

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 7050
INTRODUCER: Health Policy Committee
SUBJECT: Marijuana
DATE: February 7, 2024 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Looke</u>	<u>Brown</u>	_____	HP Submitted as Comm. Bill/Fav

I. Summary:

SB 7050 creates s. 381.9861, F.S., to limit the potency of personal use marijuana to 30 percent tetrahydrocannabinol (THC) for marijuana in a form for smoking, 60 percent THC in all other forms except for edibles, and 200 milligrams of THC for whole edibles and 10 milligrams of THC per serving of an edible. The bill allows for a potency variance of up to 15 percent for edibles.

The bill also repeals a provision of ch. 2017-232, L.O.F.,¹ which would automatically cause that chapter of Florida law to expire six months after the effective date of a constitutional amendment that alters the current constitutional authority for medical marijuana or is related to marijuana or cannabis.

The bill provides an effective date 30 days after the passage of a state constitutional amendment allowing the adult personal use of marijuana.

II. Present Situation:

Research on the Health Effects of THC

Although there are more than 100 cannabinoids in a marijuana plant, the two main cannabinoids are Delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD).² THC is a mind-altering chemical that increases appetite and reduces nausea and may also decrease pain, anxiety, and muscle control problems.³ Though CBD may also have an effect on the mind, it does not produce the “high” or sense of euphoria associated with THC. CBD has been shown to help with anxiety,

¹ Chapter 2017-232, L.O.F., is the act creating the majority of the statutory authority for Florida’s medical marijuana program.

² U.S. Department of Health & Human Services, National Center for Complementary and Integrative Health, *Cannabis (Marijuana) and Cannabinoids: What You Need To Know*, available at <https://www.nccih.nih.gov/health/cannabis-marijuana-and-cannabinoids-what-you-need-to-know> (last visited Feb. 4, 2024).

³ Healthline, *CBD vs. THC: What’s the Difference?*, <https://www.healthline.com/health/cbd-vs-thc> (last visited Feb. 4, 2024).

depression, reducing pain and inflammation, controlling epileptic seizures, and possibly treating psychosis or mental disorders.⁴

Marijuana has changed over time. The THC concentration in commonly cultivated marijuana plants increased three-fold between 1995 and 2014 (4 percent and 12 percent respectively).⁵ Conversely, the CBD content decreased from 0.28 percent in 2001 to 0.15 percent in 2014. In 1995, the level of THC was 14 times higher than its CBD level. In 2014, the THC level was 80 times the CBD level.⁶ The marijuana available today is much stronger than previous versions.

A 2014 New England Journal of Medicine study warned that long-term marijuana use can lead to addiction and that adolescents are more vulnerable to adverse long-term outcomes from marijuana use.⁷ Specifically, the study found that, as compared to persons who begin to use marijuana in adulthood, those who begin in adolescence are approximately two to four times as likely to have symptoms of marijuana dependence within two years after first use.⁸ The study also found that marijuana-based treatments with THC may have irreversible effects on brain development in adolescents as the brain's endocannabinoid system undergoes development in childhood and adolescence.⁹

Heavy use of marijuana by adolescents is associated with impairments in attention, learning, memory, poor grades, high drop-out rates, and I.Q. reduction.¹⁰ Though the full extent of the health impact of consuming products with high concentration of THC is unknown, research indicates that use of such products significantly increases the risk of marijuana-associated psychosis,¹¹ regardless of age at first use or the type of marijuana used.¹² A 2019 European study showed that the use of high-potency marijuana (greater than 10 percent THC) only modestly increased the odds of a psychotic disorder compared to never using it; however, individuals who

⁴ *Id.*

⁵ *U.S. Surgeon General's Advisory: Marijuana Use and the Developing Brain*, <https://www.hhs.gov/surgeongeneral/reports-and-publications/addiction-and-substance-misuse/advisory-on-marijuana-use-and-developing-brain/index.html> (last visited Feb. 4, 2024).

⁶ ElSohly, M.A., Mehmedic, Z., Foster, S., Gon, C., Chandra, S. and Church, J.C. *Changes in Cannabis Potency Over the Last 2 Decades (1995-2014): Analysis of Current Data in the United States*, *Biological Psychiatry*. April 1, 2016; 79(7):613-619.

⁷ Volkow, N.D., Baler, R.D., Compton, W.M. and Weiss, S.R., *Adverse Health Effects of Marijuana Use*, *NEW ENG. J. MED.*, June 5, 2014, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4827335/> (last viewed on Feb. 4, 2024).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Supra* note 7. See also *The Influence of Marijuana Use on Neurocognitive Functioning in Adolescents*, Schweinsburg AD, Brown SA, Tapert SF, *Curr Drug Abuse Rev.* 2008;1(1):99-111, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2825218/> (last viewed on Feb. 4, 2024).

¹¹ Robin Murray, Harriet Quigley, Diego Quattrone, Amir Englund and Marta Di Forti, *Traditional Marijuana, High-Potency Cannabis and Cannabinoids: Increasing Risk for Psychosis*, *World Psychiatry*, 2016 Oct; 15(3): 195–204, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5032490/> (last viewed Feb. 4, 2024).

¹² Di Forti et al. *The Contribution of Cannabis Use to Variation in the Incidence of Psychotic Disorder Across Europe (EU-GEI): A Multicenter Case-control Study*. *Lancet Psychiatry*. 2019; 6:427-36, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7646282/> (last viewed on Feb. 4, 2024); *High-Potency Cannabis and Incident Psychosis: Correcting the Causal Assumption*, *The Lancet*, Volume 6, Issue 6, June 2019, available at [https://doi.org/10.1016/S2215-0366\(19\)30174-9](https://doi.org/10.1016/S2215-0366(19)30174-9) (last viewed Feb. 4, 2024); *High-Potency Cannabis and Incident Psychosis: Correcting the Causal Assumption – Author's Reply*, *The Lancet*, Volume 6, Issue 6, June 2019, available at [https://doi.org/10.1016/S2215-0366\(19\)30176-2](https://doi.org/10.1016/S2215-0366(19)30176-2) (last viewed Feb. 4, 2024).

started using high-potency marijuana by age 15 showed a doubling of risk.¹³ The European study also found that daily use of high-potency cannabis increased the risk of psychotic disorder nearly five times compared with never having used marijuana.¹⁴

Another study found that frequent use of marijuana or use of marijuana with high THC potency increased the risk of schizophrenia six-fold.¹⁵ According to a literature review of studies on the impact of marijuana use on mental health published in the *Journal of the American Medical Association Psychiatry*, there is strong physiological and epidemiological evidence supporting a link between marijuana use and schizophrenia.¹⁶ High doses of THC can cause acute, transient, dose-dependent psychosis, which are schizophrenia-like symptoms.¹⁷ Additionally, prospective, longitudinal, and epidemiological studies have consistently found an association between marijuana use and schizophrenia in which marijuana use precedes psychosis, independent of alcohol consumption, and even after removing or controlling for those individuals who had used other drugs.¹⁸

Even though marijuana use may have been discontinued long before the onset of psychosis, studies have found that the age at which marijuana use begins appears to correlate with the age of onset of psychosis, which suggests that early marijuana use plays a role in initiating psychosis that is independent of actual use.¹⁹ Overall, studies have found that the association between marijuana use and chronic psychosis (including a schizophrenia diagnosis) is stronger in those individuals who have had heavy or frequent marijuana use, use marijuana during adolescence, or use marijuana with high THC potency.²⁰

While studies have not shown that marijuana use alone is either necessary or sufficient for the development of schizophrenia, studies suggests that marijuana use may initiate the emergence of a lasting psychotic illness in some individuals, especially those with a genetic vulnerability to develop a psychotic illness.²¹

¹³ *Id.* at 430.

¹⁴ *Id.* at 431. The odds were lower for those who use low-potency marijuana daily.

¹⁵ Nora D. Volkow, MD; James M. Swanson, PhD; A. Eden Evins, MD; Lynn E. DeLisi, MD; Madeline H. Meier, PhD; Raul Gonzalez, PhD; Michael A. P. Bloomfield, MRCPsych; H. Valerie Curran, PhD; Ruben Baler, PhD., *Effects of Cannabis Use on Human Behavior, Including Cognition, Motivation, and Psychosis: A Review*. *JAMA Psychiatry*. 2016; 73(3):292-297, available at https://core.ac.uk/reader/79505094?utm_source=linkout (last viewed Feb. 4, 2024).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

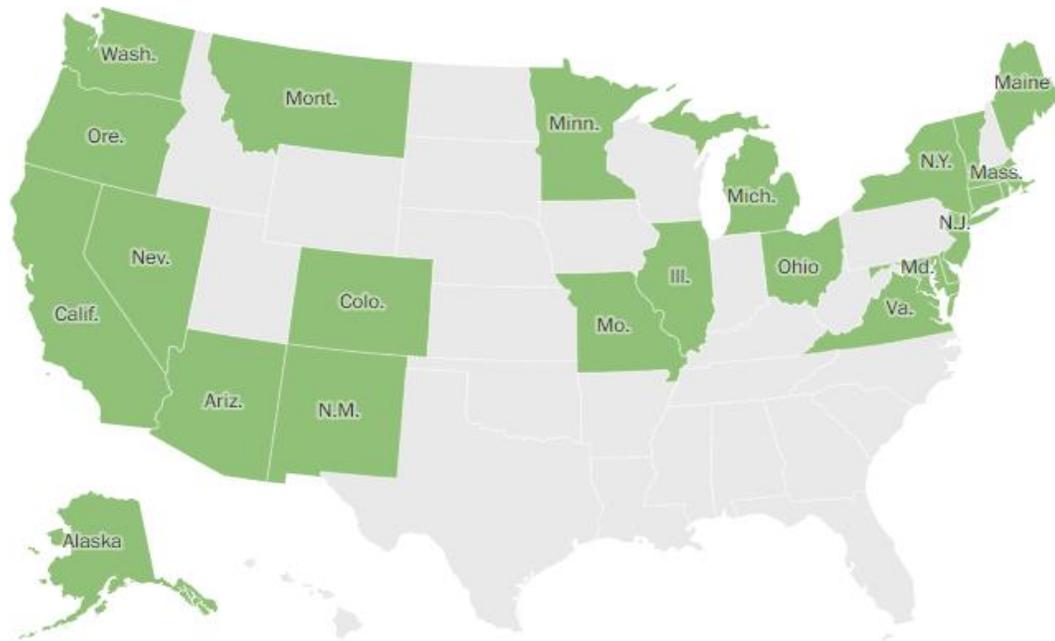
¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

State Legalization of Adult Use of Marijuana

Currently, 24 states and the District of Columbia (depicted as green in the illustration below) have legalized the adult use of marijuana.^{22, 23}



State Potency Limits for Adult Use Marijuana

Two states, Connecticut and Vermont, currently have potency limits for adult use marijuana products. Both states prohibit cannabis flower with a total THC concentration greater than 30 percent and solid or liquid concentrate cannabis products with a total THC concentration of greater than 60 percent from being cultivated, produced or sold in the adult use market.²⁴ Both states provided an exception to these potency limits for pre-filled cartridges for vape pens.²⁵

Florida: Adult Personal Use of Marijuana

Adult personal use of marijuana is not legal in Florida. However, there is a pending ballot initiative to authorize adult personal use. The proponents of the initiative were required to obtain 891,523 valid signatures to qualify the initiative for the ballot. The proponents have met this

²² California, Alaska, Nevada, Oregon, Washington, Maine, Colorado, Montana, Vermont, Rhode Island, New Mexico, Michigan, Arizona, New Jersey, Delaware, Connecticut, Massachusetts, Illinois, Maryland, Minnesota, New York, Ohio, Missouri, Virginia.

²³ *More Than Half of Americans Live in Places Where Recreational Marijuana is Legal*, Tim Meko and Adrian Blanco, The Washington Post, Nov. 8, 2023, available at <https://www.washingtonpost.com/politics/2023/legal-weed-states-map/> (last viewed Feb. 4, 2024).

²⁴ See CT ST s. 21a-421j and VT ST T.7 s. 868.

²⁵ *Id.*

requirement as there are currently 1,033,770 valid signatures for the initiative, according to the Florida Secretary of State's Division of Elections.²⁶ The ballot summary of the initiative states:²⁷

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.

The Florida Attorney General requested an advisory opinion from the Florida Supreme Court as to the validity of the initiative, specifically seeking guidance on whether the initiative and the ballot title and summary comply with applicable Florida law.²⁸ Oral arguments occurred in November 2023, and the issue remains pending before the court.²⁹

Florida Potency of Medical Marijuana Products

Although Florida does not have an adult personal use program, it does have a well-established medical marijuana program. Section 381.986, F.S., authorizes patients with any of the following debilitating medical conditions to legally obtain medical marijuana from licensed medical marijuana treatment centers (MMTC):

- Cancer
- Epilepsy
- Glaucoma
- Positive status for human immunodeficiency virus
- Acquired immune deficiency syndrome
- Post-traumatic stress disorder
- Amyotrophic lateral sclerosis
- Crohn's disease
- Parkinson's disease
- Multiple sclerosis
- Medical conditions of the same kind or class as or comparable to those enumerated above

²⁶ Adult Personal Use of Marijuana 22-05, Florida Division of Elections, available at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=83475&seqnum=2> (last viewed Feb. 5, 2024).

²⁷ Constitutional Amendment Full Text, available at https://initiativepetitions.elections.myflorida.com/InitiativeForms/Fulltext/Fulltext_2205_EN.pdf (last viewed January 31, 2024).

²⁸ *Advisory Opinion to the Attorney General Re: Adult Personal Use of Marijuana*, SC2023-0682, 2023, available at <https://acis.flcourts.gov/portal/court/68f021c4-6a44-4735-9a76-5360b2e8af13/case/85dca015-d108-4595-8cdb-d4488890aa88> (last viewed Feb. 4, 2024).

²⁹ *Id.*

To obtain marijuana for medical use from an MMTC, and maintain the immunity from criminal prosecution, the patient must obtain a physician certification from a qualified physician³⁰ and an identification card from the Department of Health.

As of February 2, 2024, there are 872,376 qualified patients, 2,781 qualified physicians, and 25 MMTCs with 618 dispensing locations.³¹

Currently-licensed MMTCs would be eligible to acquire, cultivate, process, manufacture, sell, and distribute adult personal use marijuana products if the ballot initiative were to pass. The THC concentration of the products offered by MMTCs varies based on the route of administration as evidenced by the table below.³²

Range in Potency Tetrahydrocannabinol (THC) Content as a Percentage of Volume		
Route of Administration	Lower Threshold	Upper Threshold
Inhalation	60.0%	90.0%
Oral	0.5%	4.0%
Smoking	10.0%	28.0%
Sublingual	0.5%	90.0%
Suppository	1.3%	3.0%
Topical	0.4%	90.0%
Edibles	A multi-serving edible may not contain more than 200 mg of THC, and a single-serving edible, or a single serving portion of a multi-serving edible, may not exceed 10 mg of THC.	

Edibles are the only medical marijuana products currently subject to THC potency limits under Florida law.

III. Effect of Proposed Changes:

SB 7050 creates s. 381.9861, F.S., to provide limitations on the potency of marijuana for personal use. The bill defines the terms:

- "Edibles" to mean commercially produced food items made with marijuana oil, but no other form of marijuana
- "Marijuana" to mean all parts of any 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 or its seeds or resin, including low-THC cannabis.

³⁰ To certify patients for medical use of marijuana, a physician must hold an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and comply with certain physician education requirements. See ss. 381.986(1)(m), F.S. and 381.986(3)(a), F.S.

³¹ *Office of Medical Marijuana Use Weekly Updates, Feb. 2, 2024*, DOH, Office of Medical Marijuana Use, available at https://knowthefactsmmj.com/wp-content/uploads/ommu_updates/2024/020224-OMMU-Update.pdf (last visited on Feb. 4, 2024).

³² *Florida's Medical Marijuana Program Update*, Office of Medical Marijuana Use, presented to the Florida House Health Care Regulation Subcommittee on December 13, 2023.

- “Marijuana delivery device” to mean an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body.
- “Personal use” to mean possession, purchase, or use of marijuana or a marijuana delivery device by an adult 21 years of age or older for nonmedical consumption.
- "Potency" to mean the relative strength of cannabinoids, and the total amount, in milligrams, of tetrahydrocannabinol as the sum of delta-9-tetrahydrocannabinol, plus 0.877 multiplied by tetrahydrocannabinolic acid, plus delta-8-tetrahydrocannabinol and cannabidiol as the sum of cannabidiol, plus 0.877 multiplied by cannabidiolic acid in the final product.

The bill provides that an MMTC may not sell, deliver, or distribute marijuana for personal use that has a potency, by weight or volume, of greater than 30 percent THC for marijuana in a form for smoking or greater than 60 percent THC in the final product for all other forms of marijuana, other than edibles. For edibles, a total edible may not contain more than 200 milligrams of THC and a single serving may not exceed 10 milligrams of THC. The bill allows for a potency variance of up to 15 percent for edibles.

The bill also amends s. 1 of ch. 2017-232, L.O.F., to repeal a provision that would cause that chapter of Florida law (which contains significant portions of the statutory authority for Florida’s medical marijuana program) to expire six months after the effective date of any constitutional amendment which amends s. 29, Art. X, of the State Constitution or is related to cannabis or marijuana.

The bill provides that its provisions will take effect 30 days after passage of an amendment to the State Constitution authorizing adult personal use of marijuana.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends chapter 2017-232 of the Laws of Florida.

This bill creates section 381.9861 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.