SC2025-2009

IN THE SUPREME COURT OF FLORIDA

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

INITIAL BRIEF OF DRUG FREE AMERICA FOUNDATION IN OPPOSITION TO THE INITIATIVE

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

Constitutional Provisions

Other Authorities

Rules

IDENTITY OF OPPONENT

The Drug Free America Foundation, Inc. ("Drug Free America") is a drug prevention and policy organization committed to developing strategies that prevent drug use and promote sustained recovery. Drug Free America is a Non-Governmental Organization (NGO) in Special Consultative Status with the Economic and Social Council of the United Nations.[1] Drug Free America submits this brief in opposition to the initiative petition.

STATEMENT OF THE CASE AND FACTS

Pursuant to Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, the Attorney General has petitioned this Court for an advisory opinion as to the validity of an initiative petition entitled "Adult Personal Use of Marijuana" (the "Proposed Amendment"). This Court has jurisdiction. Art. V, § 3(b)(10), Fla. Const.

[1] *See* The Drug Free America Foundation, Inc., *About*, https://www.dfaf.org/about/ (last visited January 2, 2026).

The relevant text of the Proposed Amendment, which would amend section 29 of Article X of the Florida Constitution,[2] is as follows:

ARTICLE X

MISCELLANEOUS

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.

[2] Article X, section 29, Florida Constitution presently provides the regulatory scheme for "medical" use of marijuana. The additions and deletions to convert this scheme to provide for "personal" use of marijuana are shown by underline and strikethrough.

(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:

* * *

(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.

The ballot title for the Proposed Amendment is "Adult Personal Use of Marijuana" and includes the following ballot summary:

> BALLOT SUMMARY:
>
> Allows adults 21 and older to possess, purchase, or use marijuana for nonmedical 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.

This Court issued its order establishing a briefing schedule. Drug Free America submits this brief as an interested party in opposition to the Proposed Amendment.

SUMMARY OF ARGUMENT

For nearly two decades, proponents for recreational marijuana use in Florida have attempted to dodge the legislative process by way of constitutional amendment. This latest iteration of the marijuana ballot initiative is fatally flawed and must be stricken from the ballot.

The Proposed Amendment is facially invalid under the United States Constitution because it conflicts with Congress' express

directive duly enacted under its Commerce Clause authority, which displaces any contrary state law via the Supremacy Clause.

Federal law, through the Controlled Substances Act and the Convention on Psychotropic Substances, unequivocally prohibits anyone from possessing or using marijuana for nearly every purpose. Therefore, if Florida were to pass the Proposed Amendment, it would create a positive conflict because the use and possession of marijuana remains federally illegal. And under the well-established hierarchy of law, no state constitutional amendment can surpass the dictates of federal law and cure federally illegal activity within the state.

This court should strike the Proposed Amendment.

ARGUMENT

Article IV, Section 10, Florida Constitution requires the Attorney General to "request the opinion of the justices of the Supreme Court as to the validity of any initiative petition" and permit "interested persons to be heard" on the petition. Art. IV, § 10, Fla. Const. Section 16.061 explains the Attorney General's petition must request this Court's opinion on three topics:

> [1] regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution, [2] whether the proposed amendment is facially invalid under the United States Constitution, and [3] the compliance of the proposed ballot title and substance with s. 101.161.

§ 16.061(1), Fla. Stat. (2025).

For nearly two decades, proponents of recreational use of marijuana have sought to bypass the legislative process and change Florida's laws prohibiting the use, possession, cultivation, and distribution of marijuana through the ballot initiative process.[3] First, a 2014 initiative aimed at changing Florida law to allow the use of marijuana for "medical purposes" came before this Court. *In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Certain Med. Conditions*, 132 So. 3d 786, 791 (Fla. 2014) ("*Marijuana I*"). Although this Court permitted the initiative to appear on the November 2014 ballot, Florida voters rejected the *Marijuana I* amendment.

The following general election marijuana proponents again attempted to amend the Florida Constitution. *In re Advisory Opinion to Atty. Gen. re Use of Marijuana for Debilitating Med. Conditions*, 181

[3] *See* Fla. Dep't of State, Div. of Elec., Initiatives / Amendments / Revisions Database, https://dos.elections.myflorida.com/initiatives/ (last accessed January 2, 2026).

So. 3d 471, 473 (Fla. 2015) ("*Marijuana II*"). This Court permitted *Marijuana II* to appear on the ballot, and Florida voters approved the amendment entitled "Use of Marijuana for Debilitating Medical Conditions," which is now found at Article X, section 29, Florida Constitution. Following that win, marijuana proponents sought to overturn the remaining prohibitions in Florida law regarding the use and possession of marijuana. *Advisory Opinion to Attorney Gen. re Adult Use of Marijuana*, 315 So. 3d 1176, 1177 (Fla. 2021) ("*Marijuana III*"). This Court rejected that attempt determining the ballot summary was "affirmatively misleading." *Id.*

In its fourth attempt, marijuana proponents sought again to constitutionalize a right to possess marijuana for any purpose (including "recreation"). *See Advisory Opinion to the Attorney Gen. re Adult Pers. Use of Marijuana*, 384 So. 3d 104, 111 (Fla. 2024) ("*Marijuana IV*"). This Court permitted the proposed amendment to be placed on the ballot, but the voters ultimately rejected the proffered amendment.

The Proposed Amendment presents the same issue for this Court's review.

The Proposed Amendment is fatally flawed since it is facially invalid under the United States Constitution. This Court should strike this Proposed Amended from being placed on the ballot.

I. THE PROPOSED AMENDMENT IS FACIALLY INVALID UNDER THE UNITED STATES CONSTITUTION.

In order to succeed on a facial challenge, the challenger must show "no set of circumstances exists in which the [challenged provision] can be constitutionally valid." *Fraternal Order of Police, Miami Lodge 20 v. City of Miami*, 243 So. 3d 894, 897 (Fla. 2018). The Court looks only at the text of the challenged provision and does not apply the provision to any particular facts. *Id.* In this case, the text of the Proposed Amendment must be evaluated in light of the strict command of the U.S. Constitution that all state laws are subservient to conflicting federal law. Article VI of the United States Constitution provides in relevant part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.

U.S. CONST. art. VI.

This section—known as the Supremacy Clause—explicitly proclaims the definitive hierarchy of law within the United States, with state law submitting to its federal counterpart. In other words, "the Supremacy Clause unambiguously provides that if there is any conflict between federal and state law, federal law shall prevail." *Gonzales v. Raich*, 545 U.S. 1, 29 (2005).

This Court is obligated, pursuant to section 16.061(1), to issue an advisory opinion determining "whether the proposed amendment is facially invalid under the United States Constitution." This Court should hold the Proposed Amendment is facially unconstitutional because it is in direct conflict with federal law, and thus the Supremacy Clause, which offends the very notion of this nation's constitutional structure.

A. The Supremacy Clause Operates to Invalidate Any State Law that is Preempted by Federal Law.

It is axiomatic that if there is conflict between federal law and state law, federal law prevails. And this preemption can be express or implied. *Georgia Latino All. for Human Rights v. Governor of Georgia*, 691 F.3d 1250, 1262 (11th Cir. 2012). "States unquestionably do retain a significant measure of sovereign authority

. . . however, only to the extent that the Constitution has not divested them of their original powers . . .” *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (quoting *Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528, 549 (1985)). This type of analysis is a facial analysis of a state enactment’s compliance with the U.S. Constitution. If state law is preempted, then the state law is void because the Supremacy Clause is the “inevitable underpinning for the striking down of a state enactment which is inconsistent with federal law.” *Swift & Co. v. Wickham*, 382 U.S. 111, 122 (1965) n. 18 (1965).

B. Federal Law Unambiguously Prohibits the Conduct the Proposed Amendment Purports to “Permit.”

The federal government has enacted a myriad of laws to dominate the legal and regulatory environment regarding controlled substances. For example, the Comprehensive Drug Abuse Prevention and Control Act of 1970, which includes the Controlled Substance Act (“CSA”), prohibits the use, possession, sale, importation, manufacturing, and distribution of marijuana. 21 U.S.C. § 801, *et. seq*. In addition, the use, sale, or possession of marijuana is also prohibited pursuant to United States treaty obligations under Article

2 of the Convention on Psychotropic Substances. *See Convention on Psychotropic Substances Done at Vienna February 21, 1971, As Rectified by the Proces-Verbal of August 15, 1973;*, T.I.A.S. No. 9725 (July 15, 1980). The CSA provides for only one limited exception—government research projects. *See United States v. Oakland Cannabis Buyers' Co-op.*, 532 U.S. 483, 489–90 (2001) (citing 21 U.S.C. § 841(a)(1), § 823(f)).

Accordingly, in *Gonzales v. Raich*, the Supreme Court determined a California law allowing for personal possession and cultivation of marijuana was unconstitutional because it contradicted the CSA. 545 U.S. 1 (2005). The Supreme Court rejected the intrastate commerce arguments in *Gonzales* and unequivocally held that state laws have no power to legalize something federal law prohibits. *Id.* at 29. The Supreme Court grounded its decision in Congress' Commerce Clause authority that, via the Supremacy Clause, preempted California's attempt to skirt the CSA. *Id.*

Though other states have continued to decriminalize or affirmatively legalize medical and recreational marijuana—as the Proposed Amendment attempts to do now through constitutional amendment—the CSA still remains the law of the land. Thus, under

the proposed amendment, every Florida resident who engages in marijuana usage is in violation of federal law, and no law or state constitutional amendment will cure this illegality.

C. The Proposed Amendment is in Conflict with the Terms of the Controlled Substances Act.

Although preemption can occur in three ways (express, field, and conflict), Congress has expressly invoked conflict preemption as the test for the Court to apply in the drug context. 21 U.S.C. § 903. Congress provided that state law is preempted whenever "there is a positive conflict between [a] provision of th[e] Controlled Substances Act] and [a] State law so that the two cannot consistently stand together." *Oregon Prescription Drug Monitoring Program v. U.S. Drug Enf't Admin.*, 860 F.3d 1228, 1236 (9th Cir. 2017) (quoting 21 U.S.C. § 903).

In this case, it is undoubtably true that there is a "positive conflict" between the terms of the Controlled Substances Act and the Proposed Amendment. This Court explained in *Marijuana III* that "[t]here is no dispute here that the activities contemplated by the proposed amendment are criminal offenses under federal law." *Marijuana III*, 315 So. 3d at 1180. There remains no dispute that the

activities purported to be legalized by the Proposed Amendment remain illegal under federal law. There is a positive conflict between the CAS's absolute prohibition on the possession, use, and cultivation of marijuana and the Proposed Amendment's purported efforts to legalize the same. Both things cannot be true at once.

The Supreme Court held in *Gonzales v. Raich* that Congress had the authority under the Commerce Clause to enact the CSA and wholesale preempt the field of drug regulation. *See Gonzales*, 545 U.S. at 29. The Supreme Court also rejected precisely the effort at issue here: a state attempting to "thwart the regulatory power granted by the commerce clause to Congress." *Id.* (cleaned up). State law cannot authorize what Congress has unequivocally outlawed.

It makes no difference that the CSA is an exercise of Article I power granted to Congress. Through the Supremacy Clause, Congress' choice displaces any attempt by a state to create a contrary framework. The result would be the same if a state attempted to outlaw firearms (contrary to the Second Amendment) or permit illegal aliens to have the benefits of citizenship (contrary to Congress' exclusive authority over immigration). No state can enact a law (or constitutional amendment) that is in conflict with federal law.

Congress' decision to preempt these state laws to the contrary, pursuant to the Supremacy Clause, is the supreme law of the land. U.S. Const. art. VI. It logically follows that if the U.S. Constitution mandates state law subservience, then a state enactment that contradicts federal law facially violates Congress' Commerce Clause authority and the Supremacy Clause of the United States Constitution.

II. THIS PROPOSED AMENDMENT PRESENTS THE APPROPRIATE VEHICLE FOR THIS COURT TO ANALYZE THE LEGISLATURE'S INTENT FOR REQUIRING AN ADVISORY OPINION ON WHETHER AN INITIATIVE IS "FACIALLY INVALID UNDER THE UNITED STATES CONSTITUTION."

In *Marijuana IV*, this Court reviewed this identical argument by Drug Free America arguing the proposed amendment could not satisfy this prong of the analysis since the proposal is "facially invalid under the United States Constitution." *Marijuana IV*, 384 So. 3d at 111-12. This Court declined to address this argument holding that it "decline[d] to make that broad ruling here." *Id.* at 112. The Court held that such an inquiry would require "[a] detailed analysis of the potential conflict between sections of this amendment and federal law" that was not appropriate for the advisory proceeding. *Id.*

Chief Justice Muniz wrote a concurring opinion on this issue, which Justice Canady joined. *See id.* at 112-13 (Muniz, C. J. concurring). This concurrence posed thoughtful questions about the scope of this Court's review on this prong of the section 101.061 analysis. First, is the advisory opinion process the correct venue for this pre-enactment constitutional analysis? Second, what is the scope of this provision in section 16.061 and does it include all federal laws and regulations that may preempt state law? Third, what is the result of a determination that the proposed amendment is facially invalid? Finally, did the Legislature's enactment of this provision comply with article XI, section 3, of the Florida Constitution? Taking each in turn.

A. The Advisory Opinion Process is the Only Opportunity for Opponents to Bring a Pre-Enactment Challenge to the Proposed Amendment.

This Court has made clear that the advisory opinion process before this Court is the exclusive venue for pre-election challenges to the constitutionality of a ballot initiative. *See Roberts v. Brown*, 43 So. 3d 673, 679 (Fla. 2010) (holding that "no other Florida court has jurisdiction to consider these types of pre-election petitions."). This Court has also held "that a challenge to the form of a proposed

amendment must be made before the amendment is adopted." *Lane v. Chiles*, 698 So. 2d 260, 265 (Fla. 1997).

If this Court limits the application of the Legislature's requirement for this Court to review whether an initiative is "facially valid under the United States Constitution" it will place opponents in a no-win situation. They will be required to litigate their challenge in the advisory opinion process; yet, they will be prevented from having this Court conduct a fulsome analysis of the constitutionality of the proposed initiative due to improper self-restraint by the Court.

This Court should follow the language used by the Legislature and determine whether the proposed initiative is facially valid under the United States Constitution, regardless of how involved or complicated that analysis might be.

B. The Legislature's Choice of "Facially Invalid Under the United States Constitution" Necessarily Includes a Broad Grant of Authority.

The phrase this Court is interpreting is "facially invalid under the United States Constitution." § 16.061(1), Fla. Stat. This analysis breaks down into two parts: (1) what does "facially invalid" encompass; and (2) what provisions are included in "the United States Constitution." Taking each in turn.

Two principles guide this analysis. The well-known starting place for statutory analysis: "a statute must be given its plain and obvious meaning". *Headley v. City of Miami*, 215 So. 3d 1, 6 (Fla. 2017). And "when the words in a statute are technical in nature and have a fixed legal meaning, it is presumed that the Legislature intended that the words be given their technical meaning." *Id.* at 9.

First, the term "facially invalid" is a legal term of art that signifies the type of constitutional analysis that must be done. By using the word "facial" the Legislature imposed a high bar for opponents to defeat a proposed initiative. It is well known that "a plaintiff cannot succeed on a facial challenge unless he 'establish[es] that no set of circumstances exists under which the [law] would be valid,' or he shows that the law lacks a 'plainly legitimate sweep.'" *Moody v. NetChoice, LLC*, 603 U.S. 707, 723 (2024) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

This represents a reasoned choice by the Legislature that it will only permit a proposed amendment to be invalidated when an opponent meets this high burden and shows there are no set of circumstances in which the initiative would be constitutional. A proponent is not saddled with disproving every potential as-applied

challenge. But this provision is not toothless. It operates to prevent plainly unconstitutional initiatives from being presented to the voters, which would cause unnecessary burdens on elections officials, voters, and courts that have to deal with the provisions should the amendment pass.

The Legislature's choice of the term "facially invalid" brings along with it the meaning of that term of art. It requires this Court to consider pre-enactment facial challenges to the proposed initiative.

Second, the phrase "under the United States Constitution." Chief Justice Muniz's concurrence suggested there might be limits to what provisions might be included in this phrase. The Supremacy Clause, though, is no less powerful than the typical provisions relied on (First Amendment, Second Amendment, or Fourteenth Amendment).

The Eleventh Circuit has explained "[t]he propriety of bringing a challenge for injunctive and declaratory relief on the grounds that a state law is preempted by virtue of the Supremacy Clause has gone largely unquestioned." *Georgia Latino All. for Human Rights*, 691 F.3d at 1261. A state law's clash with the Supremacy Clause is just as in need of quashing as a state statute that conflicts with the First

Amendment, Second Amendment, Fourteenth Amendment, or any other constitutional provision. There is no hierarchy of constitutional provisions.

If the Legislature had wanted to limit the reach of this provision it could have used more narrow language. But it did not do so. It purposefully provided a broad grant of authority so that any conflict with the United States Constitution would be cognizable. But, as explained above, the Legislature required the opponent to mount a facial challenge, which effectively prevents this provision from being used except for truly unconstitutional initiatives (as this present proposed amendment is).

The plain language chosen by the Legislature permits any facial challenge based on any provision of the United States Constitution. This Court must apply the statute as written by the Legislature and evaluate this initiative as provided by general law.

C. This Court Must Strike an Offending Proposed Initiative from the Ballot.

When a proposed initiative does not satisfy this Court's scrutiny under section 16.061, Florida Statutes, this Court has held the result is "the removal of the amendment from the ballot." *Ray v. Mortham*,

742 So. 2d 1276, 1284 (Fla. 1999). The Attorney General is constitutionally-required to request this opinion of this Court "as provided by general law." art. IV, § 10, Fla. Const. And this Court is constitutionally mandated to review proposed initiatives as presented by the Attorney General "addressing issues as provided by general law." Art. V, § 3(b)(10), Fla. Const.

Twice the Constitution requires this Court's advisory opinion review to include all issues "as provided by general law." This Court's review of the proposed initiative must encompass each issue provided in "general law."

It logically follows that this Court's review of each of the provisions "provided by general law" result in the same outcome, if this Court finds noncompliance. The Legislature has mandated review of the proposed initiative's compliance with the single-subject requirement and ballot title and substance requirements. And this Court has held that failure to satisfy these requirements mandatorily results in the initiative being stricken from the ballot. *Ray*, 742 So. 2d at 1284. There is no reason to treat the Legislature's most recent addition any differently.

Should this Court determine the Proposed Amendment is "facially invalid under the United States Constitution" it should be stricken from the ballot.

D. This Provision is a Constitutional Exercise of Legislative Authority.

It is axiomatic that this Court must "when possible . . . read different constitutional provisions in concert, not conflict." *City of Tallahassee v. Florida Police Benevolent Ass'n, Inc.*, 375 So. 3d 178, 188 (Fla. 2023). It is also axiomatic that this Court is "obligated to construe statutes in a manner that avoids a holding that a statute may be unconstitutional." *State v. Giorgetti*, 868 So. 2d 512, 518 (Fla. 2004).

Chief Justice Muniz's concurrence alluded to an argument that the Legislature's inclusion of this requirement impermissibly restricts the citizen initiative right found in article XI, section 3. The argument likely supposes that article XI, section 3 only includes one limitation: "shall embrace but one subject and matter directly connected therewith." Art. XI, § 3, Fla. Const. And that any additional limitation would violate the right to amend the constitution by initiative. This argument fails for two reasons.

First, the plain language of article XI, section 3 does not provide an exhaustive list of the requirements that must be satisfied in order to be placed on the ballot, nor does it affirmatively limit the Legislature's ability to provide additional requirements. It sets a floor for the initiative to be constitutionally-sufficient. The language of this section contains no limit on the Legislature's ability to oversee the initiative process. Rather, it imposes a limitation on the citizens' right to amend the constitution by ensuring the proposed initiative contains only one subject.

Second, reading this provision as a limitation on the Legislature's authority would unnecessarily create a conflict where one otherwise does not exist. The best evidence that the Legislature has plenary power to regulate in this area is the *two* separate constitutional commands for this Court's review to be conducted pursuant to general law. Article IV, section 10 explains that the Attorney General shall "as directed by general law" request this Court's opinion on the validity of the initiative. And this Court's jurisdiction is exclusive and mandatory to review "issues as provided by general law." Art. V, § 3(b)(10), Fla. Const.

These tandem provisions work hand-in-hand to grant the Legislature broad authority to direct "by general law" the topics to be addressed by this Court in the initiative process. If this Court limited the advisory opinion review to only the enumerated "floor" in article XI, section 3, it would essentially eliminate the two other constitutional commands for the review to be provided as the Legislature sees fit. This Court should reject that cramped view of the advisory opinion process and follow the constitutional mandate to address all issues as provided by general law.

At bottom, this Court does not need to resolve all potential issues regarding the scope of this provision. What is clear, in this case, is that the proposed initiative seeks to legalize something federal law unqualifiedly prohibits. That determination is sufficient to show an actual conflict with Congress' Commerce Clause authority and the Supremacy Clause, which results in this initiative being facially invalid under the United States Constitution.

CONCLUSION

This Court should find the proposed amendment facially invalid under the United States Constitution. This Proposed Amendment should be stricken from the ballot.

DATED: January 2, 2026 .

Respectfully submitted,

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I HEREBY CERTIFY that on this 2nd day of January, 2026, I filed the foregoing using the Florida Courts E-Filing Portal, which will electronically serve the following:

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I HEREBY CERTIFY that this brief complies with the font and word count requirements of Fla. R. App. P. 9.045(b) and 9.210(a).

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