

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1269 Potency for Adult Personal Use of Marijuana
SPONSOR(S): Health & Human Services Committee, Healthcare Regulation Subcommittee, Massullo and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	13 Y, 4 N, As CS	McElroy	McElroy
2) Health & Human Services Committee	14 Y, 6 N, As CS	McElroy	Calamas

SUMMARY ANALYSIS

Delta-9-tetrahydrocannabinol (THC) is the psychoactive chemical in marijuana. The full extent of the health impact of consuming products with high concentration of THC is unknown; however, research indicates that such use significantly increases the risk of marijuana-associated psychosis. Studies have found daily use, especially of high-potency marijuana (over 10 percent THC), is strongly associated with earlier onset of psychosis and the development of schizophrenia in marijuana users. Some studies have also shown that marijuana with a THC concentration of 10 percent or less is effective for medical treatment, including the relief of neuropathic pain and pain caused by conditions such as HIV/AIDS, multiple sclerosis, and post-traumatic surgical pain.

Currently, 24 states and the District of Columbia have legalized the adult use of 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% and solid or liquid concentrate cannabis products with a total THC concentration of greater than 60% from being cultivated, produced or sold in the adult use market.

Adult personal use of marijuana is not legal in Florida; however, there is a pending ballot initiative to legalize adult personal use. Although Florida does not have an adult personal use program it does have a well-established medical marijuana program, including 25 licensed Medical Marijuana Treatment Centers (MMTC). 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 currently offered by MMTCs varies by the route of administration from .4 percent to 90 percent THC.

CS/CS/HB 1269 establishes THC potency limits for various adult personal use marijuana products. Marijuana in the form for smoking cannot have a THC potency of greater than 30 percent and all other marijuana products, excluding edibles, cannot have a THC potency of greater than 60 percent. The bill prohibits multi-serving edibles from containing more than 200 mg of THC and a single serving edible from containing more than 10 mg of THC. The bill allows edible products to have a potency variance of no greater than 15 percent. The bill limits the total volume of products prepackaged for use in a vapor generating electronic device to no more than 1,000 milligrams.

The bill also removes a sunset provision in current law which repeals the current medical marijuana program law effective six months after a marijuana or cannabis constitutional amendment is adopted.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of 30 days after passage of an amendment to the State Constitution authorizing adult personal use of marijuana.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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).¹ THC is a mind-altering chemical that increases appetite and reduces nausea and may also decrease pain, anxiety, and muscle control problems.² 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, depression, reducing pain and inflammation, controlling epileptic seizures, and possibly treating psychosis or mental disorders.³

Marijuana has changed over time. The THC concentration in commonly cultivated marijuana plants increased three-fold between 1995 and 2014 (4% and 12% respectively).⁴ Conversely, the CBD content decreased from .28% in 2001 to .15% 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.⁵ The marijuana available today is much stronger than previous versions.

Some studies have shown that marijuana with a THC concentration of 10% or less is effective for medical treatment, including the relief of neuropathic pain and pain caused by conditions such as HIV/AIDS, multiple sclerosis, post-traumatic surgical pain.⁶ Studies on the use of marijuana for pain relief found that marijuana cigarettes with a THC concentration between 2% and 10% THC provided sufficient pain relief,⁷ with one study finding that medium-dose marijuana cigarettes with 3.5% THC were as effective as higher dosed marijuana cigarettes at 7% THC.⁸

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.⁹ Specifically, the study found that, as compared with persons who begin to use marijuana in adulthood, those who begin in adolescence are approximately 2 to 4 times as likely to have symptoms

¹ 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 January 30, 2024).

² Healthline, *CBD vs. THC: What's the Difference?*, <https://www.healthline.com/health/cbd-vs-thc> (last visited January 30, 2024).

³ *Id.*

⁴ 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 January 30, 2024).

⁵ 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.

⁶ Igor Grant, J. Hampton Atkinson, Ben Gouaux, and Barth Wilsey. *Medical Marijuana: Clearing Away the Smoke*. *Open Neurol J.* 2012; 6: 18–25. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3358713/>; Ellis RJ, Toperoff W, Vaida F, et al. *Smoked Medicinal Cannabis for Neuropathic Pain in HIV: A Randomized, Crossover Clinical Trial*, *Neuropsychopharmacology*, 2009; 34(3):672-680, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3066045/> (last viewed on January 30, 2024); Abrams DI, Jay CA, Shade SB, et al. *Cannabis in Painful HIV-associated Sensory Neuropathy: A Randomized Placebo-controlled Trial*. *Neurology*. 2007; 68(7):515-521 available at <https://pubmed.ncbi.nlm.nih.gov/17296917/> (last viewed on January 30, 2024); Wilsey B, Marcotte T, Tsodikov A, et al. *A Randomized, Placebo-controlled, Crossover Trial of Cannabis Cigarettes in Neuropathic Pain*, *J Pain*. 2008;9(6):506-521, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4968043/> (last viewed on January 30, 2024); Wallace M, Schulteis G, Atkinson JH, et al. *Dose-dependent Effects of Smoked Cannabis on Capsaicin-induced Pain and Hyperalgesia in Healthy Volunteers*. *Anesthesiology*. 2007; 107(5):785–96, available at <https://pubs.asahq.org/anesthesiology/article/107/5/785/7080/Dose-dependent-Effects-of-Smoked-Cannabis-on> (last viewed on January 30, 2024).

⁷ *Id.*

⁸ Wilsey B, Marcotte T, Tsodikov A, et al. *A Randomized, Placebo-controlled, Crossover Trial of Cannabis Cigarettes in Neuropathic Pain*. *J Pain*. 2008; 9(6):506–21, available at <https://pubmed.ncbi.nlm.nih.gov/18403272/> (last viewed on January 30, 2024).

⁹ 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 January 30, 2024).

of marijuana dependence within 2 years after first use.¹⁰ 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.¹¹

Heavy use of marijuana by adolescents is associated with impairments in attention, learning, memory, poor grades, high drop rates and I.Q. reduction.¹² 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,¹³ regardless of age at first use or the type of marijuana used.¹⁴ A 2019 European study showed that the use of high-potency marijuana (over 10% THC) only modestly increased the odds of a psychotic disorder compared to never using it; however, individuals who started using high-potency marijuana by age 15 showed a doubling of risk.¹⁵ 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.¹⁶

Another study found that frequent use of marijuana or use of marijuana with high THC potency increased the risk of schizophrenia six-fold.¹⁷ 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. High doses of THC can cause acute, transient, dose-dependent psychosis, which are schizophrenia-like symptoms. 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

¹⁰ *Id.*

¹¹ *Id.*

¹² See footnote 9; 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 January 30, 2024).

¹³ 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 January 30, 2024).

¹⁴ 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 January 30, 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 January 30, 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 January 30, 2024).

¹⁵ *Id.* at 430.

¹⁶ *Id.* at 431. The odds were lower for those who use low-potency marijuana daily.

¹⁷ 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 January 30, 2024).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Florida's Medical Marijuana Program

On November 8, 2016, Florida voters approved Amendment 2, Use of Marijuana for Debilitating Medical Conditions as Art. X, Sec. 29 of the Florida Constitution. The amendment authorizes patients with any of the following debilitating medical conditions to obtain medical marijuana from 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; and
- Medical conditions of the same kind or class as or comparable to those enumerated above.

During a special session in 2017, the Legislature passed SB 8A (2017-232, L.O.F) which implemented Art. X, Sec. 29 of the Florida Constitution. The bill significantly amended the Compassionate Medical Use Act²² (CMCA) and established the current statutory requirements for the regulation of Florida's medical marijuana program. The bill additionally created an automatic sunset of the entire act, triggered upon adoption of additional constitutional amendments related to marijuana:

It is the intent of the Legislature to implement s. 29, Article X of the State Constitution by creating a unified regulatory structure. If s. 29, Article X of the State Constitution is amended or a constitutional amendment related to cannabis or marijuana is adopted, this act shall expire 6 months after the effective date of such amendment.

Any ballot initiative which could trigger the sunset provision would be adopted in November as part of the normal voting cycle. The six-month grace period would provide the Legislature with ample opportunity to address any such amendment during a regular legislative session irrespective of whether session began in January or March of that particular year.²³ In the event the Legislature elected to allow the act to expire, the statutes regulating medical marijuana would revert to the provisions as they existed in 2016, under the CMCA.

State Legalization of Adult Use of Marijuana

Currently, 24 states and the District of Columbia have legalized the adult use of marijuana, as indicated by the map below.²⁴

²² The Compassionate Medical Cannabis Act legalized a low-THC and high-CBD form of cannabis for medical use by patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms, and legalized medical cannabis without any THC limit or CBD mandate for the terminally ill.

²³ Article 3 Section 3 of the Florida Constitution requires that a regular session of the legislature to convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the second Tuesday after the first Monday in January of each even-numbered year.

²⁴ *Map Monday: Nearly Every State Redefining Cannabis Access*, National Conference of State Legislatures available at <https://www.ncsl.org/resources/map-monday-nearly-every-state-redefining-cannabis-access> (last visited on February 7, 2024). States include: 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.

comply with applicable Florida law.²⁹ Oral arguments occurred in November 2023, and the issue remains pending before the court.³⁰

Florida Potency of Medical Marijuana Products

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.³¹

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.

Effect of the Bill

CS/CS/HB 1269 establishes THC potency limits for various adult personal use marijuana products. Marijuana in the form for smoking cannot have a THC potency of greater than 30 percent and all other marijuana products, excluding edibles, cannot have a THC potency of greater than 60 percent. The bill prohibits multi-serving edibles from containing more than 200 mg of THC and a single serving edible from containing more than 10 mg of THC. The bill allows edible products to have a potency variance of no greater than 15 percent. The bill limits the total volume of products prepackaged for use in a vapor generating electronic device³² to no more than 1,000 milligrams.

The bill amends section 1 of 2017-232, L.O.F, to remove a sunset provision which repeals the current medical marijuana program law effective six months after a marijuana or cannabis constitutional amendment is adopted.

The bill provides an effective date of 30 days after passage of an amendment to the State Constitution authorizing adult personal use of marijuana.

B. SECTION DIRECTORY:

²⁹ *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 January 31, 2024).

³⁰ *Id.*

³¹ *Florida's Medical Marijuana Program Update*, Office of Medical Marijuana Use, presented to the Health Care Regulation Subcommittee on December 13, 2023.

³² S. 386.203, F.S. A "vapor-generating electronic device" is any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

- Section 1:** Creates s. 381.9861, F.S., relating to the potency limits for adult personal use of marijuana.
- Section 2:** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

A. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
Not applicable. The bill does not appear to affect county or municipal governments.
2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Healthcare Regulation Subcommittee adopted an amendment and reported the bill favorable. The amendment established a THC potency limit for marijuana in the form for smoking in the

adult personal use marijuana program. Such marijuana may not have a THC potency of greater than 30 percent.

On February 15, 2024, the Health and Human Service Committee adopted an amendment and reported the bill favorable. The amendment:

- Established a container size limit for adult use marijuana vaping products.
- Removed sunset provision in current law which repeals the current medical marijuana program law effective 6 months after a marijuana or cannabis constitutional amendment is adopted.
- Established a potency variance for adult use edible marijuana products.

This analysis is drafted to the committee substitute as passed by the Health and Human Service Committee.