



MILegalize

Michigan Marijuana Legalization Ballot Initiative for 2016

By Matthew Abel

The MILegalize petition drive seems headed for the November 2016 election ballot in Michigan. This article describes the initiative and how it might be implemented in 2017.

The Michigan Comprehensive Cannabis Law Reform Committee, also known as MILegalize, is a group of advocates

elected by a larger group of advocates who have been involved in numerous local marijuana decriminalization initiatives over the past several years.

The initiative was undertaken with three goals in mind: (1) to protect medical marijuana patients; (2) to allow personal/recreational adult use of marijuana; and (3) to create

industries that use hemp for food, fuel, textiles, cosmetics, and other nonpsychoactive products.

Substance of MLegalize

The text of the initiative, which comprises 21 sections, is available at www.milegalize.com.

The initiative is titled “Michigan Marihuana Legalization, Regulation and Economic Stimulus Act” and includes 15 definitions in alphabetical order from *consumer* to *unreasonably impracticable*. Important definitions include *hemp*, which is defined as having less than 1 percent THC,¹ and *maribuana*, which mirrors the criminal law definition in important ways not covered by the Michigan Medical Marihuana Act. Other definitions include *maribuana establishment*, *maribuana product manufacturing facility*, *maribuana testing facility*, and *maribuana store*.

The initiative will exempt from criminal prosecution any consumer who is an adult or medical marijuana patient, limiting all violations to civil infractions except driving under the influence—defined as use or consumption of marijuana that substantially or materially affects a person’s ability to operate a motor vehicle—or transferring to a minor. The initiative allows any consumer to grow up to 12 plants as long as he or she prevents unauthorized access to the plants. To meet the statutory definition, any plant must be at least 12 inches high or 12 inches in diameter. The initiative also allows for possession of marijuana derived from those 12 plants with no penalty for transferring less than 2.5 ounces without remuneration. Anyone engaging in cannabis commerce may do so only under licensing ordinances passed by a locality, which would be a city, township, village, or federally regulated tribe. A municipality also is allowed to enact a total commercial ban, but such a ban is subject to referendum by voters in that jurisdiction.

The MLegalize initiative imposes a 10 percent excise tax paid by the consumer and collected by the seller, which may be reduced by the legislature but not increased. Proceeds are assigned 40 percent to the Department of Transportation, 40 percent to the school aid fund, and 20 percent to the locality. Medical marijuana is exempt from taxation as are hemp products, which can create jobs from seed to sale.

All products sold must be in child-resistant containers and labeled with the names and addresses of the establishment and the product manufacturing facility or testing facility; the container must also list any solvents used in production and all ingredients, as well as the production date, batch number, and expiration date and whether refrigeration is required. In addition, any ingestible product requires a nutrition fact panel conforming to Food and Drug Administration

It is well past time for marijuana to be legalized. Taking marijuana out of the criminal justice system and removing any probable cause of criminal behavior will allow cannabis to be treated as the public health issue that it is.

requirements and listing the amount of THC in milligrams per serving along with several other notices.

An application fee for licensing a marijuana establishment may not exceed \$5,000 and a renewal fee may not exceed \$500. Localities may adopt rules regarding security requirements, prevention of diversion to minors, advertising and display, and health and safety regulations.

Legalizing marijuana and hemp will stimulate the economy, creating thousands of jobs and generating significant tax revenues. It will have an even greater impact by legalizing what already is normalized behavior in our society. History has shown that prohibition is ineffectual and harmful to society. It is well past time for marijuana to be legalized. Taking marijuana out of the criminal justice system and removing any probable cause of criminal behavior will allow cannabis to be treated as the public health issue that it is. ■



Matthew Abel founded Cannabis Counsel, PLC, a Detroit law firm providing cannabis law counseling, business, criminal defense, and other services. He is executive director of the Michigan chapter of the National Organization for the Reform of Marijuana Laws and a lifetime member of the National Association of Criminal Defense Lawyers, and serves on the Legal Committee of the ACLU of Michigan. He is one of the drafters of the MLegalize Michigan marijuana legalization initiative.

ENDNOTE

1. THC, which stands for Tetrahydrocannabinol, is the principal psychoactive constituent of marijuana.