

Practice Update

# Is the Third Time a Charm? Florida Voters Will Get to Vote on the Adult Use of Marijuana in the Sunshine State

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By Jonathan S. Robbins

Following several failed attempts, Florida's conservative-leaning Supreme Court has paved the way for voters to consider a proposed state constitutional amendment on the November ballot aimed at allowing the recreational or adult use of marijuana. Despite Florida Attorney General Ashley Moody's effort to reject the measure, arguing it would be misleading to voters and was not limited to a single subject as required by Florida law, the court found that the proposal – known as Amendment 3 – conforms to state constitutional requirements. Emphasizing that its decision is without regard to the merits or wisdom of the initiative, the court made clear that its role was limited to assessing whether the amendment: conforms to the single-subject requirement; meets the statutory standard for clarity; and is not facially invalid.

Amendment 3 will require support from at least 60 percent of voters to pass. If passed, Amendment 3 will allow people 21 years or older to possess, purchase, or use marijuana products and marijuana accessories for non-medical personal consumption by smoking or ingestion. Adults will be permitted to possess up to three ounces of flower and up to five grams of concentrated product. No home growing of cannabis will be permitted.

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Florida presently has almost 900,000 qualified medical cannabis patients and expects to generate approximately \$2 billion in medical sales in 2024. Amendment 3, if passed, will be a boon for the state, given Florida's population of 22 million and its thriving tourism industry.

The Florida legislature will have the opportunity to promulgate further regulations, so no word yet on what we might expect in terms of a state excise tax and additional restrictions. Stay tuned!

**Disclaimer:**

Possessing, using, distributing, and/or selling marijuana or marijuana-based products is illegal under federal law, regardless of any state law that may decriminalize such activity under certain circumstances. Although federal enforcement policy may at times defer to states' laws and not enforce conflicting federal laws, interested businesses and individuals should be aware that compliance with state law in no way assures compliance with federal law, and there is a risk that conflicting federal laws may be enforced in the future. No legal advice we give is intended to provide any guidance or assistance in violating federal law.

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