

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [CS/HB 1003](#)

TITLE: Open Cannabis Containers in Motor Vehicles

SPONSOR(S): Black

COMPANION BILL: [SB 1056](#) (Martin)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Criminal Justice](#)

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SUMMARY

Effect of the Bill:

The bill prohibits the operator or passenger of a motor vehicle from possessing an open container of marijuana obtained through the medical marijuana program, subject to specified exceptions. The prohibition in the bill generally mirrors the existing law that prohibits the operator or passenger of a vehicle from possessing an open container of an alcoholic beverage in a vehicle while the vehicle is in operation or parked on a road. An operator of a motor vehicle who commits a violation of the prohibition against possessing an open cannabis container commits a noncriminal moving violation, and a passenger who commits a violation commits a nonmoving traffic violation, which are both civil infractions.

Under the bill, if the person who commits a violation is a qualified medical marijuana patient or caregiver, the Department of Highway Safety and Motor Vehicles must notify the Department of Health (DOH) of the violation and the disposition of the infraction, and DOH is required to maintain a record of the violation and disposition. The bill requires DOH to revoke a qualified patient's or caregiver's medical marijuana registration upon a third violation for possessing an open cannabis container.

Fiscal or Economic Impact:

The bill may have an indeterminate positive fiscal impact to state and local governments.

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ANALYSIS

EFFECT OF THE BILL:

Open Cannabis Containers in Motor Vehicles

The bill prohibits a person from possessing an open cannabis¹ container if he or she is:

- Operating a motor vehicle² or is a passenger in or on a motor vehicle being operated in Florida; or
- Seated in or on a motor vehicle that is parked or stopped within a road, excluding passengers in vehicles designed, maintained, and used primarily for the transportation of persons for compensation or in motor homes. (Section 1)

The bill defines the term:

¹ The definitions of "marijuana" and "open cannabis container" limit the prohibition against possessing an open cannabis container to marijuana that is legally obtained through Florida's medical marijuana program by a qualified patient or caregiver. Possession of illicit marijuana or possession of medical marijuana by a person who is *not* a qualified patient or caregiver could subject a person to criminal penalties for possession of a controlled substance under ch. 893, F.S., regardless of whether it is possessed in an open container.

² "Motor vehicle" means a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped. [S.316.003\(46\), F.S.](#)

STORAGE NAME: h1003.CRM

DATE: 2/5/2026

- “Marijuana” as 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 edibles, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient. The term does not include low THC cannabis.
- “Open cannabis container” as a container that contains marijuana and from which a person can immediately consume, inhale, or smoke such marijuana.

Possession

Under the bill, the operator of a motor vehicle is considered to be in possession of an open cannabis container if such container is readily accessible to him or her while he or she is in a seated position and such container is not in the possession of the passenger. The bill specifies that an open cannabis container is not considered to be in the possession of the operator if the container is located in a locked glove compartment, locked trunk, other locked nonpassenger area of the motor vehicle, or in an area behind the last upright seat of a motor vehicle if such vehicle is not equipped with a trunk. (Section [1](#))

A passenger in a motor vehicle is considered to be in possession of an open cannabis container if such container is within his or her physical control. (Section [1](#))

Penalties

Under the bill, an operator of a motor vehicle who violates the prohibition commits a noncriminal moving traffic violation, and a passenger who violates the prohibition commits a nonmoving traffic violation. These are both [civil traffic infractions](#) that are punishable as provided in ch. 318, F.S., by a fine and, for a moving violation, the assessment of points against a person’s driver license, which may result in such person’s license being suspended. (Section [1](#))

Exceptions

The bill specifies that a person does *not* commit a violation if he or she is a:

- Passenger in a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers, and such driver holds a valid commercial driver license with a passenger endorsement under ch. 322, F.S.;
- Passenger in a bus in which the driver holds a valid commercial driver license under ch. 322, F.S.;
- Passenger in a self-contained motor-home that longer than 21 feet; or
- Rider in a transportation network company vehicle under [s. 627.748, F.S.](#). (Section [1](#))

The bill authorizes a county or municipality to adopt ordinances that impose more stringent restrictions on possessing an open cannabis container in vehicles than those that are imposed by the bill. (Section [1](#))

Medical Marijuana – Registration Suspension and Revocation

Under the bill, if the person cited for possessing an open cannabis container is a qualified patient or caregiver in the [medical marijuana program](#), the Department of Highway Safety and Motor Vehicles (DHSMV) must report the violation and the disposition of the violation to the Department of Health (DOH), which must maintain a record of the violation and the disposition. (Section [1](#))

The bill requires DOH to immediately [suspend](#) the medical marijuana registration of a qualified patient or caregiver if he or she is cited for violating the prohibition against possessing an open cannabis container after committing two prior violations for such an offense, and requires DOH to revoke the registration of a qualified patient if he or she admits to or is found to have committed a third such offense. (Sections [1](#) and [2](#))

Definitions

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The bill defines the following terms:

- “Caregiver” means a resident of Florida who has agreed to assist with a qualified patient's medical use of marijuana, has a caregiver identification card, and meets specified requirements in [s. 381.986\(6\), F.S.](#)
- “Edibles” means commercially produced food items made with marijuana oil, but no other form of marijuana, that are produced and dispensed by a medical marijuana treatment center.
- “Low THC cannabis” means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.
- “Medical use” means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:
 - Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana treatment center.
 - Possession, use, or administration of marijuana in the form of commercially produced food items other than edibles or of marijuana seeds.
 - Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician's directions or physician certification.
 - Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient's caregiver on behalf of the qualified patient.
 - Use or administration of marijuana in the following locations:
 - On any form of public transportation, except for low-THC cannabis not in a form for smoking.
 - In any public place, except for low-THC cannabis not in a form for smoking.
 - In a qualified patient's place of employment, except when permitted by his or her employer.
 - In a state correctional institution, as defined in [s. 944.02, F.S.](#), or a correctional institution, as defined in [s. 944.241, F.S.](#)
 - On the grounds of a preschool, primary school, or secondary school, except as provided in [s. 1006.062, F.S.](#)
 - In a school bus, a vehicle, an aircraft, or a motorboat, except for low-THC cannabis not in a form for smoking.
 - The smoking of marijuana in an enclosed indoor workplace as defined in [s. 386.203\(5\), F.S.](#)
- “Qualified patient” means a resident of Florida who has been added to the medical marijuana use registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card.
- “Road” means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

The effective date of the bill is July 1, 2026. (Section [3](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

To the extent that qualified patients and caregivers are cited for possessing open cannabis containers and pay the required fines for committing such an infraction under ch. 318, F.S., there may be a positive fiscal impact to state government.

LOCAL GOVERNMENT:

To the extent that qualified patients and caregivers are cited for possessing open cannabis containers and pay the required fines for committing such an infraction under ch. 318, F.S., there may be a positive fiscal impact to local governments.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Possession of Open Containers of Alcohol

Section 316.1936, F.S., prohibits a person from:

- Possessing an open container³ of an alcoholic beverage or consuming an alcoholic beverage while he or she is operating a vehicle or while he or she is a passenger in a vehicle that is being operated.
- Possessing an open container of an alcoholic beverage or consuming an alcoholic beverage while he or she is seated in or on a motor vehicle that is parked or stopped within a road.⁴

An open container is considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger and is not located in a locked glove compartment, locked trunk, or other locked nonpassenger area of the vehicle.⁵ An open container is considered to be in the possession of a passenger of a vehicle if the container is in the physical control of the passenger.⁶

The prohibition does not apply to the following:

- Passengers in vehicles designed, maintained, and used primarily for the transportation of persons for compensation.
- A passenger of a vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid commercial driver license with a passenger endorsement issued in accordance with the requirements of ch. 322, F.S.
- A passenger of a bus in which the driver holds a valid commercial driver license with a passenger endorsement issued in accordance with the requirements of ch. 322, F.S.
- A passenger of a self-contained motor home which is in excess of 21 feet in length.⁷

An operator of a vehicle who possess an open container in violation of the prohibition commits a noncriminal moving traffic violation.⁸ A passenger who violates such prohibition commits a nonmoving traffic violation.⁹

A county or municipality is authorized to adopt an ordinance which imposes more stringent restrictions on the possession of alcoholic beverages in vehicles than those imposed by state law.¹⁰

Civil Traffic Infractions

Generally, ch. 318, F.S., specifies the procedures for disposing of civil traffic infractions. When a person commits a civil traffic infraction, he or she may either elect to pay the fine associated with the infraction within 30 days after the date of issuance of the citation, or he or she may elect to contest the citation in a hearing before a judge or designated official.¹¹ If a person elects to pay the fine, he or she is deemed to have admitted the infraction.¹² If the

³ "Open container" means any container of alcoholic beverage which is immediately capable of being consumed from, or the seal of which has been broken. S. 316.1936(1)(a), F.S.

⁴ "Road" means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith. S. 316.1936(1)(b), F.S.

⁵ S. 316.1936(3), F.S.

⁶ S. 316.1936(4), F.S.

⁷ S. 316.1936(2)(b) and (5), F.S.

⁸ S. 316.1936(6), F.S.

⁹ *Id.*

¹⁰ S. 316.1936(7), F.S.

¹¹ S. 318.14(4) and (5), F.S.

¹² S. 318.14(4)(b), F.S. The specific amount of the fine varies depending on the county in which the person was cited. The fine for a moving traffic violation is approximately \$165 and the fine for a nonmoving traffic violation is approximately \$115. Pasco

person contests the citation, the judge holds a hearing and then determines whether the person committed the infraction.¹³ In such cases, a judge may impose a civil penalty not exceeding \$500 if the judge finds that the person committed the infraction.¹⁴ If a person admits or is found to have committed a moving violation, points may be assessed against his or her driver license.¹⁵ If a person accumulates a specified amount of points within certain time periods, his or her driver license may be suspended.¹⁶

Medical Marijuana Program

Section [381.986, F.S.](#), 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; or
- Medical conditions of the same kind or class as or comparable to those enumerated above.¹⁷

A patient is also authorized to obtain medical marijuana if he or she has:

- A terminal condition diagnosed by a physician other than the qualified physician who issues the medical marijuana certification; or
- Chronic malignant pain.¹⁸

To obtain marijuana for medical use from a MMTC, and maintain the immunity from criminal prosecution, a patient must obtain a physician certification from a qualified physician¹⁹ and an identification card from the Office of Medical Marijuana Use (OMMU).

Medical Marijuana Use Registry

After diagnosing a patient with a qualifying condition, a qualified physician must review and enter certain data into the medical marijuana use registry. The physician must review the medical marijuana use registry and confirm that the patient does not have an active physician certification from another qualified physician.²⁰ The physician must then register as the issuer of the physician certification for the named qualified patient in the medical marijuana use registry and enter into the registry the contents of the physician certification, including the patient's qualifying condition, the dosage, the amount and forms of marijuana authorized, and any types of marijuana delivery devices needed by the patient.²¹

County Clerk and Comptroller, *Traffic Fine Schedule*, [Traffic Fine Schedule](#) (last visited Feb. 5, 2026). Palm Beach County Clerk of the Circuit Court and Comptroller, *Traffic Violation Fees*, [Traffic Violation Fees](#) (last visited Feb. 5, 2026).

¹³ [S. 318.14\(5\), F.S.](#)

¹⁴ *Id.*

¹⁵ [S. 322.27\(3\)\(d\)8., F.S.](#)

¹⁶ [S. 322.27\(3\)\(a\)-\(c\), F.S.](#)

¹⁷ [S. 381.986\(2\)\(a\)-\(k\), F.S.](#)

¹⁸ [S. 381.986\(2\)\(l\) and \(m\), F.S.](#)

¹⁹ To certify patients for medical use of marijuana, a physician must hold an active, unrestricted license as an allopathic physician under ch. 458, F.S. or as an osteopathic physician under ch. 459, F.S. and comply with certain physician education requirements. See [ss. 381.986\(1\)\(m\), F.S. and 381.986\(3\)\(a\), F.S.](#)

²⁰ [S. 381.986\(4\)\(a\)6., F.S.](#)

²¹ [S. 381.986\(4\)\(a\)7., F.S.](#)

Medical Marijuana Use Registry Identification Card

A qualified patient must have a physician certification in the medical marijuana use registry and have a valid medical marijuana use registry identification card to obtain medical marijuana and medical marijuana delivery devices from a MMTc.²² OMMU must issue medical marijuana use registry identification cards to qualified patients and caregivers who are residents of this state.²³ The identification cards must be resistant to counterfeiting and tampering and must include specified information.²⁴

Restrictions on Use

A qualified patient or caregiver is subject to certain restrictions and requirements when using medical marijuana, including, but not limited to, the following:

- A qualified patient is prohibited from using, and a caregiver is prohibited from administering, marijuana in plain view of or in a place open to the general public, in a school bus, a vehicle, an aircraft, a boat, or on the grounds of a school, a violation of which is punishable as a first degree misdemeanor.²⁵
- A qualified patient or caregiver in possession of marijuana or a marijuana delivery device must, upon the request of a law enforcement officer, present his or her marijuana use registry identification card, unless it can be determined through the medical marijuana use registry that the person is authorized to be in possession of that marijuana or marijuana delivery device.²⁶ A violation is punishable as a second degree misdemeanor,²⁷ however, a person may not be convicted if he or she presents an identification to the clerk of the court that was valid at the time of his or her arrest.²⁸

Suspension and Revocation

The Department of Health (DOH), which oversees the medical marijuana program, may suspend or revoke a qualified patient's or caregiver's medical marijuana registration if he or she:

- Provides misleading, incorrect, false, or fraudulent information to DOH;
- Obtains a supply of marijuana in an amount greater than the amount authorized by the physician certification;
- Falsifies, alters, or otherwise modifies an identification card;
- Fails to timely notify DOH of any changes to his or her qualified patient status; or
- Violates any of the requirements in [S. 381.986, F.S.](#), or any related rules adopted by DOH.

DOH is also required to suspend or revoke a qualified patient's or caregiver's medical marijuana registration under specified circumstances, including:

- Suspending a qualified patient's or caregiver's registration if he or she is charged with a violation of ch. 893, F.S., relating to controlled substances.²⁹
- Revoking a qualified patient's or caregiver's registration if he or she was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, a violation of ch. 893, F.S., for trafficking in a controlled substance; selling, manufacturing, or delivering a controlled substance; or possessing a controlled substance with intent to sell, manufacture, or deliver such a substance.³⁰

²² [S. 381.986\(7\), F.S.](#)

²³ *Id.*

²⁴ *Id.*

²⁵ [S. 381.986\(12\)\(c\), F.S.](#) A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

²⁶ [S. 381.986\(12\)\(e\)1., F.S.](#)

²⁷ A second degree misdemeanor is punishable by 60 days in jail and a \$500 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

²⁸ [S. 381.986\(12\)\(e\)1. and 2., F.S.](#)

²⁹ [S. 381.986\(5\)\(d\) and \(e\), F.S.](#)

³⁰ *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Criminal Justice Subcommittee	10 Y, 5 N, As CS	2/5/2026	Hall	Padgett
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> • Revised the prohibition in the bill to only apply to open containers of medical marijuana. • Revised the requirements for an operator of a motor vehicle to be considered to be in possession of an open cannabis container. • Specified that the prohibition in the bill does not apply to a rider in a transportation network company vehicle. • Revised the penalty for a passenger who possesses an open cannabis container from a moving violation to a nonmoving violation. • Removed criminal penalties for committing a second or subsequent offense of possessing an open cannabis container. • Revised provisions related to medical marijuana registration suspension and revocation to apply only after a third violation of the prohibition. • Removed a provision specifying that it is the Legislature's intent that the plain smell of marijuana constitutes probable cause for a search of a vehicle. 			

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
