

Proposal to “Regulate Marijuana Like Alcohol”
Michigan Proposal to Legalize Recreational Marijuana in 2018
Analysis of the Issues
Reviewed by Steven Kaplan, J.D.

1. **Michigan’s proposal would allow the highest possession limits of all states in the nation – 10 ounces or approximately 880 joints at home and/or 2.5 oz. personal possession in public.** In the 7 states that now allow recreational marijuana use, the personal possession limit is 1 ounce. Maine, the exception, allows 2.5 ounces for personal possession limit. Massachusetts allows the possession of 10 ounces of harvested marijuana at home. Michigan would allow possession in both categories – at home and personal possession.
2. **The proposal does not regulate the potency of marijuana.** Today’s drug is much more potent - containing up to 3 times more THC, the addictive chemical compound in marijuana, than in the 1980s.
3. **The proposal does not address possible additives in a marijuana cigarette.** Given the lack of regulation, marijuana could be laced with other dangerous substances, e.g. fentanyl or carfentanyl. People don’t have any idea what they are really getting.
4. **Legalization has unforeseen consequences for business and the economy.** States that have approved recreational marijuana use are having difficulty finding employees that can pass a drug test. Some employers are forced to hire people from other states.
5. **Fines range from \$100 to \$2000 (for multiple offenses) so they are too small to make an impact or change behavior.** Additionally, if the person breaks the law and they are 18, 19, or 20 years old, they are not advised or required to take drug education or counseling.
6. **The proposal does not allow someone to FOIA (Freedom of Information Act) information about who owns/operates a grow establishment.** Community members will not have the right to seek this information, even if the business presents problems in the community. If this is a legitimate business why would they put in place it cannot be FOIA? What are they trying to hide?
7. **The per/se* (BAC of .08+, no matter how sober they feel or behave once they get behind the wheel they are presumed to be impaired) law would not apply.** It would be more difficult for police to prove the person is under the influence. If you are hit by someone under the influence of marijuana and the police don’t order an expensive drug test it will be difficult to prove they are at fault and under the influence, affecting liability and, possibly insurance rates.
8. **Marijuana use cannot be used as a factor in determining custody.** Even if someone’s significant other is associated with other drug users, the court can’t consider it as an influencer to determine parental rights.

*Note: "Per se" laws in DUI or DWI cases generally establish that once an individual is shown to have a blood-alcohol concentration (BAC) at or above .08 percent, that person will be considered intoxicated by law. In such circumstances, no further evidence of intoxication or impairment need be demonstrated for purposes of a DUI case. These days, all states have per se DUI laws that find any driver with a blood-alcohol concentration (BAC) at or above .08 percent to be intoxicated.

The existence of these laws throughout the United States means that it is important for individuals who are drinking to realize that, regardless of how sober they themselves feel and behave, it is their BAC that matters in the eyes of the law once they get behind the wheel. Should it exceed the per se legal limit, they will legally be presumed to be impaired.

<http://dui.findlaw.com/dui-laws-resources/per-se-dui-laws.html>

INITIATIVE PETITION #2

LANGUAGE TO AMEND THE CONSTITUTION IN MICHIGAN for 2018

“This proposal would add a new section 28 to Article 1 of the State Constitution to read as follows:

Section 28

(1) The agricultural, personal, recreational, medicinal, commercial, industrial and other uses of Cannabis in any form by any person shall be lawful activity.

(2) All prohibitions on the use of cannabis in any form by any persons are hereby null and void.

(3) Use of Cannabis shall include, but not be limited to:

The possession, consumption, growing, manufacture, delivery, treatment, purchase, sale, transfer, and or transport of any plant, seed, flower, leaf, mixture, derivative, extract, product and or preparation of any part of any cannabis plant for all personal, recreational, religious, medicinal, research, development, educational, commercial and industrial purposes within the state of Michigan.

(4) No excise tax, no fines, no fees, no regulation to diminish the use of Cannabis shall be levied or allowed.

(5) This amendment shall be retroactive.

(6) No agency of the state shall receive monies from the federal government or any other entity to be used in the promotion of continued prohibitions of Cannabis.

(7) Severability: If any section, subsection or part of this amendment is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, or parts of those sections shall not be affected, but will remain in full force and effect.”

They have until July 9, 2018 to collect 315,654 signatures for the Nov 2018 ballot.

Quick List of Concerns:

- As an amendment to the constitution it is more difficult to correct. The Michigan Constitution can be amended in these three ways: 1. Proposed amendments must be **agreed to by two-thirds of the members elected to and serving in each house**. 2. Through an [initiated constitutional amendment](#). 3. Change can occur through a [constitutional convention](#) as established every 16 years.
- Cannabis would be legal in all forms by **ANY** Person which does **not give an age restriction** which means even kids can use and have in their possess. (Section 1)
- Cannabis legal in **ALL forms**: vape/budder/wax which all have **very high THC** content. (Section 1)
- Cannabis would **not be labeled with THC levels, pesticides or additives** which might have additional health issues (Section 1)
- They allow use of any form by any person there would be **no controls** on location of use like public places or location of sales. (Section 2)
- No tax, no fines, no regulation allowed creating a “wild west” scenario. **Basically people can do anything and have no consequences or regulation**. Many people will be negatively impacted by this situation because they would have no recourse, no money to fix problems, no way to make changes which would keep kids, community, and the workplace safe. (Section 4)
- **Retroactive** which means anybody that had any amount of marijuana in the past (intent to deliver) might sue. They could have their criminal record expunged/deleted. It would be a “Free for All” that goes back years. (Section 5)
- **Prevention for youth could not be done by State agencies that receive public (federal) dollars to protect kids**. (Section 6)