SC23-682

In the Supreme Court of Florida

ADVISORY OPINION TO THE ATTORNEY GENERAL RE:
ADULT PERSONAL USE OF MARIJUANA

ON A PETITION FOR AN ADVISORY OPINION TO THE
ATTORNEY GENERAL

BRIEF OF SPONSOR SMART & SAFE FLORIDA

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IDENTITY AND INTEREST OF THE SPONSOR SMART & SAFE FLORIDA

Smart & Safe Florida ("SSF") is the sponsor of the instant citizen initiative "Adult Personal Use of Marijuana" (No. 22-05) ("Initiative"). SSF has gathered more than one million valid signatures from Florida registered voters in order to present the Initiative on the 2024 ballot.[1]

INTRODUCTION AND STATEMENT OF THE CASE AND FACTS

In the past several years, this Court has established a "roadmap" for sponsors of marijuana-related ballot initiatives. In drafting the Initiative, SSF followed that clear roadmap. But the Attorney General and other opponents now argue that this Court should abruptly redraw the map. The Attorney General's *lead* argument is that this Court should discard three of its recent precedents—precedents that it expressly encouraged ballot sponsors to use as blueprints for drafting future initiatives. The Attorney General even goes so far as to suggest that this Court should abandon the deferential standard of review that it has consistently applied to

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[1] *See* Florida Div. of Elections, Adult Personal Use of Marijuana 22-05, https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=83475&seqnum=2 (last accessed July 19, 2023).

ballot initiatives for decades, essentially arguing that this Court committed legal error in dozens of decisions, and that it should invent a new, more lenient standard for discarding precedent.

This Court should reject these misguided efforts to jettison established legal rules in service of a thinly veiled policy agenda. The fact that the Attorney General must resort to such extreme and destabilizing arguments confirms that the Initiative readily complies with settled standards.

In 2014 and 2015, this Court approved ballot initiatives proposing constitutional amendments legalizing the cultivation, sale, and possession of marijuana for medical purposes. The Court concluded that the ballot summaries were not affirmatively misleading under section 101.161, Florida Statutes, in part because the ballot summary for each amendment explained that the amendment "'[d]oes not authorize violations of federal law'" or "'[d]oes not immunize violations of federal law.'" *Use of Marijuana for Certain Medical Conditions*, 132 So. 3d 786, 794, 808 (Fla. 2014) (*Medical Marijuana I*); *Medical Use of Marijuana for Debilitating Medical Conditions*, 181 So. 3d 471, 476 (Fla. 2015) (*Medical Marijuana II*). Although voters rejected the

first ballot initiative, they approved the second by an overwhelming majority.

Recently, after years of experience with medical marijuana and after watching nearly two dozen sister States allow adult non-medical use of marijuana, Florida citizens have sought to put the issue to a vote as well. In 2021, however, this Court held that two such initiatives contained affirmatively misleading ballot summaries. *Adult Use of Marijuana*, 315 So. 3d 1176 (Fla. 2021) (*Non-Medical Marijuana I*); *Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, and Other Restrictions*, 320 So. 3d 657 (Fla. 2021) (*Non-Medical Marijuana II*).

The Court held that one of the summaries was misleading for failing to state anything about federal law, potentially leading some voters to believe that the amendment would eliminate federal penalties as well. *Non-Medical Marijuana I*, 315 So. 3d at 1179, 1182. By omitting the previously approved language, the Court explained, the sponsor of the initiative had failed to "follow[] the roadmap this Court unanimously approved in *Medical Marijuana II*." *Id.* at 1182.

In drafting the present Initiative, SSF has followed that clear roadmap. It has proposed an amendment that would permit existing

Medical Marijuana Treatment Centers (MMTCs), as well as other state-licensed entities, to sell marijuana to adults for personal non-medical use ("Proposed Amendment"). The ballot summary explains that the amendment "[a]pplies to Florida law" and "does not change, or immunize violations of, federal law"—tracking the language this Court has already approved. App. 7a.

Yet the Attorney General now asks this Court to abruptly change course, holding that the language previously approved—repeatedly and unanimously—is no longer sufficient, despite this Court's description of that language as the model for sponsors just two years ago.

This Court should decline that invitation. This Court approved the language for a reason: It unambiguously informs voters that the amendment does not alter federal law or immunize violations of federal law. And SSF relied on this Court's clear guidance in undertaking the costly campaign to put the issue on the ballot.

The opponents advance other arguments, but they largely misread the plain text of the summary or the Proposed Amendment or misapply this Court's precedents—for example, by claiming that the Proposed Amendment forbids the Legislature from providing for the

possession of greater quantities of marijuana, when in reality it does no such thing, or by urging the Court to evaluate the Initiative based on extrinsic considerations (such as a handful of cherry-picked news articles) in violation of the supremacy-of-text principle. Other arguments rest on implausible claims of voter confusion, a misapprehension of the Constitution's single-subject requirement, and a misstatement of U.S. Supreme Court precedent. All of the arguments should be rejected.

Accordingly, applying its highly "deferential standard of review," and in light of its traditional "reluctan[ce] to interfere with the right of self-determination of all Florida's citizens to formulate their own organic law," this Court should conclude that the Initiative is not "clearly and conclusively defective." *Voter Control of Gambling*, 215 So. 3d 1209, 1213 (Fla. 2017) (cleaned up).

A. This Court Approves Initiatives Permitting The Sale And Possession Of Marijuana For Medical Purposes

Florida statutory law generally prohibits the sale and possession of marijuana. *See* §§ 893.01 *et seq.*, Fla. Stat. (2022). But in 2016, Florida allowed the use of marijuana for medical purposes through a popular vote by its citizens.

This Court first considered—and upheld—a ballot initiative to allow and regulate the sale of medical marijuana under state law in 2014. *Medical Marijuana I*, *supra*. Opponents of that initiative had argued that the proposed amendment violated the Florida Constitution's single-subject requirement, Art. IX, § 3, Fla Const., by combining "the removal of civil and criminal liability for individuals" with "the creation of a new state regulatory structure." Initial Brief for Opponents the Florida House of Representatives *et al.*, at 7, *Medical Marijuana I* (No. SC13-2006), 2013 WL 9792075. This Court readily rejected that argument (with no Justice disagreeing on that point), explaining that "the proposed amendment has a logical and natural oneness of purpose[.]" 132 So. 3d at 796.

The Court also rejected the opponents' argument that the ballot summary was misleading under section 101.161 because it would allegedly deceive voters into believing that the use of marijuana for medical purposes would be permissible under federal law. *Medical Marijuana I*, 132 So. 3d at 808. The Court concluded that the summary's statements that the proposed amendment "'[a]pplied only to Florida law'" and "'[d]oes not authorize violations of federal law'" complied with the statutory requirements. *Id.* That language, the Court

explained, was "legally accurate" and was "substantially similar in meaning to the proposed amendment's text, which provide[d] that 'nothing in this law section [sic] requires the violation of federal law or purports to give immunity under federal law.'" *Id.*

The 2014 medical-marijuana initiative was not approved by Florida voters. The following year, however, a similar amendment was proposed, and this Court again upheld it—this time unanimously—rejecting challenges under both the single-subject requirement and section 101.161. *Medical Marijuana II*, *supra*. In similar terms as the prior ballot summary, the 2015 ballot summary provided that the proposed amendment "'[a]pplies only to Florida law'" and "'[d]oes not immunize violations of federal law[.]'" 181 So. 3d at 476. This Court later explained that this language (substituting "immunize" for "authorize") was even "clearer" than the language in *Medical Marijuana I*. *Non-Medical Marijuana I*, 315 So. 3d at 1182.

In 2016, Florida voters approved the amendment, with over 70% voting in favor.

B. This Court Rejects A Recreational Marijuana Initiative In 2021 For Failing To Follow The Court's "Roadmap"

In 2021, this Court considered two ballot initiatives that would have amended Florida law to allow and regulate the sale and possession of marijuana for recreational use. In each case, the Court concluded that the ballot summaries were affirmatively misleading. *Non-Medical Marijuana I*, 315 So. 3d at 1180-84; *Non-Medical Marijuana II*, 320 So. 3d at 667-69.

In *Non-Medical Marijuana I*, the Court held that the ballot summary affirmatively misled voters about the impact of the amendment on federal law because it made no mention of federal law—not even that the amendment was limited to Florida law, as the summaries in both *Medical Marijuana* cases had stated. The Court explained that in the *Medical Marijuana* cases, the Court had approved ballot summaries stating directly that the proposed amendments "'[did] not authorize violations of federal law'" or "'[did] not immunize violations of federal law[.]'" *Non-Medical Marijuana I*, 315 So. 3d at 1181, 1182. But "instead of following this roadmap," the Court explained, the sponsor of the *Non-Medical Marijuana I* initiative had "omit[ted] this limiting language and affirmatively misle[d] voters by suggesting that

the identified conduct will be '[p]ermit[ted]' without qualification." *Id.* at 1882. "This," the Court concluded, "we cannot approve." *Id.*

C. SSF Follows This Court's "Roadmap" In Drafting The Present Citizen Initiative Petition

In 2022, SSF sought to follow this Court's "roadmap" by drafting the Initiative in a way that fixed the problems that the Court identified in 2021 and would enable Floridians to vote to allow adults 21 years or older to possess, purchase, and use marijuana for personal non-medical purposes.

The Initiative proposes an amendment to Section 29 of Article X of the Florida Constitution, which was added by the 2016 medical-marijuana amendment. Under current law, Section 29 bars the imposition of state criminal or civil liability on "a qualifying patient or caregiver" for the medical use of marijuana and on MMTCs that register with the Department of Health and comply with its regulations. Art. X, §§ 29(a)(1) and (3), Fla. Const.

To facilitate the possession, purchase, and use of marijuana for non-medical purposes, the Proposed Amendment makes three intertwined substantive changes to Section 29:

First, the Proposed Amendment prohibits the imposition of "any criminal or civil liability under Florida law" for "[t]he non-medical personal use of marijuana products and marijuana accessories by an adult, as defined [in the amendment], in compliance with this section." App. 2a (§ 29(a)(4)). The term "personal use" is defined to mean "the possession, purchase or use of marijuana products or marijuana accessories by an adult 21 years of age or older for non-medical personal consumption by smoking, ingestion, or otherwise." App. 4a (§ 29(b)(13)). The definition of "personal use" further provides that "[a]n individual's possession of marijuana for personal use shall not exceed 3.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate." *Id.*

Second, the amendment authorizes the Legislature to "provide for the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and marijuana accessories for personal use by adults." App. 6a (§ 29(e)).

Third, the amendment allows MMTCs and other entities licensed by the State to "acquire, cultivate, process, manufacture, sell,

and distribute marijuana products and marijuana accessories to adults for personal use[.]" App. 2a (§ 29(a)(5)).

The Proposed Amendment also includes various ancillary provisions: definitions of "Marijuana accessories" and "Marijuana products"; provisos that the amendment does not "change[] federal law" and does not prohibit the Legislature from enacting laws that are consistent with the amendment; and a provision stating that the amendment shall become effective six months after it is approved by voters. App. 4a-6a (§§ 29(b)(11) and (12), (c)(2) and (5), and (g)).

The initiative petition contains a 74-word ballot summary (one word short of the statutory maximum). App. 6a-7a; *see also* § 101.161(1), Fla. Stat. The summary materially tracks the language about federal law that this Court approved in *Medical Marijuana I*, *Medical Marijuana II*, and *Non-Medical Marijuana I*:

> Allows adults 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking, ingestion, or otherwise; allows Medical Marijuana Treatment Centers, and other state licensed entities, to acquire, cultivate, process, manufacture, sell, and distribute such products and accessories. **Applies to Florida law; does not change, or immunize violations of, federal law.** Establishes possession limits for personal use. Allows consistent legislation. Defines terms. Provides effective date.

App. 6a-7a (boldface added).

On April 6, 2023, the Secretary of State certified that the initiative petition had satisfied the registration, petition form submission, and signature criteria of Florida law. App. 1a. To date, over one million registered Florida voters have signed the initiative petition. *See* note 1, *supra*.

On May 15, 2023, the Attorney General filed a petition with this Court under Article VI, section 10, Florida Constitution and section 16.061, Florida Statutes (2022), seeking a written opinion on the validity of the initiative petition.

SUMMARY OF THE ARGUMENT

The Initiative satisfies all legal requirements under the Florida Constitution and Florida statutes. Accordingly, applying its deferential standard of review, the Court should advise that the Initiative may be placed on the ballot in 2024.

I. Section 101.161. Under section 101.161, Florida Statutes (2022), a ballot title and summary must fairly inform voters of the chief purpose of the Proposed Amendment and must not affirmatively mislead voters. Here, the ballot title and summary clearly and unambiguously inform voters of its chief purpose: allowing adults 21

years or older to possess, purchase, and use marijuana. Although the opponents claim that the summary is affirmatively misleading, their arguments lack merit.

Federal Law. SSF followed the "roadmap" that this Court approved in *Medical Marijuana I*, *Medical Marijuana II*, and *Non-Medical Marijuana I* for informing voters about the interaction of the amendment with the longstanding federal prohibition on marijuana. This Court approved that roadmap because the plain text of the key language—which advises that the Proposed Amendment "[a]pplies to Florida law" and "does not change, or immunize violations of, federal law"—clearly informs voters that the amendment will not affect federal penalties for marijuana possession. The Attorney General asks this Court to overrule its repeated, recent, unanimous precedent, which this Court specifically instructed sponsors to follow just two years ago and which SSF relied on in drafting the Initiative and mounting the costly signature campaign to secure its place on the ballot. There is no justification for such an abrupt reversal.

Licensing of Non-MMTCs. Contrary to the Attorney General's argument, the ballot summary's reference to "other state licensed entities" does not suggest that other entities *must* be licensed. Rather,

the language means what it says: that any other entity that acquires a marijuana license from a state agency would enjoy the same immunity as MMTCs. The details of licensing—in particular, the Legislature's discretion to establish a licensing scheme—are simply not discussed in the summary, because that component of the amendment is merely ancillary to the proposal, not its chief purpose.

Possession Limits. The summary's reference to "possession limits" is not misleading for failing to disclose that the Proposed Amendment would prohibit the Legislature from raising the limits in the future, because the Proposed Amendment does not in fact impose any such restriction. Rather, the Proposed Amendment's possession limits are merely part of the definition of "personal use." As such, those limits do no more than define the scope of the conduct permitted by the Proposed Amendment itself. They do not establish an independent prohibition on future legislative action. At any rate, even if the Proposed Amendment could be construed to prohibit the Legislature from establishing higher limits, the summary would not be misleading because it does not address the question of future legislative action on possession limits one way or the other.

Authority of the Department of Health. The Proposed Amendment is not ambiguous about the regulatory authority of the Department of Health, which would retain full authority to ensure the safety of marijuana products sold by MMTCs, both for medical and non-medical purposes. But even if the Proposed Amendment were ambiguous, the Attorney General has identified nothing misleading in the summary related to the purported ambiguity. An ambiguity in a proposed amendment itself is not a ground for invalidating an initiative under section 101.161.

"Commercialization" of Marijuana. The Florida Chamber of Commerce raises various arguments alleging that the summary fails to disclose that the Proposed Amendment's true purpose is the "commercialization" of marijuana, but those arguments lack merit. The amendment's chief purpose is to permit adults 21 or over to possess and use marijuana for non-medical purposes. The authorization of state-licensed entities to produce and sell marijuana products and accessories is necessary to make that right effective.

Immunity. The Proposed Amendment does not confer a "broad immunity" beyond what is necessary to ensure that the conduct allowed by the amendment is not subject to state civil or criminal

immunity. The contrary argument advanced by the Drug Free America Foundation (DFAF) conflicts with this Court's interpretation of identical language in *Medical Marijuana I*.

II. Single-Subject Requirement. The Proposed Amendment does not violate the Constitution's single-subject requirement.

Logrolling. The Proposed Amendment has a logical and natural oneness of purpose and thus does not reflect impermissible logrolling. It embraces one subject: allowing adults 21 years or older to possess, purchase, and use marijuana products and marijuana accessories in accordance with Florida law. To exercise that right, Floridians necessarily require some lawful means of acquiring safe marijuana products. To that end, the Proposed Amendment allows state-licensed entities to "acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories." Those two components of the Proposed Amendment are logically interrelated parts of the same scheme. That conclusion follows both from the general principles of this Court's precedents and from this Court's specific holdings in the *Medical Marijuana* cases.

Functions of Government. The Proposed Amendment does not substantially alter the functions of multiple branches of the

government. Rather, it merely builds upon the existing regulatory scheme for medical marijuana, and it preserves the Legislature's authority to enact consistent legislation.

III. Facial Validity Under U.S. Constitution. The Proposed Amendment does not facially violate the U.S. Constitution. The Supremacy Clause does not forbid a State from eliminating a state-law proscription on an activity merely because the activity is prohibited by a federal statute, as the U.S. Supreme Court has made clear in the specific context of marijuana laws. DFAF's contrary position rests on a misreading of U.S. Supreme Court precedent.

LEGAL STANDARDS

Under Article XI of the Florida Constitution, "[t]he power to propose the revision or amendment of any portion or portions of th[e] constitution by initiative is reserved to the people[.]" Art. XI, § 3, Fla. Const. As Justice Canady has explained, "[o]ne of the most important rights enjoyed by the people of Florida under our constitution is the right to vote on constitutional amendments through the initiative process." *Medical Marijuana I*, 132 So. 3d at 819 (dissenting). Indeed, determining ballot placement of a citizen initiative "is the most sanctified area in which a court can exercise power." *Right to*

Treatment & Rehabilitation, 818 So. 2d 491, 494 (Fla. 2002) (quoting *Pope v. Gray*, 104 So. 2d 841, 842 (Fla. 1958)).

For that reason, this Court has often noted that "we abide by the principle that sovereignty resides in the people and the electors have a right to approve or reject a proposed amendment to the organic law of this State," and that the Court should intervene only in "those instances where there is an entire failure to comply with a plain and essential requirement." *Limits or Prevents Barriers to Local Solar Elec. Supply*, 177 So. 3d 235, 241-42 (2015) (*Solar Elec. Supply*) (internal quotations and citations omitted).

In light of those first principles, this "Court has traditionally applied a deferential standard of review to the validity of a citizen initiative petition[.]" *Rights of Elec. Consumers Regarding Solar Choice*, 188 So. 3d 822, 827 (Fla. 2016) (*Elec. Consumers*) (internal quotations and citations omitted). The Court has recognized its "duty to uphold a proposal unless it can be shown to be clearly and conclusively defective." *Id.*; *accord, e.g.*, *Solar Elec. Supply*, 177 So. 3d at 246; *Reduce Class Size*, 816 So. 2d 580, 582 (Fla. 2002). Although the Attorney General invites this Court to abandon that settled

standard (AG Br. 15)—which it has applied for decades—she provides no reasoned basis to do so.

ARGUMENT

In drafting the ballot summary, SSF hewed closely to the "roadmap" that this Court laid out in the *Medical Marijuana* and *Non-Medical Marijuana* decisions. Yet, in an effort to prevent Florida voters from deciding the issue for themselves, the Attorney General and other opponents advance a series of poorly conceived arguments that variously conflict with this Court's precedents, misconstrue the Proposed Amendment's text, or fall well short of showing that the Initiative is clearly and conclusively defective. In truth, the opponents simply oppose eliminating the state-law ban on the adult personal use of marijuana as a policy matter, and they are seeking to enlist this Court in an effort to prevent the voters from deciding their constitutional rights for themselves. This Court should not countenance that attempt to circumvent Floridians' sovereign right to approve or reject a proposed amendment to the organic law of this State.

I. The Ballot Summary Complies With Section 101.161 Because It Clearly And Unambiguously Discloses The Amendment's Chief Purpose And Is Not Affirmatively Misleading

The ballot summary complies with the requirements of Section 101.161(1). That section provides that "a ballot summary of [a proposed] amendment . . . shall be printed in clear and unambiguous language." § 101.161(1), Fla. Stat. The purpose of § 101.161(1) is "to provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." *Elec. Consumers*, 188 So. 3d at 831 (quotation omitted). Accordingly, this Court asks: (i) whether the ballot title and summary fairly inform the voter of the chief purpose of the proposed amendment; and (ii) whether the ballot title and summary are affirmatively misleading. *Non-Medical Marijuana I*, 315 So. 3d at 1180 (citations omitted).

"'While the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, they need not explain every detail or ramification of the proposed amendment.'" *Elec. Consumers*, 188 So. 3d at 831 (quoting *1.35% Prop. Tax Cap, Unless Voter Approved*, 2 So. 3d 968, 974 (Fla. 2009)). That is not

ordinarily possible given that Section 101.161 limits the title and summary to 15 and 75 words, respectively.

The ballot title and summary of the Proposed Amendment clearly and unambiguously inform voters of its chief purpose: allowing adults 21 years or older to possess, purchase, and use marijuana. When presented with the ballot title and summary in the voting booth, voters will know exactly what they are being asked to approve and can thus cast informed and intelligent ballots. Although the opponents make a variety of attempts to show that the summary is affirmatively misleading, none of their theories has merit.

A. The Ballot Summary Addresses Federal Law In Precisely The Manner This Court Has Instructed Sponsors To Use

The Attorney General's *lead* argument is that this Court should repudiate its opinions in *Medical Marijuana I*, *Medical Marijuana II*, and *Non-Medical Marijuana I*—issued in 2014, 2015, and 2021, respectively—and announce that language that the Court previously held up as the "roadmap" for marijuana initiatives is now so flawed as to be affirmatively misleading. This Court should reject that invitation, both because the Court's prior analysis correctly construed the plain text of the summary language and because SSF has relied

on the Court's unambiguous instruction in undertaking the costly process of drafting and building support for the Initiative.

1. The Attorney General argues that by stating that the Proposed Amendment "[a]llows" personal use of marijuana, App. 6a, the summary will mislead voters into believing that the use authorized by the amendment would be immune from federal penalties. AG Br. 17. That claim lacks merit because the immediately following sentence expressly and unambiguously disavows any such implication by stating:

> Applies to Florida law; does not change, or immunize violations of, federal law.

App. 7a. That proviso tracks the text of the amendment itself, which provides: "Nothing in this section changes federal law or requires the violation of federal law or purports to give immunity under federal law." App. 5a (§ 29(c)(5)) (underlining indicates proposed amendment to the provision).

No reasonable voter would read the summary's direct warning about federal law to mean anything other than that the longstanding, well-known, and near-total federal prohibition on marijuana possession would remain unaffected by the Proposed Amendment. There

would be no reason to include a statement that the amendment does not "immunize violations of[] federal law" unless the conduct allowed by the amendment under "Florida law" remained federally prohibited. If the amendment merely allowed some "subset" of marijuana use permitted by federal law, AG Br. 17, 22, it would be pointless to tell voters that the amendment does not "immunize" violations of federal law—a fact that would have no more relevance than telling voters that it did not immunize violations of Portuguese law. In reality, a voter of ordinary intelligence reading the summary's admonition will be immediately apprised that the amendment forecloses only Florida law penalties, not penalties under federal law.

The Attorney General's myopic focus on the word "[a]llows," detached from the proviso in the next sentence, does not comport with this Court's approach to section 101.161, which requires that the title and summary be "read within the[ir] full context." *Elec. Consumers*, 188 So. 3d at 833. Nor is it consistent with textualist principles of interpretation. As Justice Barrett of the U.S. Supreme Court recently explained, "the meaning of a word depends on the circumstances in which it is used." *Biden v. Nebraska*, 143 S. Ct. 2355, 2378 (concurring). For that reason, "a vacuum is no home for a

textualist," and "the meaning of a word or phrase may only become evident when placed in context." *Id.* at 2382 (quotation marks and citation omitted) (emphasis omitted).

The context here is not hard to find: Immediately after stating what the amendment "allows," the ballot summary makes abundantly clear that it applies only to Florida law and does not change federal law or immunize violations of federal law. Contrary to the Attorney General's arguments, reasonable voters reading the full summary in context would therefore understand that the word "allows" does not signal that the conduct would be free from federal penalties.

The Attorney General overlooks that in ordinary usage the word "allow" seldom means that the permitted conduct is free from constraints imposed by actors other than the parties mentioned. For example, if a school announced that it would "allow" students to bring cell phones to class, no one would interpret the school's statement to prohibit *parents* from requiring their children to leave their phones at home. Rather, the school's policy would be understood to mean only that the school itself would not impose penalties for cell phones. The context here is still clearer: Even if some voters might

otherwise believe that a Florida amendment could alter federal law, the summary's admonition confirms that the word "allows" is limited to Florida law.

That conclusion is fortified by this Court's "presum[ption] that the average voter has a certain amount of common understanding and knowledge." *Detzner v. League of Women Voters of Fla.*, 256 So. 3d 803, 808 (Fla. 2018). It strains credulity well past the breaking point to think that the average voter is unaware that marijuana is illegal at the federal level. That prohibition has been a major subject of national debate for years. This Court has presumed that voters have a basic knowledge of similar existing prohibitions. *See, e.g.*, *Protect People from the Health Hazards of Second-Hand Smoke*, 814 So. 2d 415, 419 (Fla. 2002) ("presum[ing] that most, if not all, voters are aware that smoking is presently limited in certain public places").

2. Given the clarity of the admonition about federal law, it is little surprise that this Court has repeatedly approved language that the Attorney General necessarily concedes is "materially similar"—most recently, just two years ago. AG Br. 25. Indeed, the Court not only found the language satisfies section 101.161, but declared it to be a "roadmap" for *exactly* this type of initiative—a proposed

amendment to allow marijuana for non-medical use. *Non-Medical Marijuana I*, 315 So. 3d at 1182.

This Court first approved the language in 2014 in *Medical Marijuana I*, where it explained that a ballot summary was valid where it advised that the proposed amendment "'[a]pplie[d] only to Florida law'" and "'[did] not authorize violations of federal law.'" *Medical Marijuana I*, 132 So. 3d at 794. That language was sufficient, the Court held, because—as in this case—it was "substantially similar in meaning to the proposed amendment's text." *Id.* at 808. The Court explained that a ballot summary need go no further in informing voters that marijuana possession and use is prohibited under federal law because "that is not in the proposed amendment itself." *Id.*

Critically, the summary in *Medical Marijuana I* also stated that the proposed amendment "'[a]llows'" the use of marijuana. *Id.* at 794. Yet the Court had little trouble concluding that, when that statement was read in context with the explicit warnings about Florida law and federal law, the summary complied with section 101.161.

One year later, in *Medical Marijuana II*, this Court upheld a ballot summary stating in virtually the same language that the amendment "'[a]pplie[d] only to Florida law,'" and "'[did] not immunize

violations of federal law[.]'" 181 So. 3d at 476, 478. This Court later described the modification to the latter phrase ("immunize" instead of "authorize") as providing even "clearer language than in *Medical Marijuana I*," emphasizing that the Court had "*unanimously* approved the initiative petition." *Non-Medical Marijuana I*, 315 So. 3d at 1182 (emphasis in original); *accord Medical Marijuana I*, 132 So. 3d at 821 (Canady, J., dissenting) (explaining view that "there would have been no deception" in *Medical Marijuana I* if the summary had referred to the lack of "immunity under federal law" rather than "the conduct authorized") (internal quotation marks omitted). And as in *Medical Marijuana I* and this case, the summary in *Medical Marijuana II* stated that the proposed amendment "'[a]llows'" use of marijuana—the word that the Attorney General claims here to be deceptive. 181 So. 3d at 476.

Finally, in *Non-Medical Marijuana I*, the Court held that the ballot summary's omission of the previously approved language rendered the summary misleading. 315 So. 3d at 1180-84. But the Court underscored that "following the roadmap this Court unanimously approved in *Medical Marijuana II*" would pass muster. *Id.* at 1082.

SSF followed that roadmap here, including taking account of this Court's guidance that the word "immunize" was even "clearer" than the word "authorize." The Attorney General essentially concedes as much. AG Br. 21-22. While claiming support in this Court's holding that that "*unqualified* use of the word '[p]ermits' strongly suggests that the conduct" authorized by the amendment would be legal under federal law, *Non-Medical Marijuana I*, 315 So. 3d at 1180-81 (emphasis added), she acknowledges that the Court held that the problem "could have been ameliorated" with virtually the same language that SSF's ballot summary uses. *Id.*; *see* AG Br. at 21. That suffices to reject the Attorney General's argument here.

3. Ultimately, the Attorney General asks this Court to discard its repeatedly and recently reaffirmed precedent. But in doing so, she focuses on one case—*Medical Marijuana I*—while largely ignoring the "roadmap" later established in *Medical Marijuana II* and reaffirmed in *Non-Medical Marijuana I*. AG Br. 24 & n.8. And although she acknowledges that this Court's ordinary standard for overruling an advisory opinion is "extraordinary circumstances," she does not attempt to argue that such a demanding standard is met here,

instead asking this Court to invent a new, more lenient standard. *Id.* at 24.

This Court should reject that request. The Attorney General claims that a lesser standard is warranted because the language about federal law was approved in connection with different initiatives. AG Br. 24-25. But this Court has never suggested that the precedential force of advisory opinions turns on that consideration. If that were the case, no one seeking to amend the Constitution could reasonably rely upon this Court's advisory opinions to craft legally compliant initiatives, which would severely undermine the constitutional right of the citizen initiative.

Rather, where an argument opposing a ballot initiative raises "the precise issue covered in our prior opinion," that prior opinion generally "is binding," absent "new argument on an important issue not addressed in our earlier opinion." *Ray v. Mortham*, 742 So. 2d 1276, 1285 (Fla. 1999). Because "the effect of [the Court's] 'advice' is the removal of the amendment from the ballot," *id.*—a consequence of great importance to the State and its people—"relitigation of issues expressly addressed in an advisory opinion on a proposed

amendment is strongly disfavored," *Florida League of Cities v. Smith*, 607 So. 2d 397, 399 (Fla. 1992).

Indeed, if anything, the precedential weight of this Court's advisory opinions should be *greater* for future initiatives that adopt approved language because they most directly implicate a core concern of *stare decisis*: reliance interests. Sponsors rely on this Court's holdings when drafting new initiative petitions and expending the considerable time and resources it takes to secure the required (nearly one million) signatures. As this Court has instructed, "[i]n evaluating reliance interests, courts consider 'legitimate expectations of those who have reasonably relied on the precedent,'" *State v. Maisonet-Maldonado*, 308 So. 3d 63, 69 (Fla. 2020) (quoting *Ramos v. Louisiana*, 140 S. Ct. 1390, 1415 (2020) (Kavanaugh, J., concurring in part)), and there could be few more "legitimate expectations" than the belief that this Court will not declare language to be misleading that it already found not to be misleading. Such reliance interests are at their apex here, where the Court not only repeatedly approved the relevant language, but declared just two years ago that it was a "roadmap" for future marijuana initiatives.

Given this context, the Attorney General does not come close to establishing "extraordinary circumstances" or even some lesser justification for overturning recent, repeated, unambiguous precedent and guidance from this Court. In particular, she offers no convincing explanation for how the Court's conclusion two years ago that language was not misleading has become "clearly erroneous"—a claim that is particularly confounding given the ever-increasing national prominence of the debate over the federal prohibition on marijuana. The Attorney General seems to believe that Florida voters are ignorant of even the most high-profile national debates and one of the most well-known proscriptions in federal law. This unavailing argument, however, is no reason to retreat from this Court's roadmap and block the Initiative from the voters' consideration.

To argue that the ballot summary is misleading, and suggest the Court discard its recent precedent, the Attorney General resorts to extrinsic considerations, such as a handful of media reports. That is not how this Court approaches the interpretation of legal texts. Rather, this Court "adhere[s] to the 'supremacy-of-text principle': 'The words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.'"

Implementation of Amend. 4, The Voting Restoration Amend., 288 So. 3d 1070, 1078 (Fla. 2020) (quoting Antonin Scalia & Bryan A. Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 56 (2012)). Under that principle, the text of the Proposed Amendment, and the text of the ballot title and summary, are the exclusive subjects of judicial analysis.

Even assuming they were appropriately considered, the extrinsic considerations that the Attorney General identifies are irrelevant. AG Br. 25-27. She alleges that "the popular media" have "sown public confusion about the effects of this new initiative," citing a handful of cherry-picked articles from the likes of *Ballotpedia* and a few local television broadcasts. AG Br. 27-28. But the Attorney General does not point to any statement indicating that the amendment would eliminate federal penalties. Rather, she asks this Court to hold that general references to "legalization" and similar terms in popular discourse and reporting have somehow rendered the previously approved language misleading. Yet the same terms were used in public discussion around the medical-marijuana initiatives that this Court

approved, so the Attorney General's argument presents no justifiable ground to revisit the Court's precedent.[2]

Moreover, this Court has no reliable means of gauging the overall message conveyed by media coverage of the Initiative (as opposed to a few articles carefully selected for a legal brief). That is precisely why this Court steadfastly adheres to the supremacy-of-text principle.[3]

The Attorney General has thus identified no serious ground to disregard repeated, recent precedent. In *Non-Medical Marijuana I*, the Court aptly compared its rejection of the ballot summary to "a professor failing a student who chose an incorrect answer after twice

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[2] *See, e.g., Bondi Makes Right Call on Marijuana Amendment*, TAMPA BAY TIMES (Nov. 14, 2015) (referring to "revised constitutional amendment that would legalize medical marijuana"); *New Medical Marijuana Amendment Moves Forward*, SUN SENTINEL (July 24, 2015) (describing "push to legalize medical marijuana").

[3] The Attorney General also points to federal criminal penalties, suggesting that Floridians who take advantage of a new right of personal use may find themselves arrested by the DEA and sentenced to long terms of imprisonment. That claim is not grounded in reality. Across multiple presidential administrations, the U.S. Department of Justice has not targeted businesses or consumers who comply with state law. The notion that Floridians exercising their rights under the amendment will face any real threat of federal jeopardy is thus farfetched. And in any event, that remote possibility is disclosed in the ballot summary.

being shown the correct answer." 315 So. 3d at 1182 n.2. But the Attorney General now asks this Court to flunk the student who has heeded the professor's instruction and carefully recited precisely what she was taught. That would send the message that even the most considered holdings and directives in this Court's opinions do not mean what they say.

B. The Ballot Summary Is Not Misleading With Respect To The Licensing Of Non-MMTCs

The Attorney General next argues that the summary is misleading in explaining that the Proposed Amendment "allows . . . other state licensed entities" to engage in the same marijuana-related conduct as MMTCs. App. 6a-7a. According to the Attorney General, because the amendment merely *permits* the Legislature to provide for the licensing of other entities, rather than affirmatively *mandating* such licensing, the statement is misleading. AG Br. 29-30.

No reasonable voter would be confused in the manner that the Attorney General imagines. The most natural understanding of the summary is that entities other than MMTCs may sell marijuana *if* they obtain a license from the State. That is precisely what the Proposed Amendment provides in subsections (a)(5) and (e). App. 2a, 6a

(emphasis added). Thus, "[f]ar from being 'affirmatively misleading,' the ballot summary largely recites in full" the relevant provision of the amendment. *Citizenship Requirement to Vote in Fla. Elections*, 288 So. 3d 524, 529 (Fla. 2020) (internal quotation marks omitted).

The Attorney General nevertheless claims that voters would understand the statement that the amendment "allows . . . other state licensed entities" to engage in the same conduct as MMTCs in one of three different inaccurate ways, but none of her theories makes linguistic or practical sense.

First, the Attorney General speculates that some voters would believe that there are already "existing" entities licensed to sell recreational marijuana. AG Br. 29. That is not credible. Florida voters are well aware that it is illegal—indeed, criminal—to sell marijuana for non-medical use (and, were there any doubt, the existence of the Proposed Amendment alone would make that clear). They are thus unlikely to conclude that there already exists a cadre of entities licensed by the State to sell recreational marijuana.

Second, the Attorney General implies that voters might believe that the amendment *itself* licenses entities to sell marijuana for personal use. AG Br. 29. That theory has two fatal problems. First, the

summary refers to the entities as "state licensed"—indicating that an agency of state government will do the licensing, not that the licenses are created by the amendment itself. Second, no reasonable voter familiar with any kind of government licensing—for drivers, occupations, land use, or the myriad other areas of modern life—would believe that licenses would be granted one time *en masse* through a constitutional provision. Obtaining a license ordinarily requires applicants to satisfy regulatory requirements on a case-by-case basis and to verify ongoing compliance, and licensing is not typically limited to those entities in existence at the time an authorizing law is enacted. Indeed, after medical marijuana was approved by the voters in 2016, the ensuing licensing scheme had precisely those features.[4] Given that, few voters would conclude from the reference to "other state licensed entities" that the amendment itself grants licenses.

Third, the Attorney General suggests that a voter might believe that the amendment "require[s] the Legislature to provide for

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[4] *See* § 381.968, Fla. Stat. (2014) (creating regulatory and licensing scheme for dispensing organizations for compassionate use of low-THC cannabis); § 381.968, Fla. Stat. (2016) (expanding upon same); § 381.968, Fla. Stat. (2017) (converting to licensing scheme for medical marijuana).

additional licensure." AG Br. 29. But the text of the summary implies nothing of the sort. When amendments have imposed mandatory duties on government actors, the summaries have said so in plain terms. For example, in *Medical Marijuana II*, the summary stated: "'The Department of Health *shall* register and regulate centers that produce and distribute marijuana for medical purposes and *shall* issue identification cards to patients and caregivers.'" 181 So. 3d at 476 (emphases added). Voters would expect to see similar language if a new duty were being foisted upon the Legislature. Indeed, if the Proposed Amendment had been written to require the Legislature to grant licenses, the Attorney General would almost certainly argue that the summary was misleading for failing to disclose that new constitutional limitation on the Legislature's discretion (and that the amendment violated the single-subject requirement).

The only reasonable inference from the ballot-summary language is thus the accurate one: that the amendment permits entities that are not MMTCs to engage in the same marijuana-related activities as MMTCs *if* they obtain a license from the State. The specifics of licensing are simply not described. That is appropriate, because the licensing of non-MMTCs is not the "chief purpose" of the

amendment, but rather is ancillary to facilitating the possession, purchase, and use of marijuana by adults for non-medical purposes. Further, it is not misleading to omit details about a *potential* result of the amendment's implementation in a 75-word summary. *Voter Control of Gambling*, 215 So. 3d at 1217.

The Attorney General rests her argument in part on the claim that it is a "truism" that the Legislature could authorize non-MMTCs to sell marijuana for personal use under its preexisting authority. AG Br. 29. The Proposed Amendment includes that "truism" in subsection (e), the argument goes, only as a "pretext for placing into the ballot summary" the supposedly misleading reference to other state-licensed entities. *Id.* at 32.

But it is not at all clear that the Legislature would possess the authority to license non-MMTCs if the relevant authorization were not included in the Proposed Amendment. If the amendment were limited to MMTCs, courts might well construe it to impliedly preclude the licensing of other entities. *See, e.g.*, *Indus. Fire & Cas. Ins. Co. v. Kwechin*, 447 So. 2d 1337, 1339 (Fla. 1983) ("The express authorization of deductibles in the enumerated situations implies the

prohibition against them in all other situations according to the rule of statutory construction inclusio unius est exclusio alterius.").

But even if a court would not draw that negative inference, Florida voters might. It is therefore entirely reasonable for the summary to clarify (in terms that closely track the amendment's text) that the amendment also grants immunity to non-MMTCs that obtain a license from the State. Indeed, had the summary omitted any mention of non-MMTCs, the Attorney General would almost certainly be arguing it was misleading for falsely conveying to voters that only MMTCs would be permitted to sell marijuana.

This case is thus nothing like *Non-Medical Marijuana II*, where the summary stated that it established limits on use of marijuana, but the amendment actually provided only for "'minimum quantities'" and gave county and municipal governments unfettered discretion to set the maximum permissible amounts. 320 So. 3d at 668 (quoting proposed amendment). Here, the Proposed Amendment does exactly what the summary says: It authorizes state-licensed entities that are not MMTCs, if any, to engage in the same activity as MMTCs. The summary says nothing about how licenses may be acquired,

consistent with the amendment's reservation of that decision to the Legislature.

C. The Attorney General Does Not Show That The Summary Would Mislead Voters As To The Effect Of The Three-Ounce Possession Limit

The Attorney General's third argument is that the ballot summary misleads voters into believing that the three-ounce limit applies only to the immunity conferred by the Proposed Amendment, even though (she claims) the amendment "affirmatively outlaws the possession of more than 3 ounces of marijuana," prohibiting the Legislature from raising the personal-use limit in the future. AG Br. 32-36.

There are two fatal problems with that argument: (i) it misreads the plain text of the amendment, which does not curtail any authority that the Legislature otherwise possesses to permit possession in greater quantities; and (ii) even if the amendment did impose such a constraint on legislative action, the summary would not be misleading.

1. The Attorney General's claim that the Proposed Amendment "bans the possession of more than 3 ounces of marijuana" rests on an elementary interpretive error: construing a *definitional provision*

to operate as an independent constraint on legislative action. AG Br. at 11, 34. Nothing in the Proposed Amendment limits whatever authority the Legislature otherwise possesses to permit possession of marijuana in excess of three ounces.

The Attorney General's argument is based on the following sentence from the Proposed Amendment:

> An individual's possession of marijuana for personal use shall not exceed 3.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate.

App. 4a (§ 29(b)(13)); *see* AG Br. 32. Critically, that sentence is part of the *definition* of "personal use." It is not an operative provision that independently imposes limitations. As a definitional provision, the sentence in question does not "outlaw" the possession of greater quantities of marijuana or limit the power of the Legislature. Rather, it delimits only what qualifies as "personal use" *under the amendment*.

That could not be clearer from the unambiguous text of Section 29 as modified by the Proposed Amendment. The introductory sentence to the definitional section of Section 29 states: "*For purposes of this section*, the following words and terms shall have the following

meanings." App. 2a (emphasis added). Accordingly, the definitional provisions that follow do not apply beyond Section 29 and would not support a negative inference that the Legislature is prohibited from exercising whatever authority it otherwise possesses to establish higher possession limits.

That is also clear from the text of the sentence itself, which states only that "[a]n individual's possession of marijuana *for personal use* shall not exceed" the specified amounts. App. 4a (§ 29(b)(13)) (emphasis added). "Personal use," of course, is the term being defined. The sentence is thus simply a caveat that the defined term "personal use" does not encompass quantities in excess of the specified amounts, not an independent prohibition on legislative authority.

As so limited, that term then plugs into two of the amendment's operative provisions: subsections (a)(4) and (a)(5). First, subsection (a)(4) provides that "[t]he non-medical personal use of marijuana and marijuana accessories by an adult, as defined below [*i.e.*, in amounts not in excess of the specified caps], in compliance with this section is not subject to any criminal or civil liability or sanctions under Florida Law." App. 2a. In that provision, the thresholds do no more than

define the personal-use immunity conferred by the Proposed Amendment.

Likewise, subsection (a)(5) provides that MMTCs and other licensed entities may "distribute marijuana products and marijuana accessories to adults for personal use [*i.e.*, in amounts not in excess of the specified caps] upon the Effective Date provided below" and "shall not be subject to criminal or civil liability or sanctions under Florida law" for doing so. App. 2a. Again, as interpolated into that provision, the statutory caps merely limit the immunity provided by the Proposed Amendment. They do not serve as standalone limitations on legislative action.

That plain-text interpretation of the Proposed Amendment accords with ordinary principles of statutory interpretation. "Definitions, whether statutory or regulatory, are not themselves operative provisions of law." *Hamilton v. Brown*, 4 Vet. App. 528, 536 (1993), *aff'd*, 39 F.3d 1574 (Fed. Cir. 1994) (citing SUTHERLAND STATUTORY CONSTRUCTION § 27.02, at 459 (1985)). "Rather, such a . . . definition is no more than an appositional phrase to be inserted, for interpretive purposes, after the defined term in the operative statutory provision[.]" *Id.*; *see also, e.g.*, *Isaccson v. Brnovich*, 610 F.Supp.3d 1243,

1252 (D. Ariz. 2022). It would be particularly incongruous to construe a *definition* to "outlaw[]" an activity. AG Br. 32. As the Fourth District Court of Appeals has put it, "[m]anifestly such a definitional provision cannot create an offense." *Shroeder v. State*, 252 So. 2d 270, 272 (Fla. 4th DCA 1971).

The Attorney General's contrary reading not only flouts the plaint text of the Proposed Amendment, but it makes little practical sense. The amendment does not specify any criminal or civil penalties for possession of marijuana in excess of the specified caps. It is therefore entirely unclear how it could constitute an enforceable prohibition. Even under the Attorney General's (mis)reading of the amendment, the Legislature could presumably just decline to provide any penalties for possession in excess of the caps. It would be particularly odd to construe the amendment to establish a permanent prohibition with no enforcement mechanism.

Rather than adopt such a self-defeating interpretation of the amendment, the far more natural reading is that the sentence limits only the definition of "personal use" for purposes of the amendment—as the introductory clause of subsection (b) states in unambiguous

terms. The Attorney General's third argument thus rests on a defective premise.[5]

2. Even if the Proposed Amendment could somehow be read to forbid the Legislature from permitting the possession of amounts of marijuana that exceed the caps, the ballot summary would not be affirmatively misleading. The relevant sentence of the summary states: "Establishes possession limits for personal use." App. 7a. The most natural reading of that sentence (especially in light of the preceding sentences) is that if the amendment were ratified, personal use would be authorized but limited to certain amounts. Whether the Legislature could *raise* those amounts by statute is an issue that is not addressed one way or the other in the summary. Voters know that a 75-word summary cannot address "the complete details of a

[5] Construing the cap as applying only to the immunity granted by the Proposed Amendment does not run afoul of this Court's holding in *Non-Medical Marijuana II* (and no party has argued otherwise). In *Non-Medical Marijuana II*, the problem was that the summary claimed that the proposed amendment limited personal use, but the actual text of the amendment contained no limit at all, instead authorizing not only the Legislature but also counties and municipalities to increase the maximum permissible amount to "unlimited" levels. 320 So. 3d at 668. Here, the Proposed Amendment merely does not disturb whatever constitutional authority the Legislature otherwise possesses to authorize greater quantities of lawful possession, while limiting the immunity that it grants to the listed amounts.

proposed amendment" or provide "an exhaustive explanation of the interpretation and future possible effects of [the] amendment." *All Voters Vote in Primary Elections for State Legislature, Governor, and Cabinet*, 291 So. 3d 901, 906 (Fla. 2020).

Citing no precedent or other authority, the Attorney General argues that because "constitutional provisions generally operate to protect, not limit, individual liberties," reasonable voters would have understood the general reference to limits to refer only to the "outer bound on the scope of immunity created by the proposed amendment." AG Br. 33 (emphasis omitted). As an initial matter, that argument ignores that the Proposed Amendment does not seek to restrict any *existing* right under the Florida Constitution. Rather, it seeks to create a right of personal use, as defined by the amendment, subject to the conditions provided for in that same amendment (for which voters are undeniably provided notice in the ballot summary).

At any rate, the Attorney General's assumption about the nature of constitutional amendments is demonstrably false. The same article of the Constitution (Article X) is replete with limitations on individual freedom, including: a prohibition on smoking in enclosed indoor workplaces, enforceable through civil penalties (§ 20(a) and

(d)); a bar on medical licenses for doctors who have repeatedly committed malpractice (§ 26(a)); a prohibition on retaliation against employees for exercising their right to a minimum wage, enforced by fines (§ 24(d) and (e)); and a prohibition on dog racing in connection with wagers, which authorizes the Legislature to impose criminal or civil penalties (§ 32).

Even more implausibly, the Attorney General claims that voters would be familiar with a single sentence drawn from the background section of the Court's decision in *Florida Department of Health v. Florigrown, LLC*, 317 So. 3d 1101 (Fla. 2021), which describes Section 29 as conferring "'immunity'" on MMTCs. AG Br. 33-34 (quoting 317 So. 3d at 1106) (emphasis omitted). The Attorney General cites no authority for the proposition that voters are familiar with sentences in this Court's opinions, and that of course defies common sense. And in any case, even a voter who had committed the Southern Reporter to memory would understand that an amendment to Section 29 could change the nature or function of that section.

Finally, drifting still further away from reality, the Attorney General also hypothesizes a confused voter who could not possibly exist in real life. *See* AG Br. 34-35. According to the Attorney General, a

citizen in favor of broader legalization might vote for the Initiative without realizing that it would prohibit the Legislature from increasing possession limits (which, again, it does not do). *Id.* That hypothetical citizen, we are told, might prefer to wait for a hypothetical future initiative that has higher possession limits or a "legislative approach," and thus vote no on the current initiative. *Id.* That is entirely illogical. Even if the current initiative were ratified and imposed the limits that the Attorney General claims, the limits could be raised either by a future initiative or by an amendment proposed by the Legislature. *See, e.g.*, *Raising Fla.'s Min. Wage*, 285 So. 3d 1273, 1276 (Fla. 2019) (approving ballot initiative that amended a prior amendment). So it would be nonsensical for the hypothetical citizen to vote "no" just to wait for a *possible* future initiative or legislative fix—from a Legislature that has killed "20 bills" allowing the recreational use of marijuana "in the last 10 years alone," AG Br. 1—while losing the benefit of the Proposed Amendment in the interim.[6]

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[6] The Attorney General claims without evidence that the three-ounce limit was selected to entrench MMTCs' position in the marketplace. AG Br. 35-36. But with one exception, all of the 23 U.S. jurisdictions that have allowed marijuana for non-medical use have imposed general limits of three ounces or less (though four States allow higher limits for use at home and Connecticut allows five ounces in a locked

D. The Attorney General Identifies Nothing Misleading With Respect To The Department Of Health's Regulatory Authority

The Attorney General's final argument is that the summary is misleading because "the proposed amendment is ambiguous about the [Health] Department's regulatory authority" in the area of recreational marijuana, and "the Department [may] lack any such authority." AG Br. 36.

As a threshold matter, the Attorney General is wrong about ambiguity in the Department of Health's regulatory authority. Should the Initiative pass, MMTCs will remain subject to the Department's

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container). Alaska Stat. § 17.38.020 (2019); Ariz. Rev. Stat. Ann. § 36-2852(A)(1) (2020); Cal. Health & Safety Code § 11357 (2017); Colo. Rev. Stat. Ann. § 18-18-406(5)(c) (2021); Conn. Gen. Stat. Ann. § 21a-279a (2021); Del. Code Ann. Tit. 16, § 4701 (West 2023); D.C. Code Ann. § 48-904.01(a)(1)(A) (2015); 410 Ill. Comp. Stat. Ann. 705/10-10 (West 2019); Mass. Gen. Laws Ann. Ch. 94G § 7(a) (2016); Md. Code Ann., Crim. Law § 5-101 (West 2023); Me. Rev. Stat. Ann. Tit. 28-B § 1501(1)(B) (2018); Mich. Comp. Laws Ann. § 333.27955 (2018); Mo. Rev. Stat. § 579.015 (West 2021); Mont. Code Ann. § 16-12-106(1)(a) (2022); Nev. Rev. Stat. Ann. § 678D.200(3)(d)(1) (2021); N.M. Stat. Ann. § 26-2C-25(A)(2) (2021); N.Y. Penal Law § 222.05 (McKinney 2021); Or. Rev. Stat. Ann. § 475C.341(1) (2022); R.I. Gen. Laws § 21-28-4.01 (West 2021); Vt. Stat. Ann. Tit. 18, § 4230(a)(1) (West 2021); Va. Code Ann. § 4.1-1100(A) (West 2022); Wash. Rev. Code Ann. § 69.50.4013 (2023). Only New Jersey has a higher general possession limit. N.J. Stat. Ann. § 2C:35-10(a)(3)(b) (2021).

regulations in all of their activities and must comply with them or risk losing their license. The only difference would be that adults 21 years or older could possess and use marijuana purchased from a fully regulated MMTC without being a qualified patient.[7]

The Attorney General's argument appears to assume some difference between "medical marijuana" and "recreational marijuana" that demands a different set of regulations. But marijuana is the same substance regardless of whether it is colloquially called "medical marijuana" or "recreational marijuana." *See* Art. X, § 29(b)(4), Fla. Const. (defining "marijuana" in accord with section 893.02(3), Fla. Stat. (2014), and including low-THC cannabis in accord with section 381.986(1)(b), Fla. Stat. (2014)). If the Proposed Amendment were adopted, all marijuana sold by MMTCs would be subject to the same Department of Health standards, which (among other things)

[7] The Attorney General's fears of unregulated MMTCs are unfounded, since they must be licensed by the Department of Health. Contrary to the Attorney General's apparent view (AG Br. 39), nothing in the summary states or implies that MMTCs (as opposed to other entities) will receive any further license beyond what the Department of Health already grants, consistent with the Proposed Amendment's text.

ensure that the marijuana can be safely used, Art. X, § 29(d)(1)(c), Fla. Const.

But even if the Proposed Amendment were ambiguous about the Department's regulatory authority, the Attorney General's argument does not actually point to anything ambiguous—let alone affirmatively misleading—in the ballot summary itself. She merely advances "a complaint about an ambiguity of the text of [the Proposed Amendment] rather than a complaint regarding the nature of the summary." *Department of State v. Hollander*, 256 So. 3d 1300, 1311 (Fla. 2018). That sort of argument fails under section 101.161: "[T]his Court has held that it will not strike a proposal from the ballot based upon an argument concerning 'the ambiguous legal effect of the amendment's text rather than the clarity of the ballot title and summary.'" *Id.* (quoting *Voter Control of Gambling*, 215 So. 3d at 1216).

The only language from the ballot summary that the Attorney General identifies as misleading on this point is "the reference to 'other state licensed entities.'" AG Br. 37. According to the Attorney General, that reference "suggests that the Department would possess recreational regulatory authority comparable to its authority to regulate the medical marijuana market." *Id.*

That argument ignores the plain text of the summary. By referring to "*state* licensed entities"—not "Department of Health licensed entities"—the summary indicates only that the entities will be licensed by some state agency, not necessarily by the Department of Health. App. 6a-7a (emphasis added). And that is in fact precisely what the amendment states by adding a sentence to subsection (e) stating: "The legislature may provide for the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and marijuana accessories for personal use by adults." App. 6a. That permits the Legislature to vest licensing authority in either the Department of Health or some other body. The ballot summary therefore accurately informs voters of exactly what the amendment would do. Indeed, the summary nowhere mentions the Department of Health.

The Attorney General also argues that the Proposed Amendment "fails to tell voters that the industry would necessarily be unregulated for at least some substantial period" because "the Amendment would not *require* legislative or regulatory implementation of its new provisions at all, let alone by any particular date." AG Br. 37-

38. That argument fails for the same reason noted above, *i.e.*, that MMTCs will still be subject to the Department of Health's regulatory scheme on day one. It also ignores the Proposed Amendment's six-month effective-date provision, which gives the Legislature and any agency ample time to act. App. 6a (§ 29(g)). And the Attorney General fails to note that even before passage of the 2016 medical-marijuana amendment, the Legislature began crafting a statutory implementation scheme, and the Department of Health put in place temporary regulations immediately.

E. The Chamber Of Commerce's "Commercialization" Arguments Lack Merit

For its part, opponent Florida Chamber of Commerce briefly makes two related arguments about what it calls "commercialization" under section 101.161, but they both lack merit. *See* Chamber Br. 26-32.

1. The Chamber argues that "[t]he title and summary grant a new individual right to . . . the 'personal use' of marijuana" but "fail to disclose" that the Proposed Amendment "contracts this right" by prohibiting adults from growing marijuana for their own use. Chamber Br. 28-29. That argument is flawed on multiple levels.

The ballot summary expressly identifies the specific rights created by the amendment for adults: to possess, purchase, and use marijuana products and marijuana accessories. Most clearly, the summary does not suggest that individuals have *any* right to cultivate marijuana—because no such right is granted. To the contrary, it explains that MMTCs and other state-licensed entities may "cultivate" and "process" marijuana, but it conspicuously does not use those terms for the rights granted to all adults. App. 6a-7a.

The Chamber argues that the summary should have affirmatively stated that the amendment does not permit the personal cultivation of marijuana. But this Court has never held that a ballot summary must affirmatively state what an amendment does *not* do, and such a rule would be unworkable given the 75-word limit.

The Chamber relatedly argues that the summary fails to disclose that the "chief purpose" of the Proposed Amendment is the "commercialization of recreational marijuana." Chamber Br. 29. But that is not its chief purpose. As the title indicates, the chief purpose of the amendment is to permit adults' personal *use* of marijuana. To facilitate safe use, however, it authorizes licensed entities to cultivate, process, manufacture, and sell marijuana. *See* pp.58-62, *infra*. In

describing that facet of the amendment, the summary hews closely to the amendment's text.

2. The Chamber also argues that the ballot title and summary are affirmatively misleading because they suggest that the "other state-licensed entities . . . already exist." Chamber Br. 30-32. Like the Attorney General, the Chamber relies on the deeply implausible assumption that the average Florida voter would surmise that there already exist a group of entities licensed to sell marijuana for non-medical purposes. *See* p.35, *supra*. Florida voters surely know that such entities do not currently exist.

The Chamber nevertheless contends that because the word "licensed" is a verb in "the past tense," Florida voters would think that the licensees "already exist." Chamber Br. 30. But the word "licensed" is being used as a past-participle *adjective* in both the summary and the amendment. As noted in one leading grammar treatise, past participles "can be used for referring to past, present, or future time"; the past participle "signifies 'perfectiveness' or completion, but is not restricted to past time." S. Chalker and E. Weiner, THE OXFORD DICTIONARY OF ENGLISH GRAMMAR 282, 286-87 (1994). Thus, just as the Constitution's reference to "retired justices or judges" does not

include only those jurists who were retired when the provision was adopted, Art. V, § 2(b), Fla. Const., the summary's reference to "other state licensed entities" does not refer only to previously licensed entities (and so does not suggest, contrary to common sense, that such entities already exist).

F. The Proposed Amendment Does Not Confer Broad Civil Immunity As Urged By The Drug Free America Foundation

Finally, opponent DFAF argues that the summary is misleading because it does not disclose that the Proposed Amendment confers "broad civil immunity" on users, MMTCs, and other licensed entities. DFAF Br. 19. DFAF's argument rests on a misinterpretation of the amendment's immunity provisions and conflicts with this Court's interpretation of identical language in *Medical Marijuana I* ("not be subject to criminal or civil liability or sanctions under Florida law"). 132 So. 3d at 806-08. That language does not alter ordinary "liability for fraud, negligence or misconduct." *Id.* at 807. Rather, it confers only a "limited immunity" that ensures that the "mere act of [using or distributing] marijuana" will not "result in civil or criminal liability or sanctions, which would prevent the amendment from being implemented." *Id.* That limited function is reflected in the summary,

which states that the amendment "[a]llows" personal use of marijuana and distribution by MMTCs and other state licensed entities under "Florida law." Such activities would not be allowed under Florida law if they exposed parties to civil liability.

II. The Amendment Embraces One Subject: Allowing Adults 21 Years Or Older To Possess, Purchase, And Use Marijuana

Although neither the Attorney General nor DFAF contends that the Proposed Amendment violates the Constitution's single-subject requirement, the Chamber raises that argument. Chamber Br. 14-26. According to the Chamber, the Proposed Amendment "embraces the dual subjects of decriminalizing *and* commercializing recreational marijuana." Chamber Br. 17. The Court should reject that contention because what the Chamber describes as two separate subjects are just inextricably intertwined components of virtually any state-law marijuana regime. The Proposed Amendment neither "engag[es] in 'logrolling'" nor "substantially alter[s] or perform[s] the functions of multiple branches of government." *Elec. Consumers*, 188 So. 3d at 827. And the Chamber's suggestion that the Court jettison its established doctrine in this area has no support in the textualist principles that it unsuccessfully attempts to invoke.

A. The Proposed Amendment Has A Logical And Natural Oneness Of Purpose And Does Not Logroll

The Constitution provides that an amendment proposed by citizen initiative "shall embrace but one subject and matter directly connected therewith." Art. XI, § 3, Fla. Const. "In evaluating whether a proposed amendment violates the single-subject requirement, the Court must determine whether it has a logical and natural oneness of purpose." *Elec. Consumers*, 188 So. 3d at 827 (internal quotation marks omitted).

The Proposed Amendment embraces one subject: allowing adults 21 or older to possess, purchase, and use marijuana products and marijuana accessories in accordance with Florida law. Those marijuana products and accessories must come from somewhere, or the right to possess, purchase, and use them would be meaningless. To that end, the Proposed Amendment provides that state-licensed MMTCs, as well as other entities that may be licensed by the state, are allowed to "acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories[.]" App. 2a. Rather than embrace "dual subjects" (Chamber Br. at 17-19), the amendment's creation of a right to possess, purchase, and use

marijuana products and accessories and its provision for the lawful means of obtaining such products and accessories from licensed entities are simply "two sides of the same coin," *Elec. Consumers*, 188 So. 3d at 828 (citation omitted).

The enumeration of interrelated elements to accomplish a unified plan does not render the Proposed Amendment infirm. *Solar Elec. Supply*, 177 So. 3d at 244. That is because each of the Proposed Amendment's provisions are "logically viewed as component parts or aspects of a single dominant plan or scheme." 177 So. 3d at 243.

Nor does the Proposed Amendment reflect logrolling, which is "'a practice whereby an amendment is proposed which contains unrelated provisions, some of which electors might wish to support, in order to get an otherwise disfavored provision passed.'" *Voting Restoration Amend.*, 215 So. 3d 1202, 1206 (Fla. 2017) (quoting *Elec. Consumers*, 188 So. 3d at 827). The Proposed Amendment does not combine disparate topics, nor does it force voters to accept an undesirable provision in order to gain approval of a desirable one. *Elec. Consumers*, 188 So. 3d at 828-29. Rather, naturally attendant to the right to possess, purchase, and use marijuana is the requirement that such marijuana be purchased from a state-licensed

and regulated entity. Because of that inherent relationship, the "various provisions are all directly connected to the amendment's purpose—and its dominant plan or scheme [of allowing personal use of marijuana by adults]—and, thus, the proposed amendment does not engage in impermissible logrolling." *Solar Elec. Supply*, 177 So. 3d at 243.

The Chamber's position, moreover, is squarely refuted by the *Medical Marijuana* cases. In those decisions, the Court concluded that the proposed amendments did not violate the single-subject requirement even though they legalized both the use of medical marijuana and the cultivation, sale, and distribution of medical marijuana, and delegated rulemaking and oversight authority to the Department of Health. *See Medical Marijuana I*, 132 So. 3d at 791-92, 796-97; *Medical Marijuana II*, 181 So. 3d at 473-74, 477-78. As this Court explained in *Medical Marijuana II*, "[t]he proposed amendment's provision regarding the specific role for the Department of Health in overseeing and licensing the medical use of marijuana is directly connected with th[e] purpose" of "permitting the medical use of marijuana." 181 So. 3d at 477; *accord Medical Marijuana I*, 132 So. 3d at 796. It follows that the Proposed Amendment, which merely

builds upon this existing legal regime, does not violate the single-subject requirement.

Instead of grappling with the Court's precedent on the single-subject requirement in this very context, the Chamber leads this Court down a winding path of asserted definitions in a fruitless attempt to show that the Proposed Amendment embraces dual subjects. The Chamber argues that "personal use" connotes a "personal right," and that a "personal right" is a "private right," and that a "private right" cannot include "commercialization"—even, apparently, if lawful commercial sales are necessary to animate the private right. Chamber Br. 17-18.

But the Chamber's linguistic labyrinth and ipse dixit bear no resemblance to this Court's long-settled approach to the single-subject requirement. Under that approach, the possession, use, cultivation, and distribution of marijuana are "not disparate subjects" but "instead are directly connected to the purpose of the amendment and to each other." *Solar Elec. Supply*, 177 So. 3d at 244 (internal

quotation marks omitted). That suffices to show that they are part of a single unified scheme.[8]

B. The Proposed Amendment Does Not Substantially Alter Or Perform The Functions Of Multiple Branches Of Government

The Chamber is also incorrect that the Proposed Amendment substantially alters or performs the functions of multiple branches of state government. Indeed, far from working any significant change in the structure of government, the amendment merely builds upon a regulatory scheme that was already approved in the *Medical Marijuana* cases and has been in effect for several years.

The relevant principles for this factor are well-settled. "[A] proposal that affects several branches of government will not automatically fail; rather it is when a proposal *substantially* alters or performs the functions of multiple branches that it violates the single-subject test." *Medical Marijuana I*, 132 So. 3d at 795-96 (citing *Fish & Wildlife Conservation Comm'n*, 705 So. 2d 1351, 1353-54 (Fla. 1998))

[8] The Chamber strays very far afield in citing a national (not even Florida) public opinion poll regarding the location of marijuana dispensaries (not whether sale should be permitted at all). Chamber Br. 20-21. Leaving aside the obvious reliability and pertinence objections to such a poll, this Court has never suggested that such extrinsic material is relevant to the single-subject analysis.

(emphasis added). That high standard is necessary: As this Court has recognized, it is "difficult to conceive of a constitutional amendment that would not affect other aspects of government to some extent." *Elec. Consumers*, 188 So. 3d at 830 (citing *Limited Casinos*, 644 So. 2d 71, 74 (Fla. 1994)). For that reason, this Court has found a violation of this prong of the single-subject requirement only when an amendment "cause[s] . . . 'precipitous' or 'cataclysmic' changes to the government structure." *Id.* (citation omitted).

The Proposed Amendment does not cause such profound change in the structure of government—or really any change at all. It is narrowly focused on ensuring the lawfulness of the personal use of marijuana and a lawful means for consumers to acquire marijuana. The amendment simply requires the Department of Health to continue conducting oversight of MMTCs, which this Court approved in the *Medical Marijuana* cases, and authorizes the Legislature to grant additional regulatory power as it sees fit—a power that the Attorney General contends the Legislature already enjoys.

The Chamber's contrary arguments are almost inscrutable. *See* Chamber Br. 23-26. The Chamber says that the amendment invalidates existing prohibitions and curtails the Legislature's authority in

this field. But that is true of any amendment granting individual rights. Since the amendment focuses solely on one narrow subject—marijuana—it does not impose a "cataclysmic" change on the function or role of the Legislature (indeed, it expressly preserves the Legislature's ability to enact consistent legislation).

The Chamber also asserts that the Proposed Amendment substantially alters or performs the functions of the executive branch, but it admits that the amendment simply builds upon "the existing constitutional provision governing medical marijuana." Chamber Br. 24-25. That admission makes clear that the amendment does *not* alter the functions of the executive branch, much less substantially. And the Chamber's claim that under the amendment MMTCs "will be above the law," Chamber Br. 26, has no basis in the text of the amendment, which continues to subject them to the authority of the Department of Health.

C. The Court Should Not Discard Its Established Test

Finally, the Chamber suggests that this Court should scrap its established test for the single-subject requirement in favor of what the Chamber calls the "textualist" approach. Chamber Br. 15-16. But the Chamber's approach amounts to nothing more than

replacing the phrase "single subject" with "single topic." *Id.* That would not change the basic question that this Court's doctrine seeks to answer: whether a proposed amendment's provisions are different components of the same subject or instead address disparate issues. Under the Court's established framework, the components of the Proposed Amendment here are closely interconnected aspects of the same subject.

III. The Proposed Amendment Does Not Violate The Supremacy Clause Of The U.S. Constitution

Under a newly enacted provision of section 16.061, Florida Statutes, this Court is to determine "whether [a] proposed amendment is facially invalid under the United States Constitution." This Court has not yet applied that provision. *See Non-Medical Marijuana II*, 320 So. 3d at 667 n.2. Outside of the First Amendment context, the U.S. Supreme Court has held that "facial challenges" under the U.S. Constitution succeed only if "a law is unconstitutional in all of its applications." *City of Los Angeles v. Patel*, 576 U.S. 409, 418 (2015) (internal quotation marks omitted).

Opponent DFAF contends that the Proposed Amendment is facially unconstitutional under the Supremacy Clause, U.S. Const.,

Art. VII, § 2, because it is preempted by the federal Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* DFAF Br. 8-13. Even assuming *arguendo* that a routine preemption argument is cognizable under section 16.061, no precedent or principle supports DFAF's argument. The Supremacy Clause does not require state law to prohibit what federal law prohibits, and the Controlled Substances Act provides that it preempts state law only where there is a "positive conflict," 21 U.S.C. § 903 (2018). Thus, the U.S. Supreme Court has made clear that "a state may choose to legalize an activity that federal law prohibits, *such as the sale of marijuana*." *Gamble v. United States*, 139 S. Ct. 1960, 1969 (2019) (Alito, J., for the Court) (emphasis added).

DFAF's contrary view rests on a mischaracterization of *Gonzalez v. Raich*, 545 U.S. 1 (2005), as having "struck down a California law allowing for personal possession and cultivation of marijuana." DFAF Br. 11-12. *Raich* held only that the federal prohibition did not exceed Congress's power under the Commerce Clause; it did not invalidate the California law. *Id.* at 9.

CONCLUSION

This Court should issue an opinion advising that the Initiative satisfies the legal requirements to be placed on the ballot.

July 19, 2023

Respectfully submitted,

/s/ *John F. Bash*
John F. Bash

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished via the e-Filing Portal on this 19th day of July 2023, to the following:

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CERTIFICATE OF COMPLIANCE

I certify that this brief was prepared in 14-point Bookman Old Style font, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2), and contains 12,850 words.

/s/ John F. Bash
Counsel to Smart & Safe Florida

Appendix

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May 15, 2023

The Honorable Carlos Muñiz
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Muñiz and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility as Attorney General to petition this Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On April 26, 2023, this office received a letter from the Secretary of State (a copy of which is attached) advising that the initiative petition titled "Adult Personal Use of Marijuana," No. 22-05, had met the registration, submission, and signature criteria set forth in section 15.21, Florida Statutes.

The full text of the proposed amendment, which would amend Article X, Section 29 of the Florida Constitution, states:

ARTICLE X
MISCELLANEOUS

SECTION 29. ~~Medical m~~Marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician

certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(4) The non-medical personal use of marijuana products and marijuana accessories by an adult, as defined below, in compliance with this section is not subject to any criminal or civil liability or sanctions under Florida Law.

(5) Medical Marijuana Treatment Centers, and other entities licensed as provided below, are allowed to acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories to adults for personal use upon the Effective Date provided below. A Medical Marijuana Treatment Center, or other state licensed entity, including its agents and employees, acting in accordance with this section as it relates to acquiring, cultivating, processing, manufacturing, selling, and distributing marijuana products and marijuana accessories to adults for personal use shall not be subject to criminal or civil liability or sanctions under Florida law.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) "Debilitating Medical Condition" means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) "Department" means the Department of Health or its successor agency.

(3) "Identification card" means a document issued by the Department that identifies a qualifying patient or a caregiver.

(4) "Marijuana" has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, "Low-THC cannabis" as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term "marijuana."

(5) "Medical Marijuana Treatment Center" (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.

(6) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver's designated qualifying patient for the treatment of a debilitating medical condition.

(7) "Caregiver" means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.

(8) "Physician" means a person who is licensed to practice medicine in Florida.

(9) "Physician certification" means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.

(10) "Qualifying patient" means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

(11) "Marijuana accessories" means any equipment, product, or material of any kind that are used for inhaling, ingesting, topically applying, or otherwise introducing marijuana products into the human body for personal use.

(12) "Marijuana products" means marijuana or goods containing marijuana.

(13) "Personal use" means the possession, purchase, or use of marijuana products or marijuana accessories by an adult 21 years of age or older for non-medical personal consumption by smoking, ingestion, or otherwise. An adult need not be a qualifying patient in order to purchase marijuana products or marijuana accessories for personal use from a Medical Marijuana Treatment Center. An individual's possession of marijuana for personal use shall not exceed 3.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate.

(c) LIMITATIONS.

(1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.

~~(2) Nothing in this section shall affect or repeal laws relating to non-medical use, possession, production, or sale of marijuana.~~

(2) Nothing in this amendment prohibits the Legislature from enacting laws that are consistent with this amendment.

(3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.

(5) Nothing in this section changes federal law or requires the violation of federal law or purports to give immunity under federal law.

(6) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place.

(7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of a qualified patient, caregiver, physician, MMTC, or its agents or employees.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.

b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.

c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Identification cards and registrations. The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) LEGISLATION. Nothing in this section shall limit the legislature from enacting laws consistent with this section. The legislature may provide for the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and marijuana accessories for personal use by adults.

(f) SEVERABILITY. The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

(g) EFFECTIVE DATE. This amendment shall become effective six (6) months after approval by the voters.

The ballot title for the proposed amendment is: "Adult Personal Use of Marijuana." The ballot summary for the proposed amendment states:

Allows adults 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking, ingestion, or otherwise; allows Medical Marijuana Treatment Centers, and other state licensed

entities, to acquire, cultivate, process, manufacture, sell, and distribute such products and accessories. Applies to Florida law; does not change, or immunize violations of, federal law. Establishes possession limits for personal use. Allows consistent legislation. Defines terms. Provides effective date.

Pursuant to Rule 9.510(b), Florida Rules of Appellate Procedure, this petition provides the following information:

1. The name and address of the sponsor of the initiative petition:

David Bellamy, Chairperson
Smart & Safe Florida
1400 Village Square Boulevard, Suite 3-321
Tallahassee, FL 32312

2. Name and address of the sponsor's attorney, if the sponsor is represented: Unknown.

3. A statement as to whether the sponsor has obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot: As of May 10, 2023, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot.

4. The current status of the signature-collection process: As of May 10, 2023, Supervisors of Elections have certified a total of 658,099 valid petition signatures to the Division of Elections for this initiative petition. This number represents more than 25% of the 8% total number of valid signatures needed from electors statewide and in at least one-half of the congressional districts in order to have the initiative placed on the 2024 general election ballot.

5. The date of the election during which the sponsor is planning to submit the proposed amendment to the voters: Unknown. The earliest election date that this proposed amendment can be placed on the ballot is November 5, 2024, provided the sponsor successfully obtains the requisite number of valid signatures by February 1, 2024.

6. The last possible date that the ballot for the target election can be printed in order to be ready for the election: The content of the general election ballot must be finalized sufficiently in advance to allow the Supervisor of Elections to be able to meet the statutory deadline to send vote-by-mail ballots to uniformed and overseas

voters no later than 45 days before the General Election to be held on November 5, 2024.

7. A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request: Unknown. The Secretary of State forwarded a letter to the Financial Impact Estimating Conference in the care of the coordinator on April 12, 2023.

8. The names and complete mailing addresses of all of the parties who are to be served: This information is unknown at this time. Section 16.061(2), Florida Statutes, requires that a copy of the petition be provided to the Secretary of State and to the principal officer of the sponsor:

Cord Byrd
Secretary of State
Florida Department of State
R.A. Gray Building
500 S. Bronough St.
Tallahassee, FL 32399-0250

David Bellamy, Chairperson
Smart & Safe Florida
1400 Village Sq. Blvd, Ste 3-321
Tallahassee, FL 32312

While not required by law, this office provides copies of the petition to:

Hon. Ron DeSantis
Governor, State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Hon. Kathleen Passidomo
President, The Florida Senate
Senate Office Building
404 S. Monroe St.
Tallahassee, FL 32399-1100

The Honorable Paul Renner
Speaker, Florida House of Representatives
The Capital, Room 420
402 S. Monroe St.
Tallahassee, FL 32399-1300

In accordance with the provisions of Article IV, section 10, Florida Constitution, I respectfully request this Court's opinion as to whether the proposed amendment "Adult Personal Use of Marijuana" complies with the single-subject requirement of Article XI, section 3, Florida Constitution, and whether the ballot title and summary of the amendment complies with the substantive and technical requirements in section 101.161(1), Florida Statutes. I believe that the proposed amendment fails to meet the requirements of Section 101.161(1), Fla. Stat., and will present additional argument through briefing at the appropriate time.

Respectfully submitted.

Ashley Moody
Attorney General

FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS
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500 South Bronough Street, Rm 316
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US POSTAGE $000.53-

The Honorable Ashley Moody
Attorney General
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PL-01 The Capitol
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FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

April 6, 2023

The Honorable Ashley Moody
Attorney General
Department of Legal Affairs
PL-01 The Capitol
Tallahassee, Florida 32399-1050

Dear Attorney General Moody:

Section 15.21, Florida Statutes, provides that the Secretary of State shall submit an initiative petition to the Attorney General when a sponsoring political committee has met the registration, petition form submission and signature criteria set forth in that section.

The criteria in section 15.21, Florida Statutes, has been met for the initiative petition titled **Adult Personal Use of Marijuana, Serial Number 22-05.** Therefore, I am submitting the proposed constitutional amendment petition form, along with a status update for the initiative petition, and a chart that provides a statewide signature count and count by congressional districts.

Sincerely,

Cord Byrd
Secretary of State

CB/am

pc: Smart & Safe Florida

Enclosures

Division of Elections
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FLORIDA ELECTIONS

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title: Adult Personal Use of Marijuana

Ballot Summary: Allows adults 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking, ingestion, or otherwise; allows Medical Marijuana Treatment Centers, and other state licensed entities, to acquire, cultivate, process, manufacture, sell, and distribute such products and accessories. Applies to Florida law; does not change, or immunize violations of, federal law. Establishes possession limits for personal use. Allows consistent legislation. Defines terms. Provides effective date.

Article and Section Being Created or Amended: Article X, Section 29

Full Text of the Proposed Amendment: SECTION 29. ~~Medical m~~Marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(4) The non-medical personal use of marijuana products and marijuana accessories by an adult, as defined below, in compliance with this section is not subject to any criminal or civil liability or sanctions under Florida Law.

(5) Medical Marijuana Treatment Centers, and other entities licensed as provided below, are allowed to acquire, cultivate, process, manufacture, sell, and distribute marijuana products and marijuana accessories to adults for personal use upon the Effective Date provided below. A Medical Marijuana Treatment Center, or other state licensed entity, including its agents and employees, acting in accordance with this section as it relates to acquiring, cultivating, processing, manufacturing, selling, and distributing marijuana products and marijuana accessories to adults for personal use shall not be subject to criminal or civil liability or sanctions under Florida law.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) "Debilitating Medical Condition" means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder

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(PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) "Department" means the Department of Health or its successor agency.

(3) "Identification card" means a document issued by the Department that identifies a qualifying patient or a caregiver.

(4) "Marijuana" has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, "Low-THC cannabis" as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term "marijuana."

(5) "Medical Marijuana Treatment Center" (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.

(6) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver's designated qualifying patient for the treatment of a debilitating medical condition.

(7) "Caregiver" means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.

(8) "Physician" means a person who is licensed to practice medicine in Florida.

(9) "Physician certification" means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.

(10) "Qualifying patient" means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

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(11) "Marijuana accessories" means any equipment, product, or material of any kind that are used for inhaling, ingesting, topically applying, or otherwise introducing marijuana products into the human body for personal use.

(12) "Marijuana products" means marijuana or goods containing marijuana.

(13) "Personal use" means the possession, purchase, or use of marijuana products or marijuana accessories by an adult 21 years of age or older for non-medical personal consumption by smoking, ingestion, or otherwise. An adult need not be a qualifying patient in order to purchase marijuana products or marijuana accessories for personal use from a Medical Marijuana Treatment Center. An individual's possession of marijuana for personal use shall not exceed 3.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate.

(c) LIMITATIONS.

(1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.

~~(2) Nothing in this section shall affect or repeal laws relating to non-medical use, possession, production, or sale of marijuana.~~

(2) Nothing in this amendment prohibits the Legislature from enacting laws that are consistent with this amendment.

(3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.

(5) Nothing in this section changes federal law or requires the violation of federal law or purports to give immunity under federal law.

(6) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place.

(7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of a qualified patient, caregiver, physician, MMTC, or its agents or employees.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

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CONSTITUTIONAL AMENDMENT FULL TEXT

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.

b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.

c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Identification cards and registrations. The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) LEGISLATION. Nothing in this section shall limit the legislature from enacting laws consistent with this section. The legislature may provide for the licensure of entities that are not Medical Marijuana Treatment Centers to acquire, cultivate, possess, process, transfer, transport, sell, and distribute marijuana products and marijuana accessories for personal use by adults.

(f) SEVERABILITY. The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

(g) EFFECTIVE DATE. This amendment shall become effective six (6) months after approval by the voters.

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Attachment for Initiative Petition

Adult Personal Use of Marijuana
Serial Number 22-05

1. **Name and address of the sponsor of the initiative petition:**
   David Bellamy, Chairperson
   Smart & Safe Florida
   1400 Village Square Boulevard, Suite 3-321
   Tallahassee, Florida 32312

2. **Name and address of the sponsor's attorney, if the sponsor is represented:** Unknown.

3. **A statement as to whether the sponsor has obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot:** Currently, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot.

4. **If the sponsor has not obtained the requisite number of signatures on the initiative petition to have the proposed amendment put on the ballot, the current status of the signature-collection process:** Currently, the Supervisors of Elections have verified more forms from more than 25% of the number of electors statewide in one-half of the congressional districts of the state pursuant Section 100.371(13), Florida Statutes.

5. **The date of the election during which the sponsor is planning to submit the proposed amendment to the voters:** Unknown. The earliest date of election that this proposed amendment can be placed on the ballot is November 5, 2024, provided the sponsor successfully obtains the requisite number of verified valid signatures by February 1, 2024.

6. **The last possible date that the ballot for the target election can be printed in order to be ready for the election:** The content of the general election ballot must be finalized sufficiently in advance to allow the Supervisor of Elections to be able to meet the statutory deadline to send vote-by-mail ballots to uniformed and overseas voters no later than 45 days before the General Election which is to be held on November 5, 2024.

7. **A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request:** Unknown. The Financial Impact Estimating Conference was forwarded the petition in accordance with section 100.371(13), Florida Statutes.

8. **The names and complete mailing addresses of all parties who are to be served:** This information is unknown at this time.

FLORIDA DEPARTMENT OF STATE
DIVISION OF ELECTIONS

4/5/2023 12:39:26 PM

SUMMARY OF PETITION SIGNATURES

Political Committee: **Smart & Safe Florida**

22-05 Amendment Title: **Adult Personal Use of Marijuana**

Congressional District	Voting Electors in 2022 Presidential Election	For Review		For Ballot		Signatures Certified
FIRST	425,309	8,507	***	34,025		16,432
SECOND	412,618	8,253	***	33,010	***	44,706
THIRD	395,894	7,918	***	31,672		23,082
FOURTH	402,287	8,046	***	32,183	***	45,847
FIFTH	428,313	8,567	***	34,266		25,995
SIXTH	429,855	8,598	***	34,389		19,824
SEVENTH	435,728	8,715	***	34,859		31,722
EIGHTH	461,782	9,236	***	36,943		14,789
NINTH	343,247	6,865	***	27,460		12,643
TENTH	340,944	6,819	***	27,276		25,849
ELEVENTH	427,352	8,548	***	34,189		12,641
TWELFTH	426,688	8,534	***	34,136		24,137
THIRTEENTH	454,849	9,097	***	36,388		29,286
FOURTEENTH	395,813	7,917	***	31,666	***	32,827
FIFTEENTH	374,818	7,497	***	29,986		25,514
SIXTEENTH	411,680	8,234	***	32,935		17,617
SEVENTEENTH	453,286	9,066	***	36,263		10,623
EIGHTEENTH	352,565	7,052		28,206		6,923
NINETEENTH	436,664	8,734		34,934		7,059
TWENTIETH	339,559	6,792	***	27,165	***	32,099
TWENTY-FIRST	445,876	8,918	***	35,671		13,793
TWENTY-SECOND	395,672	7,914	***	31,654		12,750
TWENTY-THIRD	410,856	8,218	***	32,869		25,249
TWENTY-FOURTH	331,931	6,639	***	26,555	***	36,855
TWENTY-FIFTH	387,170	7,744	***	30,974	***	34,643
TWENTY-SIXTH	319,572	6,392	***	25,566		14,677
TWENTY-SEVENTH	360,319	7,207	***	28,826	***	29,205
TWENTY-EIGHTH	343,381	6,868	***	27,471	***	31,312
TOTAL:	**1,144,028**	**222,895**	**26**	**891,537**	**8**	**658,099**
Statewide Total:	1,144,028	222,881	14	891,523	14	

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing petition has been furnished by U.S. Mail on this 15th day of May, 2023, to the following:

Cord Byrd
Secretary of State
Florida Department of State
R.A. Gray Building
500 S. Bronough St.
Tallahassee, FL 32399-0250

David Bellamy, Chairperson
Smart & Safe Florida
1400 Village Square Boulevard, Suite 3-321
Tallahassee, FL 32312

The Honorable Ron DeSantis
Governor, State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

The Honorable Kathleen Passidomo
President, The Florida Senate
Senate Office Building
404 S. Monroe St.
Tallahassee, FL 32399-1100

The Honorable Paul Renner
Speaker, Florida House of Representatives
The Capital, Room 420
402 S. Monroe St.
Tallahassee, FL 32399-1300

/s/ Christopher J. Baum
Christopher J. Baum, B.C.S. (FBN 1007882)

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