

SC25-2009

In the Supreme Court of Florida

ADVISORY OPINION TO THE ATTORNEY GENERAL RE:
ADULT PERSONAL USE OF MARIJUANA

ON A PETITION FOR AN ADVISORY OPINION TO THE
ATTORNEY GENERAL

ATTORNEY GENERAL'S INITIAL BRIEF

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INTRODUCTION

Heedless that “some issues are better suited as legislatively enacted statutes than as constitutional amendments,” *Advisory Op. to Att’y Gen.—Ltd. Marine Net Fishing*, 620 So. 2d 997, 1000 (Fla. 1993) (“*Marine Net Fishing*”) (McDonald, J., concurring, joined by Barkett, C.J., & Overton & Kogan, JJ.), this initiative is the latest in a lengthy string of attempts by the marijuana industry to embed a full regulatory regime governing the recreational use of marijuana in Florida’s constitution. That regime would, among other things, simultaneously decriminalize recreational marijuana use; guarantee certain rights to marijuana producers and retailers; and require state regulators to assist in ensuring marijuana’s “availability” throughout the nation’s third largest state.

Previous efforts by the marijuana industry have fallen short. In the last decade alone, proponents of marijuana legalization introduced 23 bills in the Legislature. None succeeded. Having failed to persuade the people’s elected representatives, those proponents then turned to the initiative process, sponsoring numerous amendments that were either blocked by this Court due to misleading ballot summaries or defeated at the ballot box.

In 2024, for example, the first “Adult Personal Use of Marijuana” initiative appeared on the ballot. Bankrolled by the marijuana industry, sponsor Safe & Smart Florida dumped nearly \$150 million into its campaign to convince voters that marijuana should be widely permitted for recreational use.¹ The Canadian corporation Trulieve²—the “largest medical-marijuana operator” in both Florida and the United States³—spearheaded the funding.⁴

Despite this massive inflow of corporate cash into a process meant to empower citizens—or perhaps because of it—Florida voters rejected the amendment.⁵ Their reasons varied—from the increasing

¹ See Douglas Soule, *What is Trulieve, the company financing the pro-recreational marijuana campaign?*, USA Today (Oct. 28, 2024), <https://perma.cc/32PD-S84T>.

² *Trulieve FAQs*, <https://perma.cc/KEG7-9Z2D>.

³ *Recreational Marijuana Initiative Launched*, Trulieve (Aug. 9, 2022), <https://tinyurl.com/bdebv43>; *Trulieve Announces the Largest US Cannabis Transaction*, Trulieve (May 10, 2021), <https://perma.cc/RL6T-NM52>.

⁴ See *Trulieve funneled millions into a marijuana proposal in the first quarter*, WFSU, (April 14, 2025), <https://perma.cc/U7LE-S224>.

⁵ Amendment 3: Florida General Election Results, CNN (Nov. 5, 2024), <https://perma.cc/4ZX9-MUNW>.

worry that marijuana is far more harmful than advertised,⁶ to alarm about the negative impact public marijuana use would have on tourists and everyday citizens,⁷ to concerns that marijuana use would only further antisocial and antiproduative behavior.⁸ But the result was the same: the people concluded that the initiative was unworthy of inclusion in the Constitution.

Now, Smart & Safe has retooled its proposed amendment to try and clear the 60% threshold and has actively worked to gather enough signatures to have Floridians vote on recreational marijuana for the second time in two years.

⁶ See, e.g., Jonathan Caulkins & Keith Humphreys, *Legal Weed Didn't Deliver on its Promises*, The Atlantic (Jan. 31, 2025), <https://perma.cc/G95J-963Y>; Nat'l. Insts. of Health, *Young men at highest risk of schizophrenia linked with cannabis use disorder* (May 4, 2023) (noting "strong evidence of an association between cannabis use disorder and schizophrenia among men and women"), <https://perma.cc/74RQ-W5XU>.

⁷ Mitch Perry, *Concerned about cannabis measure, DeSantis lobs charges vs Amendment 3*, Florida Phoenix (Oct. 24, 2024), <https://perma.cc/AA43-XTCT>.

⁸ Judith S. Brook et al., *Antisocial Behavior at Age 37: Developmental Trajectories of Marijuana Use Extending from Adolescence to Adulthood* (2011), <https://perma.cc/ZR2M-Q552>.

But this latest ballot initiative is fatally flawed. It misleads voters in a way designed to garner greater approval, is flatly invalid under the federal Constitution, and violates the single-subject requirement. The Court should therefore strike the proposed amendment from the ballot. Under Article IV, Section 10 of the Florida Constitution, this Court stands watch over the integrity of our Constitution. That role is even more pronounced when an initiative is conceived, designed, drafted, and bankrolled by special interests with a multi-billion-dollar stake in the outcome.

STATEMENT OF THE CASE AND FACTS

On December 17, 2025, the Attorney General requested an advisory opinion from this Court as to the validity of the Adult Personal Use of Marijuana initiative. *See* Art. IV, § 10, Fla. Const. The Court has jurisdiction. *See* Art. V, § 3(b)(10), Fla. Const.

A. Text of the proposed amendment

The full text of the Adult Personal Use of Marijuana amendment is as follows, with additions to Article X, Section 29 appearing in underline and deletions in strikethrough:

[ARTICLE X,] SECTION 29. ~~Medical m~~Marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver, or the personal use of marijuana by an adult, in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center, or by a Licensed Marijuana Entity, registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(4) The marketing and packaging of marijuana in a manner attractive to children is prohibited.

(5) The smoking and vaping of marijuana in any public place is prohibited.

(6) Upon the effective date, adults shall be allowed to possess, purchase, or use marijuana for personal use as provided herein.

(7) Upon the effective date, Medical Marijuana Treatment Centers shall be allowed to acquire, cultivate, process, transport, and sell marijuana to adults for personal use as provided herein; such sales may be made at a Medical Marijuana Treatment Center's dispensing facilities existing as of January 1, 2025, and at any dispensing facilities thereafter approved by the Department.

(8) Licensed Marijuana Entities shall be allowed to acquire, cultivate, process, transport, or sell marijuana to

adults for personal use as provided herein. Licensed Marijuana Entities shall not be required to be vertically integrated.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) “Debilitating Medical Condition” means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) “Department” means the Department of Health or its successor agency.

(3) “Identification card” means a document issued by the Department that identifies a qualifying patient or a caregiver.

(4) “Marijuana” has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, “Low-THC cannabis” as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term “marijuana.”

(5) “Medical Marijuana Treatment Center” (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.

(6) “Medical use” means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver’s designated qualifying patient for the treatment of a debilitating medical condition.

(7) “Caregiver” means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient’s medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.

(8) “Physician” means a person who is licensed to practice medicine in Florida.

(9) “Physician certification” means a written document signed by a physician, stating that in the physician’s professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.

(10) “Qualifying patient” means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the

effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a “qualifying patient” until the Department begins issuing identification cards.

(11) “Adult” means a natural person 21 years of age or older.

(12) “Licensed Marijuana Entity” means a corporation authorized to do business in the State of Florida that is not a MMTC and is licensed by the State to acquire, cultivate, process, transport, or sell marijuana to adults for personal use.

(13) “Personal use” means the possession, purchase, or use of marijuana by an adult 21 years of age or older for non-medical personal consumption by smoking, ingestion, or otherwise. An adult need not be a qualifying patient in order to purchase marijuana for personal use from a MMTC. An individual’s possession of marijuana for personal use shall not exceed 2.0 ounces of marijuana except that not more than five grams of marijuana may be in the form of concentrate.

(14) “Public place” means all parks, beaches, public transit, roads, sidewalks, trails, or other ways or thoroughfares dedicated to public use or owned or maintained by the state or any political subdivision of the state, and all schools, arenas, facilities, buildings and grounds owned, leased, operated, or maintained by the state or any political subdivision of the state.

(c) LIMITATIONS.

(1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.

(2) Nothing in this section shall affect or repeal laws or rules relating to medical marijuana. ~~non-medical use, possession, production, or sale of marijuana.~~

(3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.

(5) Nothing in this section changes federal law or requires the violation of federal law or purports to give immunity under federal law.

(6) Nothing in this section shall require any accommodation of any on-site ~~medical~~ use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking ~~medical~~ marijuana in any public place.

(7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the ~~medical~~ use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of an adult using marijuana for personal use, a qualified patient, caregiver, physician, MMTC or Licensed Marijuana Entity, or its agents or employees.

(9) Nothing in this section shall prohibit an owner of private real property from prohibiting the personal use of marijuana within or on their property.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of ~~medical~~ marijuana by qualifying patients for medical use and adults for personal use. It is the duty of the Department to promulgate regulations in a timely fashion. Medical Marijuana Treatment Centers and Licensed Marijuana Entities shall be bound by the Department's rules relating

to marijuana including, but not limited to, cultivation, processing, testing, marketing, packaging, and labeling in effect as of the effective date and as may be amended or implemented by the Department thereafter.

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.

b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.

c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Identification cards and registrations. The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) LEGISLATION. Prior to the effective date, the legislature shall adopt legislation necessary to provide for the regulation of the time, place, and manner of the public consumption of marijuana. Prior to the effective date, the legislature shall adopt legislation for the licensure and regulation of Licensed Marijuana Entities. Nothing herein shall prohibit the legislature from providing for the home growing of marijuana by adults for their personal use and the reasonable regulation thereof. Nothing herein shall limit the right of the legislature, subject to Section 19 of Article VII of this Constitution, to exercise its authority through general law in providing for the taxation of sales of marijuana and appropriating such tax revenues to fund law enforcement, education, or as otherwise determined by the Legislature. Nothing in this section shall limit the legislature from enacting laws consistent with this section.

(f) SEVERABILITY. The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

(g) EFFECTIVE DATE. This amendment shall become effective on the first day of the sixth (6TH) month following approval by the voters.

Pet. 2–5.⁹

B. Ballot summary

The accompanying ballot summary, which is 73 words, states:

Allows adults 21 and older to possess, purchase, or use marijuana for non-medical consumption. Establishes possession limits. Prohibits marketing and packaging attractive to children. Prohibits smoking and vaping in public. Maintains prohibition on driving under influence. Applies to Florida law; does not change, or immunize violations of, federal law. Allows Medical Marijuana Treatment Centers to acquire, cultivate, process, transport, and sell marijuana to adults. Provides for creation of licenses for non-medical marijuana businesses

Pet. 1.

SUMMARY OF ARGUMENT

The ballot initiative fails for three independent reasons, any one of which warrants removal from the ballot.

I. The ballot summary impermissibly misleads voters about the actual effect of the proposed amendment. *See* § 101.161(1), Fla. Stat. The ballot summary misleads voters by promising to prohibit marijuana use “in public,” while the amendment itself prohibits such

⁹ *See* Constitutional Amendment Initiative Petition Form, Smart & Safe Fla. (2025), <https://perma.cc/Y5NE-PDTU>.

use only in select “public place[s]”—primarily public property maintained or owned by the State. Yet countless dictionaries, legal authorities, and common sense dictate that “in public” is a far broader term that covers everything from the local grocery store, fitness center, to the shopping mall. That divergence between summary and amendment misleads voters and is fatal under this Court’s established precedent. *See, e.g., Advisory Op. to the Att’y Gen. re Casino Authorization, Taxation, and Regulation*, 656 So. 2d 466, 468 (Fla. 1995). After all, polling routinely shows that most Americans oppose the smell of marijuana “in public.” The ballot summary would lead voters to believe that voting yes would ensure there is no marijuana—or its smell—“in public,” while the actual amendment delivers no such thing. The “in public” summary language would likewise deceive Florida parents into thinking this initiative will prohibit marijuana smoking near their children in hotels, restaurants, sports venues, and other areas open to the general public. The initiative provides no such protection.

II. The initiative also fails because it is “facially invalid under the United States Constitution.” § 16.061(1), Fla. Stat. The federal

Controlled Substances Act (“CSA”) has long criminalized all recreational marijuana use, so the initiative runs head long into the Supremacy Clause, which ensures that federal law “shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2. The initiative seeks to ensure access to a robust recreational marijuana market, including by requiring state regulators to assist in guaranteeing the “availability” of marijuana. But state law cannot “empower[]” people “to do precisely what the federal Act forbids them to do,” *Mich. Cannery & Freezers Ass’n, Inc. v. Agric. Mktg. & Bargaining Bd.*, 467 U.S. 461, 477–78 (1984), and the initiative stands directly athwart Congress’s objectives in enacting the CSA.

This facial invalidity warrants removal from the ballot. The Legislature added this statutory requirement to its law regulating the initiative process, which the Florida Constitution authorized it to do. See Art. V, § 3(b)(10), Fla. Const. And the Supremacy Clause is as much a part of the “United States Constitution” as any other provision, so faithfully ensuring that the proposal is not facially invalid includes preemption analysis stemming from any validly enacted federal law, like the CSA.

III. Finally, the initiative violates the single-subject requirement. Art. XI, § 3, Fla. Const. The constitutional text imposes a rigid requirement on the specificity of initiatives. This Court has, at times, applied a more relaxed view of what constitutes a single subject. But text, context, and precedent confirm that “subject” must be read narrowly. And under this proper view, any matter must be inextricably intertwined to be “directly connected” under a single subject.

But the initiative fails either under this proper standard or under the Court’s current oneness-of-purpose test. The proposed amendment spreads far beyond marijuana legalization and extends to childhood advertising bans, business licensing, and permissible marijuana business structures. These disparate facets of the initiative muddle voter choice and propose wide-ranging changes to Florida’s legal landscape. The single-subject requirement—as originally and properly understood—exists to prevent this dynamic.

LEGAL STANDARD

The Florida Constitution “reserve[s] to the people” the power to amend the State’s governing charter through the citizen-initiative process. Art. XI, § 3, Fla. Const. This power, however, can invite “abuse of the amendment process,” *Marine Net Fishing*, 620 So. 2d at

1000, when deep-pocketed and self-interested industries commandeer the “*citizen initiative*” process to achieve pecuniary ends.

This is one reason the initiative process comes with crucial safeguards. An initiative is invalid unless it satisfies each of the three requirements imposed by the Florida Constitution and statutes: (1) the ballot title and summary satisfy the clarity requirements of Section 101.161(1), Florida Statutes, (2) the proposed amendment is not facially invalid under the United States Constitution as required by Section 16.061(1), Florida Statutes, and (3) the proposed amendment satisfies the single-subject requirement of Article XI, Section 3, of the Florida Constitution. *See Advisory Op. to the Att’y Gen. re Adult Personal Use of Marijuana*, 384 So. 3d 104, 108 (Fla. 2024) (“*Adult Use II*”).

As for the clarity requirements, Section 101.161(1) codifies the standard for reviewing ballot titles and summaries of proposed constitutional amendments. “Implicit in this provision is the requirement that the proposed amendment be *accurately* represented on the ballot; otherwise, voter approval would be a nullity.” *Armstrong v. Harris*, 773 So. 2d 7, 12 (Fla. 2000). The ballot title and summary must “fairly inform the voter of the chief purpose of the amendment,” and

cannot “mislead[] the public.” *Fla. Educ. Ass’n v. Fla. Dep’t of State*, 48 So. 3d 694, 701 (Fla. 2010) (quotation omitted).

With respect to facial invalidity, Section 16.061(1) states that the Court must render an advisory opinion on “whether the proposed amendment is facially invalid under the United States Constitution.” *Id.* The Court has not yet determined the standards dictating that review.

Turning to the single-subject requirement, this Court has said that the initiative “must manifest a logical and natural oneness of purpose.” *In re Advisory Op. to the Att’y Gen.—Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994) (“*Laws Related to Discrimination*”) (quotation omitted). To satisfy the “oneness of purpose” test, the initiative must “focus on a single dominant plan or scheme under which all components have a natural and logical connection.” *Adult Use II*, 384 So. 3d at 108.

That said, the Court should revisit its understanding of the test for single-subject review. *See infra* § III.A. Initiative “subjects” must be defined at a high level of specificity, and “matter directly connected therewith” encompasses only collateral matters that are inextricably intertwined with the subject of an initiative. Art. XI, § 3, Fla. Const.

Honoring this requirement prevents abuses to the amendment process.

Though the Court has observed that its advisory-opinion review is “deferential,” it will invalidate an initiative “if it is shown to be ‘clearly and conclusively defective.’” *Advisory Op. to Att’y Gen. re: Regulate Marijuana in a Manner Similar to Alcohol to Establish Age, Licensing, & Other Restrictions*, 320 So. 3d 657, 667 (Fla. 2021) (“*Regulate Similar to Alcohol*”).

ARGUMENT

I. The Adult Personal Use of Marijuana initiative is invalid because its ballot summary misleads voters.

The Adult Personal Use of Marijuana ballot summary misleads voters by stating that the amendment will prohibit marijuana use “in public”—a phrase widely understood to include all places open to the public—when in fact the proposed amendment prohibits marijuana use only in carefully defined “public places.”

A ballot summary that “differs in material ways from the provisions of the amendment itself” affirmatively misleads voters. *Advisory Op. to Att’y Gen. re 1.35% Prop. Tax Cap, Unless Voter Approved*, 2 So. 3d 968, 975–76 (Fla. 2009) (“*1.35% Prop. Tax Cap*”). Thus, this Court

invalidates initiatives where the ballot summary’s “use of different terminology” is legally significant. *Advisory Op. to Att’y Gen., re Amend. to Bar Gov’t from Treating People Differently Based on Race in Pub. Educ.*, 778 So. 2d 888, 897 (Fla. 2000).

The seminal case is *Advisory Opinion to the Attorney General re Casino Authorization, Taxation, and Regulation*, which addressed a proposed amendment allowing casinos “at transient lodging establishments.” 656 So. 2d 466, 467 (Fla. 1995). The ballot summary, rather than parroting the text of the amendment, stated that the amendment allowed casinos “at hotels.” *Id.* But the “definition of ‘hotel’ [was] substantially different from the definition of ‘transient lodging establishment.’” *Id.* While “hotel” meant a “public lodging establishment containing sleeping accommodations for 25 or more guests and providing [certain] services,” the definition of a “transient lodging establishment” was “much broader and include[d] some hotels and many types of motels, resort condominiums, transient apartments, roominghouses, and resort dwellings.” *Id.* at 468–69. Because the ballot summary told voters that the amendment allowed casinos at far fewer places than it truly did, this Court struck the proposed amendment from the ballot. *Id.* at 470.

In fact, this Court has consistently invalidated initiative petitions when the ballot summary contains a misleading “divergence in terminology.” *Advisory Op. to the Att’y Gen. re Right of Citizens to Choose Health Care Providers*, 705 So. 2d 563, 566 (Fla. 1998) (“*Health Care Providers*”) (striking petition because the term “natural person” in the ballot summary was broader than the term “citizens” in the amendment); *see also Bar Gov. from Treating People Differently*, 778 So. 2d at 896–97 (striking petition because the term “people” in the ballot summary was narrower than the term “persons” in the amendment); *Advisory Op. to the Att’y Gen. re Prohibits Possession of Defined Assault Weapons*, 296 So. 3d 376, 381–82 (Fla. 2020) (striking petition because exemption for currently possessed assault weapons in ballot summary was broader than exemption for current owners’ possession in amendment).

The initiative petition here likewise presents a disqualifying “divergence in text and meaning” by using a term in the ballot summary that is much broader than the term used in the proposed amendment. *Prohibits Possession of Defined Assault Weapons*, 296 So. 3d at 381. The ballot summary tells voters that the proposed amend-

ment “[p]rohibits smoking and vaping *in public*.” Floridians would understand the phrase “in public” to encompass any place open to the public, whether privately or publicly owned. Merriam-Webster, for example, defines “in public” simply as “a place accessible or visible to the public.” *Public*, Merriam-Webster Dictionary (online ed.). Black’s tracks that definition. *See Public*, Black’s Law Dictionary (12th ed. 2024) (“A place open or visible to the public <in public>.”).¹⁰

Florida jury instructions likewise define “in public” as “in any place intended or designed to be frequented or resorted to by the public.” *See Fla. Stan. Crim. Jury Inst. 11.9* (providing instructions for the crime of unlawful exposure of sexual organs in public under Section 800.03, Florida Statutes); *accord Fla. Stan. Crim. Jury Inst. 10.6* (providing instructions for the crime of discharging a firearm in public under Section 790.15, Florida Statutes).

The actual text of the proposed amendment, however, prohibits marijuana use *only on certain public property*. If ratified, the initiative

¹⁰ Other dictionaries provide an even more expansive definition of “in public.” *See, e.g., In public*, Oxford Advanced Learners Dictionary (online ed.) (“[W]hen other people, especially people you do not know, are present.”); *In public*, Cambridge Dictionary (online ed.) (“[I]n a place where people can see you.”).

would amend Article X, Section 29(a)(5) to provide that “[t]he smoking and vaping of marijuana in any public place is prohibited.” The proposed amendment defines “public place” as:

[A]ll parks, beaches, public transit, roads, sidewalks, trails, or other ways or thoroughfares dedicated to public use or owned or maintained by the state or any political subdivision of the state, and all schools, arenas, facilities, buildings and grounds owned, leased, operated, or maintained by the state or any political subdivision of the state.

Under this definition, marijuana use would be prohibited on public property, but allowed on private property open to the public, such as grocery stores, gyms, restaurants, or malls.

Thus, by using the phrase “in public,” the ballot summary creates the false impression that the amendment’s prohibition extends to all private property open to the public.¹¹ The false impression is

¹¹ This false impression is furthered by the title of the proposed amendment, since the word “personal” in “Adult Personal Use of Marijuana” can be read synonymously with “private.” See *Personal*, Merriam-Webster Thesaurus (online ed.); see also *Advisory Op. to the Att’y Gen. re People’s Prop. Rts. Amends. Providing Comp. for Restricting Real Prop. Use May Cover Multiple Subjects*, 699 So. 2d 1304, 1309 (Fla. 1997) (explaining that “the ballot title and summary must be read together”).

further aggravated by voters’ knowledge that it is illegal to use medical marijuana “in a place open to the general public.” § 381.986(12)(c), Fla. Stat.; *see also* Art. X, § 29(c)(6), Fla. Const.

This “divergence in text and meaning” is material. Public polling shows that most people dislike the odor of marijuana smoke. A survey from 2019 reported that the majority of Americans agree that the smell of marijuana in public is “a problem,” with 23% affirming that they “hate when [they] smell cannabis in public.”¹² A poll published by Emerson College in 2025 found that nearly 60% of respondents were “somewhat or greatly bothered” by the smell of marijuana in public.¹³ Indeed, many Floridians opposed 2024’s Amendment 3 due to the concern that, if the proposal passed, “Florida [would] reek of marijuana.”¹⁴

¹² Dominic Holden, *Half of Americans Think The Smell of Weed in Public Is a Real Problem*, BuzzFeed News (Apr. 24, 2019), <https://perma.cc/AD2C-5738>.

¹³ *New Poll: New Yorkers Sour on Legal Weed—Majority Cite Safety, Smell, and Public Use Concerns*, Smart Approaches to Marijuana (June 26, 2025), <https://perma.cc/M4S2-JU22>.

¹⁴ John Kennedy, *In uphill fight to defeat abortion, marijuana measures, DeSantis throws around bold claims*, Tallahassee Democrat (June 10, 2024), <https://perma.cc/FS8M-TJPL>; *see also* Douglas Soule, *Florida recreational marijuana ballot measure: Sides fired*

This concern is well-founded. Even proponents of legalization concede that the odor of marijuana has become “inescapable” in jurisdictions that permit public consumption. For example, New York legalized public recreational marijuana use in 2021. The following year, New York City’s mayor told the press that “[t]he number one thing I smell right now is pot. It seems like everyone is smoking a joint now, you know. Everybody has a joint.”¹⁵ In 2023, *The Atlantic*—by no means a conservative publication—criticized the ever-present tang of marijuana:

Imagine you’re in the heart of New York City—for example, on the steps of Madison Square Garden. One of the very first things you would notice there, no matter the time of day or the weather, would be the pungent aroma of burning reefer. This would also be the case if you found yourself at the entrance to the Q train at Union Square, or at a chessboard in Washington Square Park, or under some scaffolding erected on any random block in SoHo. Smelling cannabis has become an inescapable feature of living in (or visiting) the city, an emblem of life in New York akin to sipping a crème at a café table in Paris or strolling through Rome eating a gelato. In some parts of Midtown, weed aromas pump through the streets like those bizarre plumes

up over pot smell issue, Tallahassee Democrat (Aug. 19, 2024), <https://perma.cc/H34W-N8PQ>.

¹⁵ ‘Number one thing I smell right now is pot’: New York City mayor talks 311 odor complaints, ABC 7 Eyewitness News WABC (July 15, 2022), <https://perma.cc/SQ46-ZV8Y>.

of steam that blow continuously from orange-striped tubes at intersections.¹⁶

Reports indicate that, as word of the stench spreads, tourists increasingly choose to vacation elsewhere.¹⁷ These problems are by no means unique to New York. Everywhere recreational marijuana goes, from California to Colorado to Illinois to Washington, D.C., odor-control issues follow.¹⁸

Floridians—especially parents and grandparents—are also deeply concerned about children inhaling poisonous chemicals in marijuana smoke and vapor. Studies indicate that even brief exposure to secondhand marijuana smoke may impair vascular function in small children.¹⁹ Consequently, the public strongly opposes the

¹⁶ Thomas Chatterton Williams, *I Don't Want to Smell You Get High*, *The Atlantic* (Apr. 27, 2023), <https://perma.cc/9PMG-GLCP>.

¹⁷ Andrew Zaleski, *Amid Marijuana Legalization, a Civic Problem Lingers: That Smell*, *Bloomberg* (Apr. 8, 2024), <https://perma.cc/Y7Z5-2W95>; see also Johnny Oleksinski, *NYC's disgusting pot stench is keeping tourists away*, *New York Post* (Sept. 1, 2023), <https://perma.cc/4UZH-CPQG>.

¹⁸ See, e.g., Zaleski, *supra*; Rebecca Onion, *Up in Smoke: How "weed smell" became a potent boogeyman of American decline*, *Slate* (July 22, 2022), <https://perma.cc/L99E-YKNF>.

¹⁹ Karen M. Wilson et al., *Marijuana and Tobacco Coexposure in Hospitalized Children*, 142 *Pediatrics* 1, 2 (Dec. 2018), <https://perma.cc/Z82N-5VSV>.

legalization of marijuana use near children. According to one survey, 80% of Americans believe that adults should not even be able to use *medical* marijuana around children.²⁰ Thus, a proposed amendment failing to prohibit marijuana use in places open to the public and frequented by children, such as hotels, restaurants, and sporting venues, would be unpopular with a significant swath of voters.

Aware of this potential for public disapprobation, Smart & Safe drafted a ballot summary that disguises an extreme amendment legalizing marijuana use *everywhere other than public property* as a middle-of-the-road amendment legalizing marijuana use *only in places that are closed to the public*, such as one's home. Section 101.161 exists for the specific purpose of protecting voters from such deception. *See Armstrong*, 773 So. 2d at 16 (“A ballot title and summary cannot either ‘fly under false colors’ or ‘hide the ball’ as to the amendment’s true effect.”); *1.35% Prop. Tax Cap*, 2 So. 3d at 974 (describing the accuracy requirement “as a kind of ‘truth in packaging’

²⁰ Alexandra Sifferlin, *Most Americans Think Medical Marijuana Shouldn't Be Used By Kids, Poll Says*, Time (Apr. 20, 2015), <https://perma.cc/ZWB4-4XZS>.

law for the ballot”); *see also Advisory Op. to the Att’y Gen. re Additional Homestead Tax Exemption*, 880 So. 2d 646, 654 (Fla. 2004) (“Without [Section 101.161’s accuracy review], the constitution becomes not a safe harbor for protecting all the residents of Florida, but the den of special interest groups seeking to impose their own narrow agendas.”). Given this inaccuracy in the ballot summary, one indeed gets the sense that this ballot initiative is something Smart & Safe is trying to do *to* the people, rather than *for* them.

Furthermore, this is not a situation where clarity is inhibited by the 75-word limit in Section 101.161. Smart & Safe’s ballot summary contains 73 words. It could have followed the example of 2021’s Adult Use of Marijuana petition and had the ballot summary explain that the amendment prohibited marijuana use “in defined public places.” *Advisory Op. to Att’y Gen. re Adult Use of Marijuana*, 315 So. 3d 1176, 1178 (Fla. 2021) (“*Adult Use I*”). That phrase would have accurately informed voters that the proposed amendment prohibits smoking in only select public places.

Because the summary is misleading, the initiative cannot be allowed to appear on the ballot.

II. The initiative is facially invalid because the proposed amendment is preempted by federal law.

This Court’s review also includes assessing “whether the [initiative] is facially invalid under the United States Constitution.” § 16.061(1), Fla. Stat. The initiative is facially invalid under the United States Constitution because it directly violates the Supremacy Clause by way of the CSA.

The Florida Constitution specifically requires this Court to provide an opinion on any issue about the “validity” of the proposal “as provided by general law.” Art. V, § 3(b)(10), Fla. Const.; *see also id.* Art. IV, § 10. This newer facial validity requirement sits alongside other longer-standing requirements—failure to comply with which has always warranted removal from the ballot. Ordering the amendment’s removal from the ballot here fulfills the duty assigned to the Court by the Constitution and the Legislature.

A. The initiative is preempted by federal law because it poses an obstacle to Congress’s objectives in the Controlled Substances Act and thus is facially invalid.

The initiative is facially invalid under the United States Constitution because it is preempted by federal law. The Supremacy Clause ensures that federal law “shall be the supreme Law of the Land . . .

any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2. Preemption can work in several ways, two of which are relevant here. To start, “Congress may explicitly define the extent to which it intends to pre-empt state law.” *Mich. Cannery*, 467 U.S. at 469. When Congress includes an express preemption provision, “the task of statutory construction must in the first instance focus on the plain wording of the clause, which necessarily contains the best evidence of Congress’ pre-emptive intent.” *CSX Transp., Inc. v. Easterwood*, 507 U.S. 658, 664 (1993).

Even without an express preemption provision, federal law will “pre-empt state law to the extent that the state law actually conflicts with federal law.” *Mich. Cannery*, 467 U.S. at 469. One such conflict is when the state law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941); see also *Perez v. Campbell*, 402 U.S. 637, 652 (1971) (explaining that the Supremacy Clause’s “controlling principle” is “that any state legislation which frustrates the full effectiveness of federal law is rendered invalid”).

As relevant here, the CSA generally makes it “unlawful for any person knowingly or intentionally . . . to manufacture, distribute, or

dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.” 21 U.S.C. § 841(a)(1). This prohibition reflects Congress’ determination that “illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.” *Id.* § 801(2). Given the diversity of controlled substances, Congress delineated five “schedules” of controlled substances, each with varying degrees of restrictions on use and access and punishments for violations. *Id.* § 812(a); *see also United States v. Oakland Cannabis Buyers’ Coop.*, 532 U.S. 483, 489 (2001).

Marijuana is a Schedule I substance—the most regulated and severe category. *See* 21 U.S.C. § 812(b)(1).²¹ Schedule I substances

²¹ President Trump has recently issued an executive order directing the Attorney General to “take all necessary steps to complete the rulemaking process related to rescheduling marijuana to Schedule III of the CSA.” Exec. Order, No. 14,370, 90 Fed. Reg. 244, *Increasing Medical Marijuana and Cannabidiol Research* (Dec. 18, 2025). The purpose behind the executive order, however, was not to create a pathway to recreational marijuana use; it was rather to “increase medical marijuana and CBD research to better inform patients and doctors.” *Id.* If this rulemaking process is successful and marijuana is ultimately reclassified as a Schedule III substance, it will still need approval from the Federal Food and Drug Administration and

are those deemed to have, among other things, “a high potential for abuse.” *Id.* “By classifying marijuana as a Schedule I drug, as opposed to listing it on a lesser schedule, the manufacture, distribution, or possession of marijuana became a criminal offense.” *Gonzales v. Raich*, 545 U.S. 1, 14 (2005).

The CSA also contains an express preemption provision. Though the CSA does not “occupy the field” of drug regulation, it specifies that state laws are preempted if “there is a positive conflict between [a] provision of this subchapter and that State law so that the two cannot consistently stand together.” 21 U.S.C. § 903.²²

The proposed amendment, by contrast, purports to affirmatively authorize under state law any “Licensed Marijuana Entities . . . to acquire, cultivate, process, transport, or sell marijuana to adults for personal use as provided herein.” Section 29(a)(8). Moreover, “adults

require “a written or oral prescription.” 21 U.S.C. §§ 355(a), 829(b). Recreational marijuana, as envisioned by the proposed amendment, would remain illegal under federal law.

²² The inclusion of an express preemption provision does not preclude other preemption claims. *See Buckman Co. v. Plaintiffs’ Legal Comm.*, 531 U.S. 341, 352 (2001) (observing “neither an express pre-emption provision nor a saving clause bar[s] the ordinary working of conflict pre-emption principles.” (quotation omitted)).

shall be allowed to possess, purchase, or use marijuana for personal use as provided herein.” Section 29(a)(6).

The proposed amendment also requires state government to participate in ensuring the “availability” of marijuana for recreational use. In a subsection entitled “Duties of the Department,” the amendment would require the Department of Health to “issue reasonable regulations necessary for the implementation and enforcement of this section.” Section 29(d). The “purpose” of those regulations “is to ensure the *availability* and safe use of [] marijuana.” *Id.* (emphasis added). And the amendment would require the Legislature to “adopt legislation for the licensure” of Licensed Marijuana Entities. Section 29(e).

In short, the proposed amendment authorizes precisely what federal law forbids. The proposed amendment creates a system and structure for marijuana dealers and buyers to acquire, sell, and use marijuana while federal law criminalizes those same exact acts. *See* 21 U.S.C. § 841(a)(1). And it enlists state government in making marijuana “availabl[e].” Pet. 4. Put another way, “Congress enact[ed] a law that imposes restrictions . . . on private actors,” while the proposed amendment “confers rights . . . that conflict with the federal

law.” *Murphy v. Nat’l Collegiate Athletic Ass’n*, 584 U.S. 453, 477 (2018). The result: “federal law takes precedence and the state law is preempted.” *Id.*²³

This is true under either express preemption or conflict preemption principles. The CSA’s preemption provision explicitly preempts state law when the conflict is such “that the two [laws] cannot consistently stand together.” 21 U.S.C. § 903. It is hard to imagine two laws *less* consistent than these; one enables what another forbids. It is equally clear that the proposed amendment is preempted under conflict preemption principles. The proposed amendment “empowers” dealers and buyers “to do precisely what the federal Act forbids them to do.” *Michigan Cannery*, 467 U.S. at 477–78.

In *Michigan Cannery*, federal law prohibited associations of agricultural producers from coercing individual producers into joining

²³ A state is of course not required to criminalize all conduct that is criminal at the federal level. *See Printz v. United States*, 521 U.S. 898, 935 (1997) (explaining that “Congress cannot compel the States to enact or enforce a federal regulatory program”). Here, however, the proposed amendment goes further than merely decriminalizing marijuana at the state level; it purports to affirmatively authorize the use of marijuana and simultaneously requires Florida’s government itself to facilitate violations of the CSA.

any membership or association. *Id.* at 464–65. Michigan then enacted a law purporting to authorize certain producer associations to bind nonmembers to certain contracts and fees. *Id.* at 465–68. That law effectively “impose[d] on the producer the same incidents of association membership with which Congress was concerned.” *Id.* at 478. As a result, the Supreme Court held, Michigan’s law “st[ood] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Id.*

The same is true here given the CSA’s purpose: “[T]o conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” *Raich*, 545 U.S. at 12. The proposed amendment inescapably undermines those goals because it creates new avenues for the abuse and trafficking of marijuana.

Other courts have agreed. The Oregon Supreme Court, for example, held that a state law “[a]ffirmatively authorizing” the use of medical marijuana was preempted by the CSA. *See Emerald Steel Fabricators, Inc. v. Bureau of Lab. & Indus.*, 348 Or. 159, 178 (2010). “Congress imposed a blanket federal prohibition on the use of marijuana without regard to state permission to use marijuana for medical purposes,” so Oregon’s law authorizing such use “stands as an

obstacle to the implementation and execution of the full purposes and objectives of the Controlled Substances Act.” *Id.* This remained true, importantly, even though Oregon’s law did “not prevent the federal government from enforcing its marijuana laws.” *Id.* at 178; see also *New Mexico Top Organics-Ultra Health, Inc. v. Blue Cross & Blue Shield of New Mexico*, 785 F. Supp. 3d 968, 975 (D.N.M. 2025) (holding any state law “mandat[ing] coverage of medical cannabis” would be preempted under the CSA).

The CSA’s complete prohibition²⁴ on marijuana also ensures that the initiative is “unconstitutional in *all* of its applications.” *Adult Use II*, 384 So. 3d at 112 (emphasis in original). There is no conceivable or possible application of the proposed amendment that would not run afoul of the CSA’s prohibition on marijuana.

B. This Court should strike the proposed amendment from the ballot.

The proposed amendment is preempted by the CSA and therefore facially invalid. The result is that the proposed amendment should be stricken from the ballot.

²⁴ The only exception to the prohibition on schedule I substances is federally approved scientific studies, see *Raich*, 545 U.S. at 14, which is inapplicable here.

Members of this Court have previously questioned the connection between preemption, Section 16.061, and striking an initiative from the ballot. *See Adult Use II*, 384 So. 3d at 111–12. That was in large part because “no one ha[d] briefed” the proper scope of Section 16.06’s newly added requirement that the proposal not be “invalid under the United States Constitution.” *Id.* at 112 n.7.

Chief Justice Muñiz thus invited briefing “on the meaning and legal effects” of Section 16.061(1), identifying four questions relevant here. *See Adult Use II*, 384 So. 3d at 112 (Muñiz, C.J., concurring). The Attorney General accepts that invitation.

1. “Does [Section 16.061(1), Fla. Stats.,] sweep so broadly as to include proposed amendments that are preempted by a federal law or regulation and therefore ‘invalid’ under the Supremacy Clause?” 384 So. 3d at 112 (Muñiz, C.J., concurring).

Yes. A federal law or regulation can preempt state law. *See Louisiana Pub. Serv. Comm’n v. F.C.C.*, 476 U.S. 355, 357 (1986); *State v. Harden*, 938 So. 2d 480, 493 (Fla. 2006). The reason stems from the Supremacy Clause itself: “This Constitution, *and the Laws of the United States* which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or

Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2 (emphasis added). The only way to give full effect to the Supremacy Clause, then, is to analyze any preemption claims arising from the “Laws of the United States.” *Id.*

Moreover, courts have equated statutory preemption with constitutional invalidity. *See Harden*, 938 So. 2d at 485 (holding state law “is preempted by the federal statute and *thus unconstitutional* under the Supremacy Clause of the United States Constitution.” (emphasis added)); *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 515 So. 2d 220, 223 (Fla. 1987). Going as far back as *McCulloch v. Maryland*, preempted state laws have been considered “unconstitutional and void.” 17 U.S. 316, 436 (1819).

Indeed, Florida courts—including this Court—have regularly characterized preempted state laws as “invalid.” *See, e.g., Charles v. So. Baptist Hosp. of Fla., Inc.*, 209 So. 3d 1199, 1213 (Fla. 2017) (“[A] state law also is invalid to the extent that it actually conflicts with a . . . federal statute.” (quotation omitted)); *Henderson v. State ex rel. Lee*, 65 So. 2d 22, 23–24 (Fla. 1953) (holding Florida law “invalid” because it was “in conflict” with a federal statute); *Tingley v. Allen*, 397 So. 2d 1166, 1168 (Fla. 3d DCA 1981) (calling preempted law

“invalid” and “unconstitutional”); *770 PPR, LLC v. TJC Land Trust*, 30 So. 3d 613, 616 (Fla. 4th DCA 2010).

Particularly noteworthy examples are this Court’s decisions finding that it has mandatory appellate jurisdiction to review district court decisions that deemed a state statute preempted, because such decisions “declar[e] invalid” a state statute. *E.g., Harden*, 938 So. 2d at 483 (citing Art. V, § 3(b)(1), Fla. Const.). It was against this backdrop that the Legislature amended Section 16.061(1) in 2020 to include the “facially invalid” standard. By using a phrase (“facially invalid under the United States Constitution”) with a well-settled meaning, the Legislature “br[ought] the old soil with it.” *DeSantis v. Dream Defenders*, 389 So. 3d 413, 421 (Fla. 2024). Section 16.061(1) must therefore be understood to bar initiative petitions whose provisions are facially preempted.

2. “Would a reasonable reader of the provision understand it to require this Court to take up potentially complicated, wide-ranging questions of federal law in this non-adversarial, pre-enactment proceeding?” 384 So. 3d at 112 (Muñiz, C.J., concurring).

The language of the Florida Constitution and Section 16.061(1) show that the answer here is yes. When requested by the Attorney

General, this Court’s constitutional duty is to provide an opinion “as to the *validity* of any initiative petition.” Art. IV, § 10, Fla. Const. (emphasis added); *see also id.* Art. V, § 3(b)(10). That duty offers no carveout for far-ranging or complicated questions of law. *See Mitchell v. State*, 911 So. 2d 1211, 1214 (Fla. 2005) (“If the language of a statute or rule is plain and unambiguous, it must be enforced according to its plain meaning.”).

But even if there was some theoretical line past which the analysis would be prohibitively complicated, that is not the case here. Preemption analysis involves a pure question of law requiring only an examination of the text of the proposed amendment and the relevant federal statute. There is no need or use for fact-finding, expert witnesses, or the like.

The potentially non-adversarial nature of the proceedings is not an issue either. As a practical matter, these proceedings are often adversarial, as is the case here. *See Fla. R. App. P. 9.510(c)(1)*.²⁵ The

²⁵ But in a hypothetical case in which a proposed amendment is challenged without any advocate on the other side, this Court can appoint or solicit counsel.

pre-enactment nature of these proceedings does not change this analysis either. Again, the constitutional and statutory provisions governing advisory opinions specifically envision pre-enactment review. And this type of analysis is not foreign; courts routinely entertain pre-enforcement constitutional challenges to laws, *see Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014).

In fact, this Court already engages in pre-enforcement, non-adversarial adjudication: Article III, Section 16 requires this Court to issue “a declaratory judgment determining *the validity*” of the Legislature’s apportionment plan. *In re Senate Joint Resol. of Legis. Apportionment 1176*, 83 So. 3d 597, 600 (Fla. 2012) (emphasis added). Reviewing the validity of a constitutional proposal is a far less complex and fact-intensive than complicated election law analysis, yet this Court has repeatedly fulfilled this function.

3. “More fundamentally, what would be the legal consequence if this Court were to deem a proposed amendment ‘facially invalid under the United States Constitution’? Is the assumption that the Court would disapprove the proposal from appearing on the ballot?” 384 So. 3d at 112 (Muñiz, C.J., concurring).

Yes, the Court should disapprove the proposal from appearing on the ballot if it finds the proposal facially invalid, as it does with proposals found to be defective for other reasons. *See, e.g., Laws Related to Discrimination*, 632 So. 2d at 1019 (striking from ballot a proposal that violated Art. XI, § 3, Fla. Const.); *Regulate Similar to Alcohol*, 320 So. 3d at 669 (striking from ballot a proposal that violated Section 101.161(1), Fla. Stat.).

This conclusion is confirmed by the fact that the Legislature amended Section 16.061(1) to place the new requirement alongside those two other review requirements—both of which have always required removal from the ballot. That placement is clear evidence that the Legislature intended those three provisions, including their respective remedies, to be treated similarly. *See Dole v. United Steelworkers of Am.*, 494 U.S. 26, 36 (1990) (“[W]ords grouped in a list should be given related meaning.” (citation omitted)).

The Legislature’s decision to add the facial invalidity standard also makes sense. A facial validity requirement was a natural response to this Court’s—and others’—worry that “[t]he technical requirements, such as the single-subject rule and the requirements of section 101.161(1), Florida Statutes (1991), appear insufficient to

prevent abuse of the amendment process.” *Marine Net Fishing*, 620 So. 2d at 1000.

Moreover, there is no reason for voters to vote on constitutional amendments that are invalid under the federal Constitution. By declaring a proposed amendment unconstitutional, this Court “would avoid substantial costs by both proponents and opponents and a perception of the public that they are voting on a valid constitutional provision.” *See Advisory Op. to Att’y Gen. re Term Limits Pledge*, 718 So. 2d 798, 805 (Fla. 1998) (“*Term Limits Pledge*”) (Overton, J., concurring in result only). To hold otherwise ignores the foundational principle “that federal law is as much the law of the several States as are the laws passed by their legislatures.” *Haywood v. Drown*, 556 U.S. 729, 734 (2009).

4. “[D]oes the Legislature have the authority to limit the substance of proposed amendments beyond what is contemplated in article XI, section 3 of our state constitution?” *Adult Use II*, 384 So. 3d at 113 (Muñiz, C.J., concurring).²⁶

²⁶ A related question is whether this Court has jurisdiction in this proceeding to rule on the constitutionality of the Legislature’s power to modify the requirements going to the validity of an initiative.

Yes, review for facial invalidity complies with the Court’s authority to regulate the initiative process. Article XI, Section 3 of the Florida Constitution requires that initiatives “embrace but one subject and matter directly connected therewith.” But the Florida Constitution expands this Court’s review beyond merely ensuring compliance with the single-subject rule: The Court “[s]hall, when requested by the attorney general pursuant to the provisions of Section 10 of Article IV, render an advisory opinion of the justices, *addressing issues as provided by general law.*” Art. V, § 3(b)(10), Fla. Const. (emphasis added); see Susan L. Turner, *Revising the Role of the Florida Supreme Court in Constitutional Initiatives*, 71 Fla. Bar J. 4 (Apr. 1997). A separate provision also requires the Attorney General to request such advisory opinions “as directed by general law.” Art. IV, § 10, Fla. Const.

The Florida Constitution thus explicitly envisions that the scope of this Court’s review could be modified by general law. That is precisely what the Legislature did in enacting Section 16.061. Reading

Any doubts about the propriety of the substantive standard for validity set out in Section 16.061(1) may be better raised in a declaratory judgment action.

Article XI, Section 3 to make the single-subject requirement the *only* limitation on the amendment process would therefore render the multiple constitutional references to “general law” superfluous. See *Advisory Op. to Governor re Implementation of Amend. 4, The Voting Restoration Amend.*, 288 So. 3d 1070, 1080 (Fla. 2020) (“This Court, of course, ordinarily avoids interpretations that render any language superfluous.” (quotation omitted)).

Any interpretation to the contrary would also render the clarity requirements of Section 101.161(1) toothless. The clarity requirement—like the facial invalidity requirement—is not found in Article IV, Section 3. Yet this Court has regularly stricken proposals for failing that statutory command. See, e.g., *Regulate Similar to Alcohol*, 320 So. 3d at 667; *Health Care Providers*, 705 So. 2d at 566.

The implications of limiting review to only the single-subject requirement are stark: sponsors would be free to draft outright misleading ballot titles and summaries while inserting whatever content they want into the actual constitutional amendment—as has been done here. Doing so would not only generate distrust and confusion around the process, but strip voters of “fair notice of the content of the proposed amendment so that” the citizen “can cast an intelligent

and informed ballot.” *Regulate Similar to Alcohol*, 320 So. 3d at 667. The ratifiers envisioned no such thing, which is why they included multiple references to “general law” in the Constitution. *See, e.g.*, Art. V, § 3(b)(10), Fla. Const.; *id.* Art. IV, § 10.

Alternatively, there is good reason to believe that the facial validity requirement has its own independent constitutional source. Article IV, Section 10’s language already requires the Court to address “*the validity* of any initiative petition circulated.” As Justices of this Court have recognized, that language is best understood as requiring consideration of a proposal’s validity under the federal Constitution. *See Advisory Op. to Att’y Gen—Ltd. Pol. Terms in Certain Elective Offs.*, 592 So. 2d 225, 229 (Fla. 1991) (“*Ltd. Pol. Terms*”) (Overton, J., concurring in part and dissenting in part) (collecting historical examples of the Court taking this view); *Term Limits Pledge*, 718 So. 2d at 804 (Overton, J., concurring in result only) (same).

In *Gray v. Winthrop*, for instance, the Court endorsed a circuit court’s pre-enactment review of the facial validity of a proposed amendment addressing homestead taxation. *See* 115 Fla. 721, 723–32 (Fla. 1934) (plurality opinion). Though the Court concluded that the proposal was “not void on its face,” *id.* at 731, it explained that a

facially unconstitutional proposal “may be enjoined at the suit of proper parties in order to avoid the expense of submission, when the amendment, if adopted, would palpably violate the paramount law and would inevitably be futile and nugatory and incapable of being made operative under any conditions or circumstances.” *Id.* at 726–27. And the Court has repeatedly remarked that the people have a right to modify the Florida Constitution “in any manner they see fit so long as they keep within the confines of the Federal Constitution.” *Weber v. Smathers*, 338 So.2d 819, 821 (Fla. 1976) (quoting *Gray v. Golden*, 89 So. 2d 785, 790 (Fla. 1956)) (emphasis added).

Such a view not only comports with the plain language of the Florida Constitution but honors the idea “that the public is entitled to know the answer before members of the public, as well as public entities, expend funds and energy to have an election on a proposal that may be unconstitutional.” *Ltd. Pol. Terms*, 592 So. 2d at 230 (Overton, J., concurring in part and dissenting in part).

Finally, *Advisory Opinion to the Attorney General re Raising Florida’s Minimum Wage* poses no obstacle to this conclusion. 285 So. 3d 1273, 1279 (Fla. 2019). There, this Court explained that “[a]lthough article V, section 3(b)(10) directs this Court to review issues provided

by general law, that direction does not open the door for this Court to exercise original jurisdiction to review any issue provided by general law as to any subject.” *Id.* Instead, “[t]hat direction pertains to issues concerning the *validity* of initiative petitions, as that alone is the subject matter of both article V, section 3(b)(10) and article IV, section 10.” *Id.* (emphasis added). Financial-impact statements are not “part of an initiative petition” under either the Florida Constitution or Florida statutory law, *id.*, so the Court held that “any issues pertaining to the financial impact statement fall outside the scope of direct review authorized by article V, section 3(b)(10).” *Id.* at 1280.

Contrast that with the facial invalidity requirement at issue here, which goes directly to “the validity of initiative petitions” as provided by general law. *Id.* at 1279; § 16.061(1), Fla. Stat. (requiring review of “whether the proposed amendment is *facially invalid* under the United States Constitution.”). Because the proposed amendment is preempted by federal law and therefore facially invalid, the Court should order it stricken from the ballot.²⁷

²⁷ Though the Court need not decide the question here to strike the initiative, this initiative—and the initiative process generally—poses substantial concerns under the Guarantee Clause, *see* U.S.

III. The initiative violates the single-subject rule.

Last, an initiative “shall embrace but one subject and matter directly connected therewith.” Art. XI, § 3, Fla. Const. “The purpose of the single-subject requirement is to allow the citizens to vote on singular changes in our government.” *Fine v. Firestone*, 448 So. 2d

Const. art. IV, § 4 (“The United States shall guarantee to every State in this Union a Republican Form of Government[.]”), which “necessarily implies a duty on the part of the States themselves” to adopt a republican form of government. *Minor v. Happersett*, 88 U.S. 162, 175 (1874). A republic is “a government in which the scheme of representation,” not “pure democracy,” “takes place.” The Federalist No. 10 (J. Madison). Representation serves “to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations.” *Id.* Permitting voters to directly pass laws (and to do so, no less, in a way that their elected representatives cannot override) eviscerates this benefit of representative government. Numerous scholars have therefore posited that the initiative process—which did not arrive in America until 1898, Note, David J. Jordan, *Constitutional Constraints on Initiative and Referendum*, 32 Vand. L. Rev. 1143, 1144 (1979)—is inconsistent with the republican form of government. See, e.g., Catherine A. Rogers & David L. Faigman, “*And to the Republic for Which it Stands*”: *Guaranteeing a Republican Form of Government*, 23 Hastings Const. L.Q. 1057, 1059 (1996) (arguing that the Guarantee Clause establishes a “per se prohibition against state initiatives”). This concern is especially acute when an initiative comes to the people after the policies it reflects have been repeatedly rebuffed by the people’s representatives. And while the Supreme Court has held that the Guarantee Clause is nonjusticiable by federal courts, *Pac. States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912); *but see New York v. United States*, 505 U.S. 144, 185 (1992), state courts are not so limited.

984, 993 (Fla. 1984). Citizen initiatives are therefore prohibited “from engaging in either of two practices: (a) logrolling, or (b) substantially altering or performing the functions of multiple branches of state government.” *Advisory Op. to Att’y Gen. re Limiting Gov’t Interference With Abortion*, 384 So. 3d 122, 129 (Fla. 2024) (quotation omitted) (“*Limiting Gov’t Interference*”); *In re Advisory Op. to the Att’y Gen. re Fairness Initiative Requiring Legis. Determination That Sales Tax Exemptions & Exclusions Serve a Pub. Purpose*, 880 So. 2d 630, 633 (Fla. 2004) (“*Fairness Initiative*”). The initiative fails the single-subject requirement.²⁸

As explained below, this Court should define “subjects” with a high degree of specificity. Properly understood, the subject here is not “recreational marijuana,” a category far too broad to constitute a single subject. The subject is instead eliminating state-law penalties

²⁸ In 2024, this Court held that a similar adult use initiative did not violate the single-subject rule. *See Adult Use II*, 384 So. 3d at 108–09. Yet this new initiative, with scores of new provisions, requires fresh analysis. *See In re Advisory Op. to Att’y Gen. re Use of Marijuana for Debilitating Med. Conditions*, 181 So. 3d 471, 473 (Fla. 2015) (per curiam) (giving no deference to the substantive analysis from *In re Advisory Op. to Att’y Gen. re Use of Marijuana for Certain Medical Conditions*, 132 So. 3d 786, 794 (Fla. 2014) (per curiam)).

for the recreational use of marijuana by adults over 21. Yet in addition to permitting the recreational use of marijuana by adults, the initiative covers childhood advertising bans, public-consumption regulations, business licensing, and a right of marijuana companies to be free of a vertical-integration requirement. The initiative thus strays beyond a single subject and is invalid.

A. Properly understood, the single-subject rule imposes a rigid restriction on initiatives.

For decades, this Court’s precedents have vacillated on the appropriate level of generality when determining a “subject” in an initiative.²⁹ But text, context, and precedent show that there is a correct answer: subjects should be read and defined with a high degree of specificity to guard against abuses of the initiative process. And other matter included within an initiative—“matter directly connected therewith”—is permissible only to the extent it is inextricably intertwined with the initiative’s single subject.

²⁹ See *Adult Use II*, 384 So. 3d at 114 (Grosshans, J., concurring) (“Justice Francis claims that our precedent on the single-subject requirement has been erratic, which may be true.”); compare *Laws Related to Discrimination*, 632 So. 2d at 1020 (defining initiative subjects with a high degree of specificity), with *Medical Marijuana I*, 132 So. 3d at 796 (defining initiative subjects with a low degree of specificity).

1. Text.

The text of Article XI, Section 3 itself suggests that a “subject” must be defined with specificity. It provides, in relevant part:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith.

Art. XI, § 3, Fla. Const. Two textual points are notable.

First, initiatives are not limited merely to a single “subject”; they may also include “matter directly connected therewith.” *Id.* That implies that initiative subjects must be read narrowly. Were it otherwise, there would have been no need for Article XI, Section 3 to permit initiatives to also embrace topics “directly connected therewith.” See Antonin Scalia and Bryan A. Garner, *Reading Law* 174 (2012) (“If possible, every word and every provision [of an enactment] is to be given effect.”). So the text requires that “subjects” be strictly defined, but affords sponsors some leeway to incorporate “matter directly connected” to the subject.

It thus would make no sense to define the subject of this initiative as broadly as “recreational marijuana,” since such a low level of

specificity would mean that the phrase “matter directly connected therewith” would do no work.

Second, Article XI, Section 3 identifies a category of subjects for which initiatives are not limited by the single-subject rule: Citizens may propose amendments “limiting the power of government to raise revenue” *even if* those amendments would embrace more than one subject. The result is that a hypothetical initiative may permissibly involve disparate subjects like: “restricting counties’ authority to raise property taxes by more than 0.5% annually,” “limiting the State of Florida’s ability to impose a sales tax to no more than 5% of the purchase price,” and “eliminating the power of municipalities to tax tourism rentals.” Article XI, Section 3, in other words, offers a benchmark for the correct level of generality. It contemplates that “subjects” will be defined *more narrowly* than at the level of simply “limiting the power of government to raise revenue.” *Id.*

The constitutional text therefore shows that initiative subjects must be narrowly defined.

2. Context.

Initiatives may, of course, also address “matter directly connected therewith.” *Id.* But context reinforces that the single-subject rule nevertheless imposes a rigid requirement.

Like with initiatives, the Legislature is bound by a single-subject provision. Under Article III, Section 6, each bill “shall embrace but one subject and matter *properly* connected therewith.” Art. III, § 6, Fla. Const. (emphasis added). This legislative limitation is almost a mirror-image of the initiative single-subject provision, with the key difference that an initiative “shall embrace but one subject and matter *directly* connected therewith.” *Id.* Art. XI, § 3 (emphasis added). The initiative single-subject rule is substantially more restrictive than the legislative rule.

In *Fine v. Firestone*, the Court analyzed these two provisions side-by-side. 448 So. 2d 984 (Fla. 1984). The Court acknowledged that its Article III precedents took a “broad view of” the “legislative restriction,” meaning the contents of legislation need only be “reasonably related” to the law’s primary subject. *Id.* at 988. The Court, however, rejected the same Article III standard for the initiative provision and held that a more exacting standard should apply. *See id.*

at 988–90. Most obviously, Article III’s “properly connected” requirement is broader than Article XI’s “directly connected” requirement. *See id.* at 988–89.³⁰ Properly means “Suitable; fitting; appropriate,” *Proper*, American Heritage Dictionary of the English Language (New Coll. Ed. 1969), whereas directly means “In a direct line or manner; straight” or “Without anyone or anything intervening; immediately.” *Directly*, American Heritage Dictionary of the English Language (New Coll. Ed. 1969).

The result was that “the single-subject restraint on constitutional change by initiative proposals is intended to direct the electorate’s attention to *one change* which may affect *only one subject*.” *Fine*, 448 So. 2d at 989 (emphasis added). And unlike with legislation, it is not enough that the sub-provisions of the initiative be “reasonably related” to its primary subject. *Id.* at 988.

³⁰ The use of “directly” and not “properly” was intentional. An early draft of the 1972 legislative resolution to revise Article X, Section 3 would have limited initiatives to a single subject and, as with legislation, “matter *properly* connected therewith.” Fla. Senate J. 397 (Mar. 10, 1972) (emphasis added). But legislators opted against “properly” and went with the more restrictive “directly.” Fla. Senate J. 452, 468 (Mar. 16–17, 1972).

The Court has elsewhere elaborated on the meaning of “properly.” Sub-provisions of a bill are a “proper connection” to the bill’s subject if their relationship is “natural or logical.” *Franklin v. State*, 887 So. 2d 1063, 1077 (Fla. 2004). The Court has also described proper connections in the legislative context as being “‘necessary’ to the subject,” “‘fairly and naturally germane’ to the subject,” or “promot[ing] the purposes of the legislation.” *Id.* This test, the Court has explained, is “broader” than the one applicable to initiatives. *Id.*

This is where the Court’s single-subject precedent creates substantial confusion. The standard for what constitutes valid collateral matters in an initiative *must* be narrower than the legislative standard. *See id.* Yet the oneness-of-purpose test is near-identical to its legislative counterpart. The oneness-of-purpose test merely requires that “all components [of an initiative] have a natural and logical connection.” *Adult Use II*, 384 So. 3d at 108. That bears an uncanny resemblance to the “natural or logical” connection standard applicable to the legislative single-subject rule. *Franklin*, 887 So. 2d at 1077 (quotation omitted). This cannot be reconciled with decades of precedent holding that “directly” is narrower and more restrictive than

“properly.” See *Franklin*, 887 So. 2d at 1077 (quoting *Fine*, 448 So. 2d at 988–89).

To remedy this discrepancy, the Court should reconsider the oneness-of-purpose test, or at the very least, clarify that a “logical and natural connection” must be more restrictive in the initiative context. It could do so by explaining that Article XI, Section 3’s single-subject rule contemplates collateral matter that is inextricably intertwined with the subject of the initiative. To be inextricably intertwined, the matter must effectively be two sides of the same coin, or interrelated to such a degree that it would be impractical to address one without the other. This understanding would eliminate the current tension with the Court’s legislative single-subject precedent.

3. Precedent.

Several precedents hew to this more coherent understanding of the single-subject rule. In *Laws Related to Discrimination*, for example, the Court invalidated an initiative that banned the creation of laws discriminating on any basis other than ten listed classifications, such as race, religion, and marital status. See 632 So. 2d at 1019. The Court rejected the sponsor’s argument that the initiative could be swept under the single subject of “discrimination.” *Id.* at 1020.

Rather, the Court defined the subjects at issue with a high degree of specificity, meaning the proposal was “essentially” asking voters “to give one ‘yes’ or ‘no’ answer to a proposal that actually asks ten questions.” *Id.*

Similarly, in *Fairness Initiative*, the Court invalidated an initiative that created a periodic reauthorization process for sales tax exemptions. *See* 880 So. 2d at 631–32. The Court rejected the sponsor’s argument that the initiative simply dealt with the subject of “sales tax.” *Id.* at 634. It again defined the subjects at issue with a high degree of specificity and held that the initiative embraced three subjects: (1) a scheme for reviewing existing sales tax exemptions, (2) creation of a sales tax on unexempted services, and (3) limitations on the Legislature’s ability to create sales tax exemptions. *See id.* at 634–35.

These two precedents comport with historical understandings of the scope of a constitution. In the American legal tradition, constitutions do not “partake of the prolixity of a legal code.” *McCulloch*, 17 U.S. at 407. Constitutions instead embody just the basic building blocks of a democratic republic. A stringent single-subject rule respects that tradition by preventing the initiative process from being

used as a substitute for the ordinary legislative process, which would threaten to turn our state constitution into a mere supercharged statute book.

In sum, the Court should apply an exacting approach to its single-subject review in this case, rather than the more deferential review the Court has at other times employed.

B. The initiative logrolls three additional subjects besides the elimination of state-law penalties for recreational use of marijuana by adults.

With these principles in mind, the initiative violates the single-subject rule. Logrolling, “a practice wherein several separate issues are rolled into a single initiative,” is a fatal defect for any citizen initiative. *Fairness Initiative*, 880 So. 2d at 633. And in cases like *Fairness Initiative* and *Laws Related to Discrimination*, the Court defined the relevant subject with a high degree of specificity. Indeed, an initiative cannot evade the single-subject rule by “enfolding disparate subjects within the cloak of a broad generality.” *Laws Related to Discrimination*, 632 So. 2d at 1020 (quotation omitted).³¹

³¹ See *Advisory Op. to Att’y Gen. re Indep. Nonpartisan Comm’n to Apportion Legis. & Cong. Districts Which Replaces Apportionment by Legis.*, 926 So. 2d 1218, 1225 (Fla. 2006) (“*Nonpartisan Comm’n*”); *Health Care Providers*, 705 So. 2d at 566; *In re Advisory Op. to the*

Here, the initiative’s subject is the elimination of state-law penalties for the personal use of marijuana by adults over the age of 21. But the initiative strays from its titular purpose to write a wide-ranging regulatory scheme that embraces not only legalization, but a right of marijuana companies to be free from vertical integration requirements, business licensing, and childhood advertising bans.

1. Right against vertical integration.

The initiative prohibits the Legislature or Department of Health from requiring that Licensed Marijuana Entities be “vertically integrated.” Pet. 2. This right against vertical integration qualifies as a separate subject because it is a freestanding hand-out to the marijuana industry,³² not an inextricably intertwined component of mariju-

Att’y Gen.—Save Our Everglades, 636 So. 2d 1336, 1341 (Fla. 1994) (“*Save Our Everglades*”); *Laws Related to Discrimination*, 632 So. 2d at 1020 (quotation omitted).

³² It is also a transparent attempt to overrule recent precedent. See *Fla. Dep’t of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1106 (Fla. 2021) (upholding Florida’s vertical integration requirement for medical marijuana entities). It is no secret that the marijuana industry has long opposed Florida’s vertical-integration rule. See Brett Puffenbarger, *How Vertical Integration Is Ruining Medical Cannabis In Florida*, Ganjapreneur (May 15, 2020), <https://perma.cc/BPH9-6B9A>.

ana legalization. See *Health Care Providers*, 705 So. 2d at 566 (recognizing a right against limitations on healthcare choice as a separate subject); *Laws Related to Discrimination*, 632 So. 2d at 1020 (recognizing a right against non-enumerated discrimination classifications as a separate subject). Even under the more permissive conception reflected in the oneness-of-purpose test, a right against vertical integration does not have a “natural and logical connection” to recreational marijuana legalization, business licensing, public consumption regulations, or childhood advertising bans. *Adult Use II*, 384 So. 3d at 108.

2. Business licensing.

Next, the initiative not only seeks to legalize and commercialize the recreational use of marijuana,³³ but also creates regulations and a new licensing scheme. See Pet. 2–4. But the Court has historically

³³ The Attorney General maintains that this initiative suffers from the same defect that Justice Francis highlighted in *Adult Use II* because “using marijuana as an individual and growing it for commercial sale and consumption implicate different criminal and regulatory schemes.” *Adult Use II*, 384 So. 3d at 118 (Francis, J., dissenting). But this initiative is an even worse offender for the reasons described in this section.

rejected initiatives that create new regulatory structures while simultaneously achieving other goals. See *Nonpartisan Comm’n*, 926 So. 2d at 1225 (recognizing that creation of a redistricting commission and new districting standards were two separate subjects); *Save Our Everglades*, 636 So. 2d at 1341 (recognizing the creation of an Everglades restoration fund and the creation of a tax to service that fund as two separate subjects). The creation of a new business licensing scheme is not inextricably intertwined with recreational marijuana legalization. And even under the oneness-of-purpose standard, the initiative’s business-licensing scheme lacks a “natural and logical connection” to vertical integration or childhood advertising bans. *Adult Use II*, 384 So. 3d at 108.

3. Childhood advertising ban.

To court parents and other hesitant voters, the initiative prohibits the “marketing and packaging of marijuana in a manner attractive to children.” Pet 1. But childhood advertising bans are not inextricably intertwined with legalizing the personal use of marijuana for adults over the age of 21.

The sponsor could have written an initiative to sweep childhood advertising into its dominant scheme by prohibiting marijuana sales

to children, but it strategically chose not to. Unlike even the “[s]elling and possessing” connection in *Adult Use II*—which already strained the single-subject rule—rolling childhood advertising bans into an initiative that has nothing to do with children (or advertising) is a bridge too far. *Id.* at 109.

* * *

Medical marijuana is already legal under Florida law. See Art. X, § 29, Fla. Const. To account for that fact, this initiative has the primary goal of eliminating state-law penalties for non-medical use for adults over 21. But childhood advertising bans, business licensing, and a right against vertical integration cannot fit into this “dominant scheme or purpose” without rendering it an “expansive generality.” *Laws Related to Discrimination*, 632 So. 2d at 1020. They certainly are not inextricably intertwined. “[A]ny one of these [four] goals might be the permissible subject of a constitutional amendment,” but “together they constitute impermissible logrolling.” *Fairness Initiative*, 880 So. 2d at 635. This initiative is no more than a sprawling statute in constitutional clothing, a textbook “abuse of the amendment process.” *Marine Net Fishing*, 620 So. 2d at 1000.

CONCLUSION

The Court should order the Adult Personal Use of Marijuana initiative struck from the ballot.

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I certify that this brief was prepared in 14-point Bookman font, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2), and contains 12,943 words.



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