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Tuesday, August 16, 2022 *JKE*

Honorable Phil McGrane
Secretary of State
700 W Jefferson St.
Boise, ID 83720

Honorable Phil McGrane:

My name is Jackee Winters and with my co-sponsor, Joseph Evans, we are the Chief Petitioners for the Decriminalize Cannabis Now Initiative.

I understand that your office will do due diligence to ensure that the text is without error and that it complies with all relevant changes to Idaho statute and code since my last filing and I encourage you to take the full allocated time to complete your respective responsibilities.

With Kindness,

Jackee Winters
Jackee Winters
Chair
Kind Idaho
208-891-5566

Joseph Evans
Joseph Evans
Treasurer
Kind Idaho
208-513-5150

REQUESTED TITLE:
DECRIMINALIZE CANNABIS NOW

Be it enacted by the People of Idaho:

SECTION 1. That Title 37 Chapter 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-2732E and to read as follows: 37-2732E EXEMPTIONS – AUTHORIZATIONS AND EXEMPTIONS FROM PENALTIES FOR POSSESSION, PRODUCTION, CULTIVATION OF CANNABIS, MARIJUANA, CANNABIS-INFUSED, OR MARIJUANA-INFUSED PRODUCTS.

- (1) definitions: (a) Cannabis-infused or marijuana-infused product is any shelf stable product that uses cannabis or marijuana derivatives, such as but not limited to oils, tinctures, gummies, and other edibles. (b) Production process is the process of extracting materials from the cannabis or marijuana plant to include but not limited to THC and CBD or infusing them into edibles.
- (2) For purposes of this section, weights of materials during the production process or waste materials are not to be used for determination of authorization, exemption, or penalties.
- (3) Possession of cannabis, marijuana, cannabis-infused or marijuana-infused product are authorized by this chapter and exempt from penalties if: (a) such cannabis, marijuana, cannabis-infused or marijuana-infused product is for personal use and not for sale or resale; (b) it is not consumed in any public or open setting; (c) it is in the possession of a person who is at least 21 years old; and (d) it is less than one (1) ounces of plant or one thousand (1,000) mg of THC in other cannabis-infused or marijuana-infused products; or
- (4) Possession, production, or cultivation of cannabis, marijuana, cannabis-infused, or marijuana-infused products are authorized by this chapter and exempt from penalties if: (a) such cannabis, marijuana, cannabis-infused, or marijuana-infused product is for personal use and not for sale or resale; (b) it is not consumed in any public or open setting; (c) it is in the possession of a person who is at least 21 years old; (d) it is secured in the primary residence or on the property thereof; (e) it is secure from access by members of the household under 21 years of age; and (f) it does not exceed twelve (12) plants or eight (8) ounces of cannabis-infused or marijuana-infused product;
- (5) Persons whose conduct falls within the scope authorized by subsection (3) or (4) are exempted from penalties in this chapter and taxes or penalties in Section 63-4203, Idaho Code.
- (6) Nothing in this section shall be construed to allow private or commercial sale or resale of any controlled substance.

SECTION 2. SEVERABILITY. The provisions of this initiative hereby declared to be severable if any provision of this initiative the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this initiative.

NOV 24 11:57 AM 2021
IDHO SECRETARY OF STATE



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
RAÚL R. LABRADOR

NOV 25 '24 PM 11:58
IDAHO SECRETARY OF STATE

November 25, 2024

VIA HAND DELIVERY

The Honorable Phil McGrane
Idaho Secretary of State
Statehouse

RE: Ballot Titles
Proposed Initiative for Decriminalizing Cannabis

Dear Secretary of State McGrane:

An initiative petition was originally filed on September 19, 2024, proposing to amend title 37 of the Idaho Code. Pursuant to Idaho Code § 34-1809, this office reviewed the petition and provided advisory comments and a certificate of review. Thereafter, the petitioners made changes to their proposed initiative and re-submitted it requesting the assignment of ballot titles. In accordance with § 34-1809, this office must, within ten (10) working days, provide ballot titles for the measure, one short and one general (long) title. The short title—not exceeding twenty (20) words—shall be a distinctive title by which the measure is commonly referred to or spoken of. The general (long) title—not exceeding two hundred (200) words—shall express the purpose of the measure. The ballot titles should give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. This letter therefore provides both the short and long ballot titles below, in accordance with Idaho Code § 34-1809. Any person dissatisfied with a ballot title provided herein may appeal to the supreme court by petition, praying for a different title and setting forth the reason why the title is insufficient or unfair.

BALLOT TITLES

I. Short Ballot Title

Measure decriminalizing the possession, production, and cultivation of marijuana and marijuana-infused products for personal use by persons 21 or older.

II. Long Ballot Title

This measure proposes that the possession of marijuana (or “cannabis”) and marijuana-infused products be decriminalized under certain limitations. To be legally possessed, marijuana and marijuana-infused products must be for personal use – not sale or resale, cannot be consumed in public or open settings, and cannot be possessed by persons under 21 years of age. The marijuana possessed must weigh less than one ounce and the marijuana-infused product possessed must contain less than 1,000 milligrams of THC.

The production and cultivation of marijuana or marijuana-infused products have the same personal use, location, and age restrictions as set forth above. Such substances must also be secured “in the primary residence or on the property thereof” and “from access by members of the household under 21 years of age.” A maximum of 12 marijuana plants or eight ounces of marijuana-infused product can be possessed for production or cultivation. Conduct authorized by the measure is exempt from penalties under Title 37, Chapter 27, Idaho Code (Uniform Controlled Substances), and from taxes and penalties under Title 63, Chapter 42, Idaho Code (Illegal Drug Stamp Tax Act). The measure shall not be construed to allow private or commercial sale or resale of any controlled substance.

Please contact me if you have any questions or comments.

Sincerely,



RAÚL R. LABRADOR
Attorney General

Funding Statement: None.

Fiscal Impact Statement: Passage of this initiative will result in a net increase to police budgets as they will no longer be spending money to prosecute or incarcerate people in Idaho for using plant-based and derived remedies that are legal in nearly every surrounding state.

DECriminalize CANNABIS NOW

100 word summary

Upon passage of the ballot initiative, costs would increase for law enforcement primarily due to forensics. It is reasonable that incidence of testing would quadruple. Evidence from alcohol and tobacco suggest that threshold laws and consumption locations have high violation incidence, and law enforcement and prosecutors will pursue violators. Estimated costs: at least \$3.2m for ISP. Estimated revenue due to [IC 63-4203\(2\)](#): variable amounts, but revenue raised less costs for the tax commission are directed to the state's substance abuse treatment fund. There would be unknown expenses associated with the cost of behavioral health needs and substance abuse treatment.

Assumptions and further details

The initiative introduces two new sections/subsections. One exempts "possession, production or cultivation" for personal use by individuals 21 years of age or older from penalties provided that the activities occur on private land and in a closed setting, with the exception of transportation of materials up to 1 oz or 1 g of THC. The other circumvents the prohibited acts (such as harvesting) from penalty.

Neither code section removes marijuana from Schedule I (position 19 [IC 37-2705](#) , and [37-2701\(u\)](#)). Consequently, there would remain other aspects of Idaho code ([63-42](#)) which could be enforced. Enforcement would depend upon prosecutorial discretion and law enforcement action. These could be revenue raising for the substance-abuse treatment fund (which is where taxes raised by the act are sent once costs have been recovered).

Enforcement (of [63-42](#)) has been mild in recent years (3 cases), but that is likely masked by the severity of the penalties in Idaho code [37-27](#), which has a ladder of specific penalties depending upon weights and reoccurrence. General marijuana cases have been much more extensive; typically 1500 per year involve convictions, and above 4000 are pursued. Relatively few convictions occur at the felony level (under two dozen are expected any year).

The evidence from alcohol and tobacco (which have age restrictions, blood alcohol concentration) is that partial legalization of a drug via weights, age restrictions, and circumstances (private lands or public lands with permit, but primarily driving¹) still results in violations of the law, with the frequency of occurrence not static. The 1 oz material or 1 g THC and the 21 years of age are similar such restrictions, as is the public/private land and closed setting. Because of these similarities,

¹ DUI is related to 7000 convictions per year in the state.

the view from a local law enforcement agency of a quadrupling of the incidence is supported.

Additional forensics costs at the state level would likely reach \$3.2m based on the past year's costs under such a quadrupling; this would also require increased FTE. Funding for this would not be provided under current Idaho Code; see [63-4207](#) and [63-4209](#).

Further support for that view is given by statistics gathered through the SAMSHA² federal program indicating that at a minimum, 1 in 12 Idahoans over 26 years of age has used marijuana in the past month (the upper range is a bit more than 1 in 8 Idahoans).

Local law enforcement indicates that a typical vape cartridge likely contains just below the 1 g THC limit. Thus an individual in public and in possession of two cartridges, even if not "full", would likely be in violation of the law even if the initiative should pass.

Recent, annual, data indicates that the revenue raised via [63-42](#) has been minimal: under \$350/yr on average. Testing indicates that the \$3.50/g provision [63-4203\(2\)\(a\)](#) could have resulted in \$87k – \$266k in revenues for the substance abuse treatment fund SATF per year. [63-4203\(2\)\(d\)](#) could potentially raise substantial money for the SATF based upon usage data in Idaho, but there is insufficient data for a good-faith estimate of totals to be raised under the \$775/plant provision (2)(d) should the ballot initiative pass. Penalties for non-adherence to these provisions [doubles](#) the tax.

Costs for the tax commission would likely include fees for reinstating rules pertaining to [63-42](#). These costs are \$61/page for introduction and \$56/page annually for re-publication of rules. Current rules for the tax commission are [here](#), and the prior, expired rules on [63-42](#) can be viewed [here](#).³ These, likely ongoing costs, would reduce the year-end transfer of revenue to the SATF as part of the cost-recuperation provision [63-4209](#).

We expect there would be expense increases associated with the cost of behavioral health needs and substance abuse treatment should the ballot initiative pass; these increases are unknown, including whether the funds to be raised via [63-42](#) for SATF would be sufficient.

² Substance abuse and Mental Health Services Administration

³ Those links are to the administrative rules website <https://adminrules.idaho.gov/rules/current/index.html> and the chapters for the tax commission as well as the 2019 C1 archive version.