

CONSTITUTIONAL ACCESS PETITION

PREAMBLE

When in the course of human events, the natural rights of the governed have been repeatedly violated by those entrusted to protect them, it becomes necessary for a people to reassert their liberty, reminding those who govern that their powers flow from nothing but the consent of the governed.

We the People of the State of Oklahoma issue this declaration that neither the government of this state nor any of its political subdivisions shall henceforth prohibit access to or use of the plant *Cannabis Sativa Linnaeus*.

SECTION ONE: Possession Rights

All persons over the age of 21 shall be able to grow, purchase, transport, consume, gift, deliver, receive, and share cannabis. Individuals under the age of 21 must have a physician's recommendation, valid for up to two years, to possess and consume cannabis, and if under the age of 18, the physician's recommendation must also be signed by a parent or legal guardian. It shall be lawful for all persons over the age of 21, or under that age with a physician's recommendation, to possess twelve (12) cannabis plants and the cannabis harvested therefrom; one (1) ounce of concentrated cannabis; seventy-two (72) ounces of topical cannabis; seventy-two (72) ounces of suppository cannabis; seventy-two (72) ounces of edible cannabis; and eight (8) ounces of cannabis in their residence, not including the amount grown for personal use. These amounts are cumulative.

All persons over the age of 21 shall be able to distribute without consideration cannabis and cannabis products. Growing or processing amounts in excess of what this section permits for personal use, or the distribution in any amount with consideration, shall require a business license issued by the Oklahoma Cannabis Authority.

Should the federal government legalize cannabis, the quantities permitted in this section shall be raised to the maximums permitted by federal law. Should the federal government legalize cannabis but not set specific possession maximums, the legislature shall determine maximum limits but they shall not be below the maximums indicated in this Article.

SECTION TWO: Personal Protections

No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for their use of cannabis, unless failing to do so would imminently cause the school or landlord to lose a monetary or a licensing related benefit under federal law or regulations.

Employers whose businesses are safety sensitive may have a workplace policy which prohibits safety sensitive employees from consuming cannabis within twelve (12) hours of the employee's work shift. No further prohibitions for off-work use of cannabis are permitted.

For the purposes of medical care, including organ transplants, cannabis use does not constitute the use of an illicit substance or otherwise disqualify a cannabis user from medical care. No Oklahoma physician shall deny or alter the treatment of a patient solely on the basis of their use of cannabis unless that use is medically contraindicated. Termination of a patient or refusal to treat a patient solely on the basis of their use of cannabis shall constitute a civil rights violation.

Cannabis users shall not, solely for their use of cannabis, be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this Article, unless, by clear and convincing evidence, it is established that the person's behavior creates a risk of irreparable harm to the safety of the minor.

Cannabis users shall not unduly be withheld from holding a state issued license by virtue of their being a cannabis user. This includes concealed carry permits.

Cannabis users shall not be denied the right to own, purchase or possess a firearm, ammunition, or firearm accessories solely based upon their cannabis use. 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 firearms license or certification based solely on a person's cannabis use.

Municipal and county governing bodies shall not restrict or interfere with the rights of individual persons to possess, purchase, cultivate or transport cannabis.

Cannabis users shall not be denied eligibility in public assistance programs including, but not limited to, Medicaid, Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children Nutrition Program (WIC), Temporary Assistance for Needy Families (TANF) or other such public assistance programs based solely on their cannabis use, unless required by federal law.

Cannabis users shall not be subject to arrest, prosecution or penalty in any manner or denied any right, privilege or public assistance, 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, for the use of cannabis in accordance with this Article. Cannabis use shall not be the basis for the revocation of parole or probation.

SECTION THREE: The Oklahoma Cannabis Authority

The government of Oklahoma shall establish, as a free-standing agency, the Oklahoma Cannabis Authority to regulate the sale of cannabis in a manner similar to other agricultural products, or if sold as medicine, in a manner similar to over-the-counter medications. Should the Federal Government remove cannabis from Schedule I of the Controlled Substances Act, then the Government of Oklahoma may also regulate the sale of cannabis in the manner of a prescription medication, but not so as to exclude the aforementioned forms of sale. Homegrow rights shall remain irrespective of any other form of access available in the state.

The Oklahoma Cannabis Authority shall be governed by an executive board comprised of twelve individuals, one of which must be a person using cannabis for medical purposes and who has no financial interest in any cannabis businesses, one of which must be a person whose minor child is using cannabis for medical purposes and who has no financial interest in any cannabis businesses, one person who uses cannabis for purposes other than medical use and who has no financial interest in any cannabis businesses, one person who is a medical doctor who regularly recommends the use of cannabis, one person who is a cannabis researcher, one owner of dispensary, one owners of a grow, one owner of a processing company, one attorney, one representative from the department of agriculture, one representative from a chamber of commerce, and one member of law enforcement.

The Governor shall appoint the attorney board member and the representatives from the department of agriculture, chamber of commerce, and law enforcement. The Senate shall appoint the cannabis researcher, the owner of a dispensary, the owner of a grow and the owners of a processing company. The House shall appoint the cannabis patient, the parent of the minor patient, the non-medical cannabis user, and the medical doctor.

It is the purpose of the Oklahoma Cannabis Authority to (a) determine the rules for the commercial growth, processing, and sale of cannabis; and (b) administrate business licenses which shall include licenses for growing, processing, sale, research, delivery, transport, and education.

Business licenses shall be good for a minimum of one year and their annual cost shall not exceed 10% of the median household income in the state. The number of business licenses shall not be capped.

SECTION FOUR: Taxation and Revenue

When sold as medicine, there shall be no excise tax nor state sales tax. The only tax permitted is a local tax, not to exceed 3%. When sold as an agricultural product, the legislature may assign an excise tax not to exceed 7%. Standard state and local sales taxes apply to sales as an agricultural product.

Tax proceeds will be applied first to finance the Oklahoma Cannabis Authority. If proceeds exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with forty percent (40%) going to the General Revenue Fund. Twenty percent (20%) shall be apportioned to education. Ten percent (10%) shall be apportioned to programs to assist individuals who have previously been incarcerated with drug possession charges. Ten percent (10%) shall be apportioned to medical cannabis research grants. Ten percent (10%) shall be apportioned to grants to assist individuals and families living below 200% of the state poverty level in the form of vouchers for rent, mortgage, medical services, and food. Five percent (5%) shall be apportioned to grants providing for the cost of expungement of drug charges. Any amount unused of this five percent shall be apportioned to the General Revenue Fund. Five percent (5%) shall be apportioned to municipalities (or counties for unincorporated areas) where the retail sales occurred.

SECTION FIVE: Retroactivity

A person currently serving a sentence for a conviction, whether by trial or by plea of guilty or nolo contendere, who would not have been guilty of an offense or who would have been guilty of no offense or a lesser offense under this Article had it 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.

Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for resentencing, modification, or reversal and without delay resentence or reverse the conviction as legally invalid, or modify the judgment and sentence.

A person who has completed his or her sentence for a conviction, whether by trial or plea of guilty or nolo contendere, who would not have been guilty of no offense or an offense or who would have been guilty of a lesser offense under this article had it 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 or redesignated as a civil infraction in accordance with this Article.

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 if the juvenile would have been guilty of a lesser offense under this article.

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 SIX: Severability

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.