

### Constitutional initiative #115

An amendment to Article II Section 14 of Montana state constitution would give Montanan's of legal age determined by legislature, presumably of 21 years and over the ability to buy, consume and possess marijuana. This would still allow for federal prosecution, but not by state. The ballot also calls for a 20% sales tax on the sale of recreational marijuana.

Information from <http://sos.mt.gov/ELECTIONS/2016/BallotIssues/index.asp>

Ballot Issue #10 CI-115

Subject: Permit adults to purchase, consume, or possess marijuana.

Contact Person: Anthony Varriano

Sponsor: Anthony Varriano

Type: Constitutional initiative

Received by SOS: August 11, 2015

Status: Petition has been approved for signature gathering as of October 5, 2015.

Next Step: Sponsor may submit signatures to county election offices.

**Signatures received and tallied by SOS:** 778 of 48,349 total signatures needed; qualified in 0 of 40 legislative districts needed.

### Initiative #176

A law proposed by initiative would ban all drugs listed as schedule one, which includes marijuana. This initiative would ban marijuana being legally possessed, received, transferred, manufactured, cultivated, transport or used in Montana. This would end medical marijuana from the Montana Marijuana Act, and all references to such are stricken from the new initiative. Finally, the law calls for all costs and revenues of that medical marijuana act to be eliminated and put into the state general fund. The initiative continues on to explain consequences and penalties for violating the ban.

Information from <http://sos.mt.gov/ELECTIONS/2016/BallotIssues/index.asp>

Ballot Issue #6 I-176

Subject: Require that drugs that are illegal under federal law are illegal under Montana law.

Contact Person: Steve Zabawa

Sponsor: Steve Zabawa

Type: Statutory initiative

Received by SOS: June 17, 2015

Status: Petition has been approved for signature gathering as of October 5, 2015.

Next Step: Sponsor may submit signatures to county election offices.

**Signatures received and tallied by SOS:** 4,305 of 24,175 total signatures needed; qualified in 1 of 34 legislative districts needed.

**Initiative [I-178](#)**

**Subject:** Legalize recreational sales of marijuana to adults twenty-one years of age and older.

**Contact Person:** Anthony Varriano

**Sponsor:** Anthony Varriano

**Type:** Statutory initiative

**Received by SOS:** October 8, 2015

**Status:** Petition has been approved for signature gathering as of December 7, 2015.

**Next Step:** Sponsor may submit signatures to county election offices.

**Signatures received and tallied by SOS:** 375 of 24,175 total signatures needed; qualified in 0 of 34 legislative districts needed.

**Initiative [I-182](#)**

**Subject:** Expand access to medical marijuana.

**Contact Person:** Kate Cholewa

**Sponsor:** Montana Cannabis Industry Association

**Type:** Statutory initiative

**Received by SOS:** February 29, 2016

**Status:** Sponsor may submit signatures to county election offices as of April 15, 2016.

**Signatures received and tallied by SOS:** 0 of 24,175 total signatures needed; qualified in 0 of 34 legislative districts needed.

**BALLOT LANGUAGE FOR INITIATIVE NO. 178 (I-178)**

**INITIATIVE NO. 178**

**A LAW PROPOSED BY INITIATIVE PETITION**

I-178 legalizes marijuana use in Montana for people 21 years of age or older. I-178 allows for the commercial sale of marijuana and marijuana-infused products, subject to licensing requirements and regulations adopted by the state. Individuals would also be allowed to lawfully possess, cultivate, process, repack, store, transport, or display marijuana. A 20 percent excise tax will be levied on all sales of recreational marijuana and deposited into the state general fund. I-178 would not prevent prosecution of individuals in Montana under federal law. I-178, if passed by the electorate, will become effective on July 1, 2017.

The 20 percent excise tax and license fees are estimated to generate more than \$37 million in a five year period. The state will see \$10.9 million in expenditures in a five year period due to administrative expenses and higher costs from investigating and prosecuting more drivers impaired by marijuana.

YES on Initiative I-178

NO on Initiative I-178

## THE COMPLETE TEXT OF INITIATIVE NO. 178 (I-178)

Be it enacted by the people of the State of Montana:

**NEW SECTION. Section 1. Purpose and Findings.** (1) In the interest of the health and public safety of our citizenry, the people of the state of Montana find and declare that marijuana should be regulated in a manner similar to alcohol so that:

- (a) individuals will have to show proof of age before purchasing marijuana;
- (b) selling, distributing, or transferring marijuana to minors and other individuals under the age of 21 shall remain illegal;
- (c) driving under the influence of marijuana shall remain illegal;
- (d) legitimate, taxpaying citizens, and not criminal actors, will conduct sales of marijuana; and
- (e) marijuana sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.

(2) In the interest of enacting rational policies for the treatment of all variations of the cannabis plant, the people of Montana further find and declare that industrial hemp should be regulated separately from strains of cannabis with higher delta-9 tetrahydrocannabinol (THC) concentrations.

(3) The people of the state of Montana further find and declare that it is necessary to ensure consistency and fairness in the application of this part throughout the state and that, therefore, the matters addressed by this part are, except as specified herein, matters of statewide concern.

**NEW SECTION. Section 2. Definitions.** As used in this part, the following definitions apply:

- (1) "Consumer" means a person 21 years of age or older who purchases marijuana or marijuana-infused products for personal use by persons 21 years of age or older, but not for resale to others.
- (2) "Department" means the Montana Department of Health and Human Services.
- (3) "Industrial hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry weight basis.
- (4) "Locality" means a city, town, or county.
- (5) "Marijuana" has the meaning provided in 50-32-101.
- (6) "Marijuana accessories" means any equipment, products, or materials of any kind that 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 for ingesting, inhaling, or otherwise introducing marijuana into the human body.
- (7) "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana-infused product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.
- (8) "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana-infused product manufacturing facility, or a retail marijuana store.

(9) "Marijuana-infused product manufacturing facility" means an entity licensed to purchase marijuana, manufacture, prepare, and package marijuana and marijuana-infused products, and sell marijuana and marijuana-infused products to other marijuana-infused product manufacturing facilities and to retail marijuana stores, but not to consumers.

(10) "Marijuana-infused product" has the meaning provided in 50-46-302.

(11) "Marijuana-infused products provider" has the meaning provided in 50-46-302, and includes providers of marijuana-infused products.

(12) "Marijuana testing facility" means an entity licensed to analyze and certify the safety and potency of marijuana.

(13) "Mature marijuana plant" has the meaning provided in 50-46-302.

(14) "Montana Marijuana Act" refers to Title 50, chapter 46, part 3.

(15) "Provider" has the meaning provided in 50-46-302.

(16) "Recreational provider" is an adult resident of Montana who meets the requirements of this part, and who has applied for and received a registry identification card to manufacture and provide marijuana-infused products for consumers.

(17) "Referral physician" has the meaning provided in 50-46-302.

(18) "Registered cardholder," or "cardholder," has the meaning provided in 50-46-302.

(19) "Registry identification card" has the meaning provided in 50-46-302.

(20) "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana-infused products from marijuana-infused product manufacturing facilities and to sell marijuana and marijuana-infused products to consumers.

**NEW SECTION. Section 3. Personal use of marijuana.** The following acts are not unlawful and are not an offense under Montana law or the law of any locality within Montana or a basis for seizure or forfeiture of assets under Montana law for persons 21 years of age or older:

(1) possessing, using, displaying, purchasing, or transporting marijuana accessories, marijuana-infused products, or 1 ounce or less of marijuana;

(2) possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature marijuana plants, 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, is not conducted openly or publicly, and is not made available for sale;

(3) transfer of 1 ounce or less of marijuana without remuneration to a person who is 21 years of age or older;

(4) consumption of marijuana, provided that nothing in this section shall permit consumption that is conducted openly and publicly or in a manner that endangers others; and

(5) assisting another person who is 21 years of age or older in any of the acts described in subsections (1) through (4).

**NEW SECTION. Section 4. Lawful operation of marijuana establishment.** The following acts are not unlawful and are not an offense under Montana law or a basis for seizure or forfeiture of assets under Montana law for persons 21 years of age or older:

(1) manufacture, possession, or purchase of marijuana accessories or the sale of marijuana accessories to a person who is 21 years of age or older;

(2) possessing, displaying, or transporting marijuana or marijuana-infused products, purchase of marijuana from a marijuana cultivation facility, purchase of marijuana or marijuana-

infused products from a marijuana-infused product manufacturing facility, or sale of marijuana or marijuana-infused products to consumers, if the person conducting the activities described in this subsection has obtained a current, valid registry identification card to operate a retail marijuana store or is acting in the person's capacity as an owner, employee, or agent of a licensed retail marijuana store;

(3) 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-infused 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 subsection has obtained a current, valid registry identification card to operate a marijuana cultivation facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana cultivation facility;

(4) packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana-infused products, delivery or transfer of marijuana or marijuana-infused products to a marijuana testing facility, selling marijuana or marijuana-infused products to a retail marijuana store or a marijuana-infused product manufacturing facility, the purchase of marijuana from a marijuana cultivation facility, or the purchase of marijuana or marijuana-infused products from a marijuana-infused product manufacturing facility, if the person conducting the activities described in this subsection has obtained a current, valid registry identification card to operate a marijuana-infused product manufacturing facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana-infused product manufacturing facility;

(5) possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring or delivering marijuana or marijuana-infused products if the person has obtained a current, valid registry identification card to operate a marijuana testing facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana testing facility; and

(6) leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with subsections (1) through (5).

**NEW SECTION.** **Section 5. Regulation of marijuana.** (1) Procedures for the issuance, renewal, suspension, and revocation of a registry identification card to operate a marijuana establishment are the same as provided in the Montana Marijuana Act, except that a recreational provider does not need a recommendation from a referral physician and a current provider can also apply to become a recreational provider. By October 1, 2017, the department must adopt administrative rules implementing the following:

(a) A schedule of application, licensing, and renewal fees, provided, application fees may not exceed \$5,000, 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 provided further, an entity that is licensed under the Montana Marijuana Act to cultivate or sell marijuana or to manufacture marijuana-infused products on the effective date of this section and that chooses to apply for a separate marijuana establishment registry identification card shall not be required to pay an application fee greater than \$500 to apply for a registry identification card to operate a marijuana establishment in accordance with the provisions of this section.

(b) A recreational provider may not be a convicted felon. Those convicted of misdemeanor or felony possession of marijuana or marijuana paraphernalia may not be disqualified or discriminated against when applying for a registry identification card.

(c) Marijuana establishments with cultivation facilities must have locked, secure cultivation and storage facilities. Current providers who become also recreational providers may operate both entities on the same premises, but must have separate areas to serve cardholders and consumers.

(d) Consumers must show valid state or federal identification to prevent the sale or diversion of marijuana and marijuana-infused products to persons under the age of 21;

(e) All labeling for marijuana and marijuana-infused products sold or distributed by a marijuana establishment must clearly state what the product is, what pesticides were used in the production of the product, a warning that the product is intended for use by adults, that the product is not legal outside of Montana, that there may be health risks associated with the consumption of the product, that the product was produced without regulatory oversight for health, safety, or efficacy, that there may be additional health risks to women who are pregnant, breastfeeding, or planning on becoming pregnant, and a warning to not drive a motor vehicle or operate heavy machinery while using marijuana.

(f) All marijuana and marijuana-infused products must be transferred to consumers in childproof packaging.

(2) In order to ensure the most secure and reliable system for the production and distribution of marijuana and marijuana-infused products in accordance with this section, in any application process the department must have as a primary consideration whether an applicant:

(a) has prior experience producing or distributing marijuana or marijuana-infused products pursuant to the Montana Marijuana Act in the locality in which the applicant seeks to operate a marijuana establishment; and

(b) has, during the experience described in subsection (2)(a), complied consistently with the Montana Marijuana Act and conforming regulations.

(3) In order to ensure that individual privacy is protected, notwithstanding subsection (1), the department may 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 may 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.

(4) A 20 percent excise tax will be levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana-infused product manufacturing facility or to a retail marijuana store, which will be deposited into the General Fund and allocated as the Legislature deems fit.

**NEW SECTION.** Section 6. Employers, driving, minors, and control of property. (1) Nothing in this part 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 affect the ability of employers to have policies restricting the use of marijuana by employees.

(2) Nothing in this part is intended to allow driving under the influence of marijuana or driving while impaired by marijuana or to supersede statutory laws related to driving under the influence of marijuana or driving while impaired by marijuana.

(3) Nothing in this part is intended to permit the transfer of marijuana, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume marijuana.

(4) Nothing in this part prevents a person, employer, school, hospital, detention facility, corporation, or any other entity that 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.

**NEW SECTION. Section 7. Medical marijuana provisions unaffected.** Nothing in this part may be construed:

(1) to limit any privileges or rights of a registered cardholder, provider, or licensed entity as provided in the Montana Marijuana Act or so ruled by the Montana Supreme Court;

(2) to permit a marijuana-infused products provider to distribute marijuana to a person who is not a registered cardholder;

(3) to permit a marijuana-infused products provider to purchase marijuana or marijuana-infused products in a manner or from a source not authorized under the Montana Marijuana Act; or

(4) to discharge the department from their statutory and constitutional duties to regulate marijuana pursuant to the Montana Marijuana Act.

**NEW SECTION. Section 8. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 9. {standard} Effective date.** [This act] is effective July 1, 2017.