

HB 1003

2026

A bill to be entitled
An act relating to open cannabis containers in motor vehicles; creating s. 316.19361, F.S.; providing definitions; prohibiting a person from possessing an open cannabis container while operating or a passenger in or on a vehicle or while seated in or on a vehicle that is parked or stopped within a road; providing that an open cannabis container is considered to be in a person's possession under certain circumstances; providing applicability; providing penalties; authorizing a local government to adopt certain ordinances; providing construction; creating s. 316.19362, F.S.; providing legislative intent; amending s. 381.986, F.S.; requiring the Department of Highway Safety and Motor Vehicles to report certain violations to the Department of Health; requiring the Department of Health to take certain actions against medical marijuana use registry qualified patients and caregivers for specified violations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.19361, Florida Statutes, is created to read:

26 316.19361 Possession of open cannabis containers in
27 vehicles prohibited; penalties.—

28 (1) As used in this section and s. 316.19362, the term:

29 (a) "Caregiver" has the same meaning as in s. 381.986(1).

30 (b) "Edibles" has the same meaning as in s. 381.986(1).

31 (c) "Hemp" has the same meaning as in s. 581.217(3).

32 (d) "Hemp extract" has the same meaning as in s.

33 581.217(3).

34 (e) "Low-THC cannabis" has the same meaning as in s.

35 381.986(1).

36 (f) "Marijuana" has the same meaning as in s. 381.986(1).

37 (g) "Marijuana delivery device" has the same meaning as in
38 s. 381.986(1).

39 (h) "Open cannabis container" means a container that
40 contains any edible, hemp, hemp extract, low-THC cannabis,
41 marijuana, or THC beverage from which a person can immediately
42 consume, inhale, or smoke or of which the seal has been broken.
43 The term includes a THC delivery device or a marijuana delivery
44 device that is loaded, activated, or otherwise prepared for
45 immediate use.

46 (i) "Qualified patient" has the same meaning as in s.

47 381.986(1).

48 (j) "Road" has the same meaning as in s. 316.1936(1).

49 (k) "THC beverage" means a beverage infused with hemp,
50 hemp extract, low-THC cannabis, or marijuana.

51 (1) "THC delivery device" means an object used, intended
52 for use, or designed for use in preparing, storing, ingesting,
53 inhaling, or otherwise introducing hemp, hemp extract, or low-
54 THC cannabis into the human body.

55 (2) (a) It is unlawful for any person to possess an open
56 cannabis container while operating a vehicle in this state or
57 while a passenger in or on a vehicle being operated in this
58 state.

59 (b) It is unlawful for any person to possess an open
60 cannabis container while seated in or on a motor vehicle that is
61 parked or stopped within a road. This paragraph does not apply
62 to passengers in vehicles designed, maintained, and used
63 primarily for the transportation of persons for compensation and
64 in motor homes.

65 (3) An open cannabis container is considered to be in the
66 possession of the operator of a vehicle if the open cannabis
67 container is not in the possession of a passenger and is not
68 located in a locked glove compartment, locked trunk, or other
69 locked nonpassenger area of the vehicle.

70 (4) An open cannabis container is considered to be in the
71 possession of a passenger of a vehicle if the open cannabis
72 container is in the physical control of the passenger.

73 (5) This section does not apply to:

74 (a) A passenger of a vehicle in which the driver is
75 operating the vehicle pursuant to a contract to provide

76 transportation for passengers, and such driver holds a valid
77 commercial driver license with a passenger endorsement issued in
78 accordance with the requirements of chapter 322;

79 (b) A passenger of a bus in which the driver holds a valid
80 commercial driver license with a passenger endorsement issued in
81 accordance with the requirements of chapter 322; or

82 (c) A passenger of a self-contained motor home that is
83 longer than 21 feet.

84 (6)(a)1. An operator of a vehicle who violates this
85 section commits a noncriminal moving traffic violation,
86 punishable as provided in chapter 318.

87 2. A second offense is punishable by imprisonment for not
88 more than 90 days or by a fine of at least \$25 but not more than
89 \$500, or by both such fine and imprisonment.

90 3. A third or subsequent offense is punishable by
91 imprisonment for not more than 6 months or by a fine of at least
92 \$50 but not more than \$1,000, or by both such fine and
93 imprisonment.

94 (b) If the operator is a medical marijuana use registry
95 qualified patient or caregiver under s. 381.986, the Department
96 of Highway Safety and Motor Vehicles shall report the violation
97 to the Department of Health which shall:

98 1. For a first offense, immediately suspend such qualified
99 patient's or caregiver's medical marijuana use registry
100 identification card or caregiver identification card,

101 respectively, as provided in s. 381.986(5)(h)1.

102 2. For a second offense, permanently revoke the qualified
103 patient's or caregiver's medical marijuana use registry
104 identification card or caregiver identification card,
105 respectively, as provided in s. 381.986(5)(h)2.

106 (7)(a) A passenger of a vehicle who violates this section
107 commits a noncriminal moving traffic violation, punishable as
108 provided in chapter 318.

109 (b) If the passenger is a medical marijuana use registry
110 qualified patient or caregiver, the Department of Highway Safety
111 and Motor Vehicles shall report the violation to the Department
112 of Health which shall:

113 1. For a first offense, immediately suspend such qualified
114 patient's or caregiver's medical marijuana use registry
115 identification card or caregiver identification card as provided
116 in s. 381.986(5)(h)1.

117 2. For a second offense, permanently revoke such qualified
118 patient's or caregiver's medical marijuana use registry
119 identification card or caregiver identification card as provided
120 in s. 381.986(5)(h)2.

121 (8) A county or municipality may adopt an ordinance that
122 imposes more stringent restrictions than those imposed by this
123 section on the possession of an open cannabis container in
124 vehicles.

125 (9) This section does not prohibit the enforcement of s.

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126 316.302.

127 **Section 2. Section 316.19362, Florida Statutes, is created**
128 **to read:**

129 316.19362 Legislative intent; vehicle searches for open
130 cannabis containers.—It is the express intent of the Legislature
131 that the "plain smell" of any edible, hemp, hemp extract, low-
132 THC cannabis, marijuana, marijuana delivery device, THC
133 beverage, or THC delivery device, whether burned or fresh,
134 constitutes probable cause for a vehicle search for an open
135 cannabis container.

136 **Section 3. Paragraph (h) of subsection (5) of section**
137 **381.986, Florida Statutes, is redesignated as paragraph (j), and**
138 **a new paragraph (h) is added to that subsection to read:**

139 381.986 Medical use of marijuana.—

140 (5) MEDICAL MARIJUANA USE REGISTRY.—

141 (h) 1. The department shall immediately suspend the
142 registration of a qualified patient or caregiver who commits a
143 violation of s. 316.19361. Based upon such final disposition,
144 the department may extend the suspension or reinstate the
145 registration.

146 2. The department shall permanently revoke the
147 registration of a qualified patient or caregiver who commits a
148 second offense of s. 316.19361. Based upon such final
149 disposition, the department may reinstate the registration.

150 **Section 4.** This act shall take effect July 1, 2026.