

PROPOSITION ____
[I-08-2016]

regulation and taxation of marijuana act

ANALYSIS BY LEGISLATIVE COUNCIL

1 Proposition ____ would:

2 1. Allow a person who is at least 21 years of age to lawfully possess and use 1 ounce or less of
3 marijuana (including not more than 5 grams of hashish).

4 2. Create a Department of Marijuana Licenses and Control to regulate the production, distribution
5 and sale of marijuana in this state. The director of the department and the 7 member Marijuana
6 Commission would be appointed by the Governor. The Commission would consist of 4 members who
7 have no financial interest in a marijuana establishment and 3 members who must be controlling members
8 of a marijuana establishment.

9 3. Impose an additional 15% tax on the retail sale of marijuana and marijuana products.

10 4. Direct that monies from application, licensing and other administrative fees, fines, civil
11 penalties and additional taxes related to marijuana production, distribution and sales be deposited in a
12 Marijuana Fund. Monies in that fund would be used first to pay for the costs of the Department of
13 Marijuana Licenses and Control and the Department of Revenue in regulating and enforcing marijuana
14 production, distribution and sales laws. Then, 50% of the license fees collected from each
15 marijuana-related business would be distributed quarterly to the city, town or county where the
16 marijuana-related business is located. Finally, all of the remaining monies in the Marijuana Fund would
17 be distributed quarterly as follows:

18 a. 40% to school districts and charter schools for education-related expenses.

19 b. 40% to school districts and charter schools for full-day kindergarten instruction.

20 c. 20% to the Arizona Department of Health Services for public education campaigns regarding
21 the relative harms of alcohol, marijuana and other substances.

22
23 Possession and use

24 Under Proposition ____, a person who is at least 21 years of age could lawfully possess and use 1
25 ounce or less of marijuana and could possess up to 6 marijuana plants, the marijuana produced by those
26 plants and marijuana accessories. Not more than 5 grams of marijuana could be in the form of
27 concentrated marijuana (hashish). The person could also transfer 1 ounce or less to another person who is
28 at least 21 years of age if the transfer is without remuneration. (The production, possession and use of
29 marijuana are all illegal under existing federal law.)

30 By its terms, Proposition ____ would not authorize a person to:

31 1. Operate any motorized form of transport or machinery while impaired by marijuana.

32 2. Consume marijuana while operating any motorized form of transport or machinery.

33 3. Consume marijuana in a passenger compartment that is not isolated from the operator of any
34 motorized form of transport or machinery.

35 4. Provide marijuana to a person who is under 21 years of age.

36 5. Possess or use marijuana on the grounds of a correctional facility.

37 6. Possess or use marijuana on the grounds of a public or private preschool or K-12 school, or on
38 a school bus or vehicle for such a school.

39 7. Perform any task while impaired by marijuana that would constitute negligence or professional
40 malpractice.

41 A person could not be denied custody, visitation or parenting time, and could not be presumed
42 guilty of neglect or child endangerment, solely for conduct allowed by Proposition _____. A person could

1 not be penalized for an action taken while under the influence of marijuana solely because of the presence
2 of metabolites or components of marijuana in the person's body, urine, blood, saliva, hair or other tissue
3 or fluid. (Under current state statute, a person violates the DUI statute when any drug or its metabolite is
4 present in the person's body.)

5 An employer would not be required to allow the possession or consumption of marijuana in the
6 workplace. (Under the current drug-free workplace laws, an employer may discipline or terminate an
7 employee based on the employee's positive drug test for marijuana, even if the employee consumed the
8 marijuana outside the workplace.) A person who owns, manages or leases a property could prohibit or
9 regulate the smoking, production, processing, manufacture or sale of marijuana on the property and could
10 prohibit or regulate possession or consumption on the property if the property is a public building or if the
11 person would otherwise be subject to the loss of a monetary or licensing benefit under federal laws or
12 regulations.

13 14 Regulation

15 Proposition ___ would create the Department of Marijuana Licenses and Control (DMLC) to
16 regulate the production, distribution and sale of marijuana in this state. The Marijuana Commission
17 would consist of 4 members who have no financial interest in a marijuana establishment and 3 members
18 who must be controlling members of a marijuana establishment. Beginning September 1, 2017, the
19 DMLC would also assume the responsibility currently held by the Department of Health Services to
20 administer and enforce the existing Arizona Medical Marijuana Act.

21 By September 1, 2017, the DMLC would be required to accept applications for marijuana
22 cultivator, product manufacturer, testing facility, distributor and retailer licenses from any existing
23 nonprofit medical marijuana dispensary that forms a reorganized marijuana business by the unanimous
24 consent of all of the dispensary's principal officers. By December 1, 2017, the DMLC would be required
25 to issue licenses to each qualified reorganized marijuana business. Beginning December 1, 2017, the
26 DMLC would be required to accept applications for licenses from all other applicants.

27 Proposition ___ would legalize the sale of marijuana by marijuana retailers beginning March 1,
28 2018. Until September 1, 2021, the number of marijuana retailer licenses would be capped at 1 marijuana
29 retailer license for every 10 liquor store licenses issued by the Arizona Department of Liquor Licenses
30 and Control. Beginning September 1, 2021, the DMLC could issue additional retailer licenses if the
31 department determines that additional licenses are desirable to do any of the following:

- 32 1. Minimize the illegal market for marijuana.
- 33 2. Efficiently meet the demand for marijuana.
- 34 3. Provide for reasonable access to marijuana retailers in rural areas.

35 The DMLC would be required to adopt rules necessary to implement Proposition ___, including
36 adopting procedures and qualifications for issuing, suspending and revoking licenses, establishing
37 security requirements for marijuana establishments and enacting requirements for preventing sales to
38 persons under 21 years of age, including acceptable forms of identification. A proposed marijuana
39 establishment could not be located within 500 feet of a public or private K-12 school or fenced
40 recreational area adjacent to the school at the time the initial license application is received by the DMLC.
41 The rules allowing the marketing, display and advertising of marijuana must restrict marketing or
42 advertising that appeals to children.

43 The DMLC would also be required to establish at least a 3-tier system for licensure of marijuana
44 cultivators. Except for a reorganized marijuana business, a cultivator licensee would be limited to the
45 smallest tier until the cultivator licensee demonstrates that it has sold more than 85% of the marijuana it
46 produces to licensed marijuana establishments, without engaging in any transaction at a price less than the
47 cultivator licensee's cost to produce the marijuana. A reorganized marijuana business would be entitled to
48 receive the highest tier cultivator license, which would allow the business to produce an unlimited amount
49 of marijuana.

50 The voters of a city, town or county could enact a measure at a November general election that
51 prohibits one or more types of marijuana establishments in the locality, except that if the voters enact a

1 measure to prohibit the operation of a marijuana retailer, product manufacturer or cultivator, a
2 reorganized marijuana business could still operate that type of establishment in an area zoned to allow the
3 operation of a nonprofit medical marijuana dispensary within that locality. The city, town or county
4 could enact reasonable ordinances or rules that generally govern the time, place and manner of marijuana
5 establishment operations, subject to certain limitations, including:

6 1. The locality could not limit the number of marijuana retailers, product manufacturers or
7 cultivators to a number fewer than the number of locations where nonprofit medical marijuana
8 dispensaries are engaged in the same type of conduct in the locality.

9 2. Zoning could not prohibit a marijuana establishment from operating in an area within the
10 locality zoned for the operation of a nonprofit medical marijuana dispensary or medical marijuana
11 cultivation facility.

12
13 Violations

14 Proposition ___ would establish petty offenses punishable by a maximum fine of \$300 and
15 community restitution, including:

- 16 1. Smoking or using marijuana in a public place.
17 2. Underage use.
18 3. Unauthorized production (including growing marijuana plants subject to public view without
19 the use of optical aids).
20 4. Possession of more than 1 ounce but not more than 2.5 ounces of marijuana.