

OFFICIAL TITLE

Proposing an amendment to the Constitution of Arizona; amending the Constitution of Arizona by adding Article XXXI Marijuana Regulation and Taxation, therewith, providing for the regulation of Marijuana; permitting a voting age person to consume or possess limited amounts of Marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the legislature to enact an excise tax to be levied upon wholesale sales of Marijuana; requiring half of the revenue raised annually by such tax be credited to Arizona Department of Health Services.

FULL TEXT OF PROPOSITION

Be it enacted by the People of the State of Arizona

The Constitution of the State of Arizona is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE XXXI. Marijuana Regulation and Taxation

1. The use of Marijuana is legal for people within the state and of Voting Age.
2. Marijuana shall be taxed in a manner similar to Alcohol.
3. Marijuana shall be regulated in a manner similar to Alcohol.
  - (a) Individuals will have to show proof of age before purchasing Marijuana.
  - (b) Selling, distributing or transferring Marijuana to individuals under Voting Age shall remain illegal and treated in the same manner as Liquor Law Violations.
  - (c) Driving while impaired by Marijuana shall remain illegal.
    - i. This Article will not prevent the state from enacting and imposing penalties for driving while impaired by Marijuana but penalties may not be in excess of alcohol related penalties.
    - ii. Evidence of impairment can only be deduced but not directly inferred from the presence of the psychoactive metabolite, Hydroxy-Tetrahydrocannabinol, in the person's blood, per se levels establishing impairment shall not be allowed or enforced.
    - iii. Evidence of being under the influence or impairment gained from sobriety tests administered by law enforcement personnel can only be presented as admissible evidence in court when accompanied with video records of such tests.
    - iv. All persons charged with driving under the influence or impaired are entitled to a trial by jury.
  - (d) Legitimate, taxpaying business people will conduct commercial sales of Marijuana.
4. Parenting, guns, employers, minors and control of property.
  - (a) Parenting rights and privileges shall not to be infringed upon based on a parent's use, possession, transportation or production of Marijuana.
  - (b) A person's right to own and bear arms shall not be infringed upon based on a person's use, possession, transportation or production of Marijuana.
  - (c) A person's eligibility for State services and benefits shall not be infringed upon based on a person's use, possession, transportation or production of Marijuana.
  - (d) Nothing in this Article is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of Marijuana in the workplace or to effect the ability of employers to have policies restricting the use of Marijuana by employees.
  - (e) Nothing in this section is intended to permit the transfer of Marijuana, with or without remuneration, to a person under the Voting Age or to allow a person under the Voting Age to purchase, possess, use, transport, grow, or consume Marijuana.

- (f) Nothing in this section shall prohibit a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of Marijuana on or in that property.
5. Personal use of Marijuana. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Arizona law or the law of any Locality within Arizona or be a basis for seizure or forfeiture of assets under Arizona Law for persons of Voting Age:
- (a) Possessing, using, displaying, purchasing, or transporting Marijuana Accessories or two and half (2.5) ounce or less of Marijuana.
  - (b) Possessing, growing, processing, or transporting no more than **twenty-four (24)** Marijuana plants **per premise**, and possession of the Marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space or in a person's backyard enclosed by a locally zone approved fence, and is not conducted openly or publicly.
  - (c) Transfer of one ounce or less of Marijuana to a person of Voting Age and does not forbid remuneration for the transfer.
  - (d) Consumption of Marijuana, this Article permits public consumption that is similar to Alcohol consumption regulations.
  - (e) Assisting another person whom is of Voting Age in any of the acts described in paragraph (a) through (d) of this subsection.
  - (f) The right of assembly shall not be abrogated on basis of Marijuana use.
6. **Post conviction relief. This is a way for people who have been convicted of Marijuana crimes to get relief from the injustice of these convictions. Relief would be in the form of pardons and clemency and expunged criminal records.**
- (a) **The governor will appoint a commission of five members to review petitions.**
  - (b) **Citizens seeking relief may petition the commission for review of the charges.**
  - (c) **Relief may be release from incarceration, a pardon, clemency and the conviction being expunged.**
  - (d) **Relief shall be granted if there is no violence or property damage associated with the crimes committed.**
  - (e) **The commission by majority vote would recommend to the governor what action should be taken.**
7. Medical Marijuana provisions unaffected. Nothing in this Article shall be construed:
- (a) To limit any privileges or rights of a medical Marijuana patient, primary caregiver, or a licensed entity as provided in the Arizona Medical Marijuana Act;
  - (b) To permit a Medical Marijuana Center to distribute Marijuana to a person who is not a medical Marijuana patient;
  - (c) To permit a Medical Marijuana Center to purchase Marijuana or Marijuana Products in a manner or from a source not authorized under the Arizona Medical Marijuana Act;
  - (d) To permit any Medical Marijuana Center licensed pursuant to the Arizona Medical Marijuana Act to operate on the same premises as a Retail Marijuana Store; or
  - (e) To discharge the Department, the Arizona board of health, or the Arizona Department of Public Health from they're statutory and constitutional duties to regulate medical Marijuana pursuant to the Arizona Medical Marijuana Act.
8. Industrial Hemp will be regulated separately from strains of cannabis with higher Delta-9 Tetrahydrocannabinol (THC) concentrations.
9. Definitions as used in this Article, unless the context otherwise requires.
- (a) "Arizona Medical Marijuana Act" means the A.R.S. Title 36 Chapter 28.1 Arizona Medical Marijuana Act.

- (b) "Consumer" means a person of Voting Age who purchases Marijuana or Marijuana Products for personal use by persons of Voting Age, but not for resale to others.
- (c) "Department" means the Department of Revenue or its successor agency.
- (d) "Industrial Hemp" Means the plant of the genus cannabis and any part of such plant, whether growing or not, with Delta-9 Tetrahydrocannabinol concentration that does not exceed three-tenths percent of the dry weight basis.
- (e) "Locality" means a County, Municipality, or City and County.
- (f) "Marijuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including Marijuana concentrate. "Marijuana" does not include Industrial Hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink, or other product.
- (g) "Marijuana Accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing Marijuana, or the ingesting, inhaling, or the otherwise introducing Marijuana into the human body.
- (h) "Marijuana Cultivation Facility" means an entity licensed to cultivate prepare, and package Marijuana and sell Marijuana to Retail Marijuana Stores, to Marijuana product manufacturing facilities, and to the other Marijuana cultivation facilities, but not to Consumers.
- (i) "Marijuana Establishment" means a Marijuana Cultivation Facility, a Marijuana Testing Facility, a Marijuana product manufacturing facility or a Retail Marijuana Store.
- (j) "Marijuana Product Manufacturing Facility" means an entity licensed to purchase Marijuana; manufacture, prepare, and package Marijuana Products; and sell Marijuana and Marijuana Products to other Marijuana product manufacturing facilities an to Retail Marijuana Stores, but not to Consumers.
- (k) "Marijuana Products" means concentrated Marijuana Products and Marijuana Products that are comprised of Marijuana and other ingredients and are intended for the use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (l) "Marijuana Testing Facility" means an entity licensed to analyze and certify the safety and potency of Marijuana.
- (m) "Medical Marijuana Center" means an entity licensed by a state agency to sell Marijuana and Marijuana Products pursuant to Arizona Medical Marijuana Act.
- (n) "Retail Marijuana Store" means an entity licensed to purchase Marijuana from Marijuana cultivation facilities and Marijuana and Marijuana Products from Marijuana product manufacturing facilities and to sell Marijuana and Marijuana Products to Consumers.
- (o) "Unreasonably Impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a Marijuana Establishment or Industrial Hemp is not worthy of being carried out in practice by a reasonably prudent businessperson.
- (p) "Voting Age" means the person's age qualifies them to vote in general elections as per A.R.S 48-2917 or any successor provision.

10. Lawful operation of Marijuana-related facilities. Notwithstanding any other provisions of law, the following acts are not unlawful and shall not be an offense under Arizona law or be a basis for seizure or forfeiture of assets under Arizona law for persons of Voting Age.

- (a) Manufacture, possession, or purchase of Marijuana Accessories or the sale of Marijuana Accessories to a person who is of Voting Age.
- (b) Possession, displaying, or transporting Marijuana or Marijuana Products; purchase of Marijuana from a Marijuana Cultivation Facility; purchase of Marijuana or Marijuana Products from a Marijuana product manufacturing facility; or sale of Marijuana or

Marijuana Products to Consumers, if the person conducting the activities described in the paragraph has obtained a current, valid license to operate a Retail Marijuana Store or is acting in his or her capacity as an owner, employee or agent of a licensed Retail Marijuana Store.

- (c) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing Marijuana; delivery or transfer of Marijuana to a Marijuana Testing Facility; selling Marijuana to a Marijuana Cultivation Facility, a Marijuana product manufacturing facility, or a Retail Marijuana Store; or the purchase of Marijuana from a Marijuana Cultivation Facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a Marijuana Cultivation Facility or is acting in his or her capacity as an owner, employee, or agent of a licensed Marijuana Cultivation Facility.
- (d) Packaging, processing, transporting, manufacturing, displaying, or possessing Marijuana or Marijuana Products; delivery or transfer of Marijuana or Marijuana Products to a Marijuana Testing Facility; selling Marijuana or Marijuana Products to a Retail Marijuana Store or a Marijuana product manufacturing facility; the purchase of Marijuana from a Marijuana Cultivation Facility; or the purchase of Marijuana or Marijuana Products from a Marijuana product manufacturing facility, if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a Marijuana Cultivation Facility or is acting in his or her capacity as an owner, employee, or agent of a licensed Marijuana product manufacturing facility.
- (e) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering Marijuana or Marijuana Products if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a Marijuana Cultivation Facility or is acting in his or her capacity as an owner, employee, or agent of a licensed Marijuana Testing Facility.
- (f) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities lawfully in accordance with paragraphs (a) through (e) of this subsection.

#### 11. Regulation of Marijuana.

- (a) Not later than July 1, 2017, the Department shall adopt regulations necessary for implementation of this section. Such regulations shall not prohibit the operation of Marijuana Establishments, either expressly or through regulations that make their operation Unreasonably Impracticable. Such regulations shall include:
  - i. Procedures for the issuance, renewal, suspension, and revocation of a license to operate a Marijuana Establishment;
  - ii. A schedule of application, licensing and renewal fees, provided, application fees shall not exceed one thousand (1000) dollars, with this upper limit adjusted annually for inflation, unless the Department determines a greater fee is necessary to carry out its responsibilities under this section, and provide further, an entity that is licensed under the Arizona Medical Marijuana Act to cultivate or sell Marijuana or to manufacture Marijuana Products at the time this Article takes effect and that chooses to apply for a separate Marijuana Establishment license shall not be required to pay an application fee greater than five hundred (500) dollars to apply for a license to operate a Marijuana Establishment in accordance with the with the provisions of the section;
  - iii. Qualifications for licensure that are directly an demonstrably related to the operation of a Marijuana Establishment;
  - iv. Security requirements for Marijuana Establishments;
  - v. Requirements to prevent the sale or diversion of Marijuana and Marijuana Products to persons under the Voting Age;
  - vi. Labeling requirements for Marijuana and Marijuana Products sold or distributed by a Marijuana Establishment;
  - vii. Health and safety regulations and standards for the manufacture of Marijuana Products and the cultivation of Marijuana;
  - viii. Restrictions on the advertising and display of Marijuana and Marijuana Products; and
  - ix. Civil penalties for the failure to comply with regulations made pursuant to this section.

- (b) In order to ensure the most secure, reliable, and accountable system for the production and distribution of Marijuana and Marijuana Products in accordance with this subsection, in any competitive application process the Department shall have as a primary consideration whether an applicant:
  - i. Has prior experience in Alcohol business and conforming to provisions related to that Alcohol; and
  - ii. Has prior experience producing or distributing Marijuana or Marijuana Products pursuant to the Arizona Medical Marijuana Act in the Locality in which the applicant seeks to operate a Marijuana Establishment;
  - iii. Has, during the experience described in subparagraph (i), complied consistently with the provisions of the Arizona Medical Marijuana Act and conforming regulations.
- (c) In order to ensure that individual privacy is protected, notwithstanding paragraph (a), the Department shall not require a Consumer to provide a Retail Marijuana Store with personal information other than government-issued identification to determine the Consumer's age, and a Retail Marijuana Store shall not be required to acquire and record personal information about Consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.
- (d) The legislature shall enact an excise to be levied upon Marijuana sold or otherwise transferred by a Marijuana Cultivation Facility to a Marijuana product manufacturing facility or to a Retail Marijuana Store at a rate not to exceed fifteen (15) percent prior to January 1, 2025 and at a rate to be determined by the legislature thereafter, and shall direct the Department to establish procedures for the collection of all the taxes levied. Provided, one half (1/2) of the revenue raised annually from such excise tax shall be credited to the Arizona Department of Health Services, or any successor dedicated to a similar purpose.
  - i. No such excise tax shall be levied upon Marijuana intended for sale at Medical Marijuana Centers pursuant to the Arizona Medical Marijuana Act.
  - ii. No such excise tax shall be levied upon Marijuana sold at a Retail Marijuana Store other than the normal sales tax for common goods.
- (e) Not later than October 1, 2017, each Locality shall enact an ordinance or regulation specifying the entity within the Locality that is responsible for processing applications submitted for a license to operate a Marijuana Establishment within the boundaries of the Locality and for the issuance of such licenses should the issuance by the Locality become necessary because of a failure by the Department to adopt regulations pursuant to paragraph (a) or because of a failure by the Department to process and issue licenses as required by paragraph (g).
- (f) A Locality may enact ordinances or regulations, not in conflict with this section or with regulations or legislation enacted pursuant to the section, governing the time, place, manner and number of Marijuana Establishment operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the Locality in accordance with paragraph (h) or (i), such procedures to be subject to all requirements of the Administrative Procedure Act, under A.R.S. Title 41, Chapter 6, or any successor provision; establishing a schedule of annual operating, licensing, and application fees for Marijuana Establishments, provided, the application fee shall only be due if an application is submitted to a Locality in accordance with paragraph (i) and a license fee shall only be due if a licensed is issued by a Locality in accordance with paragraph (h) and (i); and establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a Marijuana Establishment that may operate in such Locality. A Locality may prohibit the operation of Marijuana cultivation facilities, Marijuana product manufacturing facilities, Marijuana testing facilities, or Retail Marijuana Stores through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of Marijuana cultivation facilities, Marijuana product manufacturing facilities, Marijuana testing facilities, or Retail Marijuana Stores must appear on a general election ballot during an even number year.
- (g) Each application for an annual license to operate a Marijuana Establishment shall be submitted to the Department. The Department shall:

- i. Begin accepting and processing applications on October 1, 2017.
  - ii. Immediately forward a copy of each application and half of the license application fee to the Locality in which the application desires to operate the Marijuana Establishment.
  - iii. Issue an annual license to the applicant between forty-five (45) and ninety (90) days after receipt of an application unless the Department finds the applicant is not in compliance with regulations enacted pursuant to paragraph (a) or the Department is notified by relevant Locality that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) and in effect at the time of application, provided, where a Locality has enacted a numerical limit on the number of Marijuana Establishments and a greater number of applicants seek licenses, the Department shall solicit and consider input from the Locality as to the Locality's preference or the preferences for licensure; and
  - iv. Upon denial of an application, notify the applicant in writing of the specific reason for its denial.
- (h) If the Department does not issue a license to an applicant within ninety (90) days of receipt of the application filed in accordance with paragraph (g) and does not notify the applicant of the specific reason for its denial, in writing and within such time period, or if the Department has adopted regulations pursuant to paragraph (a) and has accepted applications pursuant to paragraph (g) but has not issued any licenses by January 1, 2018, the applicant may resubmit its application directly to the Locality, pursuant to paragraph (e), and the Locality may issue an annual license to the applicant. A Locality issuing a license to an applicant shall do so within ninety (90) days of receipt of the resubmitted application unless the Locality finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) in effect at the time the application is resubmitted and the Locality shall notify the Department if an annual license has been issued to the applicant. If an application is submitted to a Locality under this paragraph, the Department shall forward to the Locality the application fee paid by the applicant to the Department upon request by the Locality. A license issued by a Locality in accordance with this paragraph shall have the same force and effect as a license issued by the Department in accordance paragraph (g) and the holder of such license shall not be subject to regulation or enforcement by the Department during the term of that license. A subsequent or renewed license may be issued under this paragraph on an annual basis only upon resubmission to the Locality of a new application submitted to the Department pursuant to paragraph (g). Nothing in this paragraph shall limit such relief as may be available to an aggrieved party under the Administrative Procedure Act or any successor provision.
- (i) If the Department does not adopt regulations required by paragraph (a), an applicant may submit an application directly to a Locality after October 1, 2017 and the Locality may issue an annual license to the applicant. A Locality issuing a license to an applicant shall do so within ninety (90) days of receipt of the application unless it finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made pursuant to paragraph (f) in effect at the time of application and shall notify the Department if an annual license has been issued to the applicant. A license issued by a Locality in accordance with this paragraph shall have the same force and effect as a license issued by the Department in accordance with paragraph (g) and the holder of such license shall not be subject to regulation or enforcement by the Department during the term of that license. A subsequent or renewed license may be issued under this paragraph on an annual basis if the Department has not adopted regulations required by paragraph (a) at least ninety (90) days prior to the date upon which such subsequent or renewed license would be effective or if the Department has adopted regulations pursuant to paragraph (a) but has not, at least ninety (90) days after the adoption of such regulations, issued licenses pursuant to paragraph (g).
- (j) Not later than July 1, 2018, the legislature shall enact legislation governing the cultivation, processing and sale of Industrial Hemp.

- i. Such legislation shall not prohibit cultivation, processing and sale of Industrial Hemp, either expressly or through regulations that make the production of Industrial Hemp Unreasonably Impracticable.
  - ii. If the legislature does not enact legislation governing the cultivation, processing and sale of Industrial Hemp, the laws governing and applicable to cotton production will then be implied to govern Industrial Hemp hence forth.
12. There is to be consistency and fairness in the application of this Article throughout the state and that, therefore, the matters addressed in this Article are, except as specified herein, matters of statewide concern.
13. Self-executing, conflicting provisions. All provisions of this Article are self-executing except as specified herein, and except where otherwise indicated in the text, shall supersede conflicting state statutory, local chapter, ordinance, or resolution, and other state and local provisions.
14. Severability. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.
15. Effective date. Unless otherwise provided by this Article, all provisions of this Article shall become effective upon official declaration of the vote hereon by proclamation of the governor, pursuant to Article XXI.

Safer Arizona PAC  
Marijuana Initiative for 2016  
Draft Date: 9/17/14  
By: Dennis Bohlke  
Email: [xyzinfo@super-tech.com](mailto:xyzinfo@super-tech.com)  
Web Page: [www.super-tech.com/2016\\_Draft\\_XXXI\\_Amendment.pdf](http://www.super-tech.com/2016_Draft_XXXI_Amendment.pdf)