

1                   A bill to be entitled  
2       An act relating to open cannabis containers in motor  
3       vehicles; creating s. 316.19361, F.S.; providing  
4       definitions; prohibiting a person from possessing an  
5       open cannabis container while operating or a passenger  
6       in or on a vehicle or while seated in or on a vehicle  
7       that is parked or stopped within a road; providing  
8       that an open cannabis container is considered to be in  
9       a person's possession under certain circumstances;  
10      providing applicability; providing penalties;  
11      authorizing a local government to adopt certain  
12      ordinances; providing construction; creating s.  
13      316.19362, F.S.; providing legislative intent;  
14      amending s. 381.986, F.S.; requiring the Department of  
15      Highway Safety and Motor Vehicles to report certain  
16      violations to the Department of Health; requiring the  
17      Department of Health to take certain actions against  
18      medical marijuana use registry qualified patients and  
19      caregivers for specified violations; providing an  
20      effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24       **Section 1.   Section 316.19361, Florida Statutes, is created**  
25   **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.**