



ISSUE BRIEF:

Constitutional Amendment A would legalize, regulate, and tax recreational marijuana for South Dakota citizens 21 years or older.

The Greater Sioux Falls Chamber of Commerce has taken a position to oppose Constitutional Amendment A (CA-A) and urges a “NO” vote on the 2020 general election ballot.

Background

Eleven states and the District of Columbia have legalized marijuana for recreational purposes; nine through statewide citizen initiatives, and two through bills approved by state legislatures¹. Currently, South Dakota has only legalized cannabinoids (CBD) oil and hemp by way of the legislature².

On November 4, 2019, proponents of recreational marijuana in South Dakota reported submitting more than 50,000 signatures in support of the measure to the Secretary of State. Based on the results of the random sample subsequently conducted by the Secretary of State’s Office, 36,707 signatures were deemed valid. A constitutional amendment in the State of South Dakota currently requires 33,921 valid signatures to qualify for the ballot thus placing Constitutional Amendment A (CA-A) on the 2020 General Election ballot.

The Attorney General’s 2020 ballot explanation³ of CA-A states the following:

“This constitutional amendment legalizes the possession, use, transport, and distribution of marijuana and marijuana paraphernalia by people age 21 and older. Individuals may possess and distribute one ounce or less of marijuana. Marijuana plants and marijuana produced from those plants may also be possessed under certain conditions.

The amendment authorizes the State Department of Revenue to issue marijuana-related licenses for commercial cultivators and manufacturers, testing facilities, wholesalers, and retailers. Local governments may regulate or ban the establishment of licensees within their jurisdictions.

The Dept. of Revenue must enact rules to implement and enforce this amendment. The amendment requires the Legislature to pass laws regarding medical use of marijuana. The amendment does not legalize hemp; it requires the Legislature to pass laws regulating the cultivation, processing, and sale of hemp.

The amendment imposes a 15% tax on marijuana sales. The tax revenue will be used for the Department’s costs incurred in implementing this amendment, with remaining revenue equally divided between the support of public schools and the State general fund.”

Legalizing cannabis would provide revenues from licensing fees, sales tax, and a 15% excise tax. In addition, incarceration expenses the State incurs would decrease due to the decriminalization of several current laws. If

¹ [Legality of Cannabis by U.S. Jurisdiction](#)

² In 2019, the SD Legislature passed [SB 22](#) addressing CB and in 2020 passed [HB 1008](#) addressing industrial hemp

³ [South Dakota Attorney General 2020 Ballot Explanation of Constitutional Amendment A \(Aug. 2019\)](#)

approved by the voters, the Legislative Research Council (LRC) estimates the state would witness the following revenues from the legalization of marijuana per fiscal year⁴:

Estimated Net Revenues:

FY2021:	\$355,705
FY2022:	\$10,765,004
FY2023:	\$19,589,466
FY2024:	\$29,372,397

It should be noted that after regulatory costs, the State would distribute 50% of net revenues annually to public schools and 50% to the general fund.

Proponent Rationale⁵

Simply stated, proponents believe prohibition of marijuana is not good policy in the present and will certainly not be good policy in the coming years. From their perspective, marijuana prohibition has created a higher crime rate, a larger and more expensive government, and has increased usage among minors. They think marijuana will be easier to regulate if legalized.

Proponents further argue decriminalization will allow for more effective law enforcement as valuable and expensive resources shift away from prosecuting marijuana offences to issues that they deem more important—human trafficking, meth epidemic, violence against women, etc. In addition, as surrounding states legalize marijuana, they argue enforcing this issue will become increasingly demanding and complicated.

Finally, proponents point to the economic impact as additional tax revenues are collected, jobs are created, and individuals look to relocate to South Dakota.

Opponent Rationale⁵

Opponents argue that this measure, led by out-of-state interest groups⁶, will have a detrimental impact on our business community’s workforce and will put South Dakota youth at risk. In addition, opponents firmly believe legalization of marijuana does not belong in our state’s constitution.

Opponents refer to a study conducted by the National Institute on Drug Abuse⁷ that states employees who tested positive for marijuana had 55% more industrial accidents, 85% more injuries and 75% greater absenteeism compared to those who tested negative. Decreased productivity, increased worker compensation and unemployment claims, high turnover, and lawsuits all negatively impact the bottom line and therefore CA-A should be opposed by the business community.

Lastly, opponents argue that legalization of marijuana should be done through the legislature instead of the constitution. If CA-A passes and change is necessary in the future (i.e. increasing the one-ounce limit), it have to be put to the vote of the people—a process that is lengthy, expensive, and inefficient.

⁴ [South Dakota Legislative Research Council Fiscal Note on Constitutional Amendment A \(June 2020\)](#)

⁵ Detailing “Proponents” and “Opponents” rationale is designed to provide the reader with an understanding of the opinions and talking points from each perspective. They are not intended to reflect the position of the Greater Sioux Falls Chamber of Commerce

⁶ [Marijuana Policy Project \(MPP\) 2020 Initiatives](#)

⁷ [Marijuana Research Report: How does marijuana use affect school, work, and social life?](#)

Chamber Position

The Greater Sioux Falls Chamber of Commerce has taken a position to oppose Constitutional Amendment A and encourages a “NO” vote on the November 3 ballot.

Rationale⁸

The Greater Sioux Falls Chamber of Commerce’s Board of Directors voted unanimously to oppose Constitutional Amendment A. The group’s rationale was twofold. First, legalizing marijuana—an enormous and complex decision—through a constitutional amendment is the wrong approach. Any unintended consequences of this amendment would have to be corrected through a vote of the people—a slow and arduous process.

Secondly, the Board of Directors is concerned about the workforce and business ramifications of CA-A. Employers already struggle to retain a reliable workforce and legalizing marijuana would further complicate this issue. In addition, and unlike alcohol, there is no standard of what constitutes impairment which creates a challenging human resource and legal environment for employers.

⁸ Issues Management Council (IMC) adopted their recommendation to the Board: July 9, 2020. The Chamber Board of Directors adopted their position: July 22, 2020. Both IMC and the Chamber Board of Directors voted to oppose CA-Z.