultural damage insurance, and individual criminal record expungement; adapts to future federal legalization of marijuana, including a 3% wholesale export tax; allows persons with minor marijuana convictions to apply for resentencing, vacatur and/or expungement; provides for judicial review, severability and provides definitions of terms used in this amendment; becomes effective upon passage and provides time for implementation.

J. Brian Bingman
Secretary of State and
Native American Affairs



J. Kevin Stitt
Governor

OKLAHOMA SECRETARY OF STATE

October 28, 2021

Mr. Kristopher Masterman
816 NW 45th Street
Oklahoma City, Oklahoma 73118

Mr. Jed Green
2900 Venice Boulevard
Oklahoma City, Oklahoma 73107

Dear Proponent(s):

This acknowledges receipt of the petition submitted to the Secretary of State office, which has been designated as **State Question Number 819, Initiative Petition Number 433** and filed accordingly this 28th day of October 2021.

Now that the petition has officially been filed for the record, per Title 34 O.S. Section 8, it is the duty of the Secretary of State to cause to be published, a notice of such filing and the apparent sufficiency or insufficiency of the petition, and shall also include notice that any citizen or citizens of the state may file a protest as to the *constitutionality* of the petition, by a written notice to the Supreme Court and to the proponent(s) filing the petition. Any such protest must be filed within ten (10) business days after the publication of the notice.

As soon as the ten (10) business day appeal/protest period has concluded our office will be in contact regarding the next steps in the process.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office or me directly.

Thank you,

A handwritten signature in black ink, appearing to read "Amy Canton".

Amy Canton
Director, Executive Legislative Services
405.522.4565 / executivelegislative@sos.ok.gov



J. Brian Bingman
Secretary of State and
Native American Affairs

J. Kevin Stitt
Governor

OKLAHOMA SECRETARY OF STATE

October 28, 2021

Ms. Cindy Shea
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, Oklahoma 73105

Dear Ms. Shea:

Please find enclosed the following notices for publication.

- Notice of Filing for State Question 819, Initiative Petition 433

Per Title 34 O.S. § 8, the publication must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish the enclosed notice in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible.

Also, upon the completion of publication, please provide our office with the corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Canton".

Amy Canton
Director, Executive Legislative Division
Oklahoma Secretary of State Office

NOTICE OF THE FILING OF STATE QUESTION 819, INITIATIVE PETITION 433, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on October 28, 2021, State Question 819, Initiative Petition 433 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 819, Initiative Petition 433 is **SUFFICIENT** for filing with the Office of the Oklahoma Secretary of State. The official record is available for public view via the Oklahoma Secretary of State website at <https://www.sos.ok.gov/documents/Questions/819.pdf>.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponent(s) filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 819, Initiative Petition 433:

Mr. Kristopher Masterman
816 NW 45th Street
Oklahoma City, Oklahoma 73118

Mr. Jed Green
2900 Venice Boulevard
Oklahoma City, Oklahoma 73107

J. Brian Bingman
Secretary of State
State of Oklahoma

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105

Voice: (405) 499-0020 Fax: (405) 499-0048

Tuesday, November 16, 2021 10:49 AM

Page 1 of 1

Proof of Publication Order Number 21-11-24

I, Landon Cobb, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-JOURNAL RECORD in consecutive issues on the following dates-to-wit:

Insertion: 11/4/2021

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$40.50

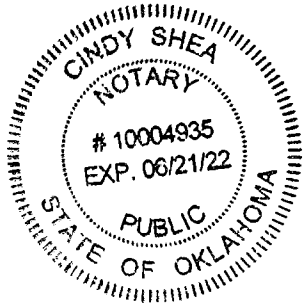
Landon Cobb

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
16 day of November 2021.

Cindy Shea

(Notary Public)



NOTICE OF THE FILING OF STATE QUESTION 819, INITIATIVE PETITION 433, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)

NOTICE is hereby given that on October 28, 2021, State Question 819, Initiative Petition 433 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 819, Initiative Petition 433 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State. The official record is available for public view via the Oklahoma Secretary of State website at <https://www.sos.ok.gov/documents/Questions/819.pdf>.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponent(s) filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 819, Initiative Petition 433:

Mr. Kristopher Masterman
816 NW 45th Street
Oklahoma City, Oklahoma 73118

Mr. Jed Green
2900 Venice Boulevard
Oklahoma City, Oklahoma 73107

J. Brian Bingman
Secretary of State
State of Oklahoma

Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105

Voice: (405) 499-0020 Fax: (405) 499-0048

Tuesday, November 16, 2021 10:49 AM

Page 1 of 1

Proof of Publication Order Number 21-11-24

I, Landon Cobb, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 11/4/2021

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$40.50

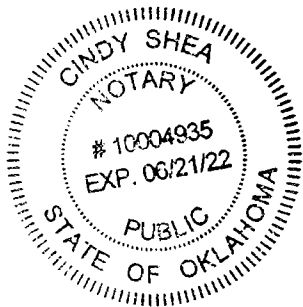
Landon Cobb

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this
16 day of November 2021.

Cindy Shea

(Notary Public)



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2900 Venice Boulevard
Oklahoma City, Oklahoma 73107

J. Brian Bingman
Secretary of State
State of Oklahoma



FILED
SUPREME COURT
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

NOV - 8 2021

Monday, November 8, 2021 JOHN D. HADDEN
CLERK

THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:

119,927 - PAUL TAY v. JED GREEN, KRISTOPHER MASTERMAN

Petitioner was directed to serve Respondents with the Notice in compliance with Okla. Sup. Ct. R. 1.191(e), and has failed to do so.

Petitioner is hereby directed to file a Notice in conformance with Okla. Sup. Ct. R. 1.191(e) and 1.301, Form No. 14, on or before November 24, 2021.


The Court Clerk is directed to send Petitioner a copy of Form No. 14 with this Order.

119,984 - PAUL TAY v. JED GREEN, KRISTOPHER MASTERMAN

The Court notes the filing of Petitioner's Application for Original Jurisdiction without a Notice as required by Oklahoma Supreme Court Rules 1.191 and 1.301, Form No. 14.

Petitioner is directed to file a Notice in conformance with Okla. Sup. Ct. R. 1.191(e) and 1.301, Form No. 14, on or before November 24, 2021.

The Court Clerk is directed to send Petitioner a copy of Form No. 14 with this Order.



ACTING CHIEF JUSTICE

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NOV 10 2021

OKLAHOMA SECRETARY
OF STATE

IN THE SUPREME COURT
STATE OF OKLAHOMA

PAUL TAY
PETITIONER

V,

JED GREEN,
KRISTOPHER MASTERMAN
RESPONDENT

MAA-119,954

MAA-119,927

NOTICE OF ORIGINAL JURISDICTION
SUPREME COURT PROCEEDING

NOTICE TO:

JED GREEN
2900 VENICE BLVD.
OKLAHOMA CITY, OK 73107

KRISTOPHER MASTERMAN
816 N.W. 45TH STREET
OKLAHOMA CITY, OK 73118

THE ATTACHED ORIGINAL PROCEEDING HAS BEEN
FILED, DATES FOR RESPONSE AND ANY ORAL
PRESENTATION WILL BE SET BY ORDER OF THE
CHIEF JUSTICE.

Paul Tay
PETITIONER
DLM# 1163908
DAVID LUMBS
300 N DENVER
TULSA, OK 74103

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NOV 16 2021
OKLAHOMA SECRETARY
OF STATE
2 pages

“no portion of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced, or included within, or annexed to, any Territory or State.”

Oklahoma Constitution Article 1, Section 3 states the Respondents’ posture.

“The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and in any lands lying within said limits owned or held by any Indian, tribe, or nation.”

Ground 1 was in all appeals available to the Petitioner. Under the standard of review posed by the 1856 Treaty and Oklahoma Constitution, this Court has original, exclusive jurisdiction.

2. The Respondent Guten, a Tulsa County District Court Judge, set the bond at \$85,000, knowing the Petitioner is unable to post excessive bond, in violation of the 8th Amendment.

3. In amicus, *McGirt v. Oklahoma*, 140 S.Ct. 2452, the City of Tulsa cited *United States v. Baker*, 894 F. 2d 1144, to confess Tulsa Police Department lacks jurisdiction to collect evidence or arrest anyone on Muscogee (Creek) Nation land.

The evidence is rendered inadmissible by exercise of incompetent jurisdiction.

Relief Sought

The federal government completely occupies the field, leaving no space for State jurisdiction on Indian Territory. The Petitioner hopes and prays the Court grant the petition as stated, causing the immediate release of the Petitioner.

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OKLAHOMA SECRETARY OF STATE

6 pages

IN THE SUPREME COURT
STATE OF OKLAHOMA

Paul Tay,)
Petitioner,)
v.)
Jed Green, Kristopher Masterman,)
Respondents.)

Case No. MA-19,954

APPLICATION FOR ORIGINAL JURISDICTION CHALLENGING
CONSTITUTIONALITY OF INITIATIVE PETITIONS 433 AND SEEKING RICO
CIVIL INJUNCTIVE RELIEF

Comes Now, the Petitioner brings the above-titled causes in the public interest to preserve the Federal Union under one consistent rule of law, to resolve positive conflicts between above-named proposed Oklahoma Constitution amendment and federal law.

Statements of the Case

The Petitioner is a responsible cannabis activist and claims the Office of the Provisional Governor of Oklahoma where the State of Oklahoma claims subject matter and territorial jurisdiction over all persons on Indian Territory defined by Treaties between the Indian Nations, Tribes, and the United States. He serves the Provisional State of Sequoyah as Assistant Solicitor General. He is the declared Independent candidate for Governor of Oklahoma, under house arrest, as a political prisoner, in a State county jail, David L. Moss Detention Center, located on the Great Cherokee Nation, on the northern boundary of the Muscogee (Creek) Nation, where he has been convicted of no crime in a court of competent jurisdiction.

Respondents are proponents of the above-referenced initiative petitions.

This Court acquires original custodial jurisdiction to insure all proposed initiative petitions are constitutionally sufficient prior to submission to the People of Oklahoma.

The venue is proper where the Oklahoma Constitution allows the People to make law and amend the Constitution by ballot initiatives.

The Respondents filed State Question 819, Initiative Petition 433, on 28OCT21, lacking signature pages.

If the Court finds Initiative Petition 433 constitutionally sufficient for signature-gathering, State Question 819 would go before the vote of the People, subject to sufficient number of signatures gathered on the initiative petitions.

Passage at the ballot State Question 819 would add Article 32 to the Oklahoma Constitution. IP 433, Section 2 declares,

“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.”

In Section 2, Clause 21, State consents to “lawful” licensed marijuana users to possess firearms and ammunition. Section 4 excise-taxes marijuana purchases without proof of license. Section 5 allows post-conviction relief for past marijuana convictions. Section 6 shields criminal acts related to marijuana use under federal law from state prosecution. Initiative Petition 433 creates a new State agency and

infrastructure to regulate State consent of marijuana use that would otherwise be criminal under federal law.

Previously, in *Tay v. Kiesel et al*, 2020 OK 57, this Court held Controlled Substances Act does not preempt limited state immunity for marijuana use, possession, and cultivation by persons over 21 as contemplated by State Question 807. The Court reacquires the same issues, on grounds it allowed the possibilities of preemption under other federal statutes and civil injunctive relief against the current medical marijuana regulatory infrastructure, pursuant to Racketeer Influenced and Corrupt Organizations Act (RICO).

State Question 819, Initiative 433 proposes a new Oklahoma Constitution Article 32 to create a new state agency, Oklahoma State Cannabis Commission, to regulate limited state immunity of marijuana use by persons who wish to violate federal laws, related to firearms, 18 U.S.C. § 922, money-laundering, 18 U.S.C. §§ 1956(a), & 1957, and 18 U.S.C. § 1960, unlicensed money transmitting business.

Arguments of the Case

The United States expressly entered into the 1971 Vienna Convention on Psychotropic Substances which completely bans marijuana from the world's legal markets. Congress completely occupies the field, where no space can exist for State consent of marijuana use, *Gonzales v. Raich*, 545 U.S. 1 (2005).

Almost 400,000 “medical” marijuana business and “patient” licenses in the land area Oklahoma claims jurisdiction, including Indian Territory, render federal

enforcement of simple misdemeanor marijuana possession, defined by the Controlled Substances Act, impossible, except when suspects are included within the investigative chain of large-scale trafficking and gang-related operations usually instigated by a drug deal gone bad dead body. News on 9, *Authorities Seize More Than \$17 Million in Illegal Marijuana from Lincoln County Property*, (15 June 2021). Press Release, DOJ, *DEA Investigation in Chapel Hill Area Uncovers Large Scale Drug Ring*, (Dec. 17, 2020).

Section 5, Initiative Petition 433 conflicts with the Non-Retroactivity Doctrine, where past marijuana convictions would be eligible for post-conviction relief. *State Ex Rel Matloff v. Wallace*, 2021 OK CR 21. In positive conflict with 18 U.S.C § 922, State consents to possession of firearms and ammunition by marijuana users, described in Section 1, Clause 21-23, Initiative Petition 433. Section 4, IP 433, conflicts with 18 U.S.C. §§ 1956(a), federal prohibitions against money laundering, where the State collects 15% excise tax from marijuana purchases and allocates proceeds to various State programs.

IP 433 creates Oklahoma State Cannabis Commission to charge marijuana businesses \$2,500 and “patients” \$100 for State permission to violate federal law. The gist is wholly misleading because it does not fully warn the People of federal criminal penalties of State consent of marijuana use.

18 million acres of Indian Territory affirmed by *McGirt v. Oklahoma*, 140 S.Ct. 2452, preempts IP 433. Signatures gathered on Indian Territory, Cherokee

Outlet, and Federal Unassigned Land would be invalid, where the State disclaims jurisdiction to the extent the federal government claims jurisdiction, when it executed treaties with Indians. *Currey v. Corporation Commission*, 617 P. 2d 177 (Okla. 1979). Article 4, 1856 Treaty precludes State jurisdiction:

“no portions of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced, or included within, or annexed to, any Territory or State.”

State Disclaimer Clause, Oklahoma Constitution Article 1, Section 3 renders all Oklahoma elections invalid on Indian Territory. SQ819 would be illegitimate, because the election would be held on Indian Territory:

“The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and all lands lying within said limits owned or held by any Indian, tribe, or nation.”

Relief Sought

The current State “medical” marijuana authority is tantamount to State permission to violate federal laws related to money laundering by business and the State itself. Petitioner hopes and prays the Court holds IP433 constitutionally **INSUFFICIENT** for submission to the People of Oklahoma, where federal laws on firearms, and money laundering expressly preempts. Further, the Petitioner hopes and prays the Court grant civil injunctive relief to enjoin Oklahoma Medical Marijuana Authority observe its own administrative code OAC310:681-1-3,

“All medical marijuana licenses and rights granted under Oklahoma law and this Chapter shall only be valid in the State of Oklahoma, excluding any tribal trust, tribal restricted land, or federal lands in the State.”

Respectfully submitted,

Paul Tay

Petitioner

DLM #1163908

David L. Moss Detention Center

300 N. Denver

Tulsa, OK 74103

CERTIFICATE OF SERVICE

Under penalty of perjury, the Petitioner certifies on 5NOV2021 he mailed true copies to Jed Green, 2900 Venice Boulevard, Oklahoma City, OK 73107 and Kristopher Masterman, 816 NW 45th, Oklahoma City, OK 73118, and Amy Canton, Director, Executive Legislative Services, Oklahoma Secretary of State, State Capitol Building, 2300 N. Lincoln Blvd, Room 122, Oklahoma City, OK 73105-4897.



TULSA OK 740
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NOV 16 2021
OKLAHOMA SECRETARY
OF STATE

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ANNOUNCING

OKLAHOMA SECRETARY

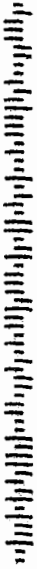
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