



March 3, 2017

Mr. John Dale
CC4L
239 W. Jackson
Spearfish, SD 57783

RECEIVED

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S.D. SEC. OF STATE

Dear Mr. Dale:

Pursuant to SDCL 12-13-25, this office is required to review each initiated law. Further, this office is required by SDCL 12-13-24 to determine if each initiated law is written in a clear and coherent manner in the style and form of other legislation and that it is worded so that the effect of the initiated law is not misleading or likely to cause confusion among voters. You are under no obligation to accept the suggestions contained in this letter, but please keep in mind the legal standards established in SDCL 12-13-24.

We suggest changes with regard to the typesetting and sentence structure of your draft. Of particular note, we recommend against using all-caps in your typeset. We also recommend drafting in complete sentences that end with a period. When drafting legislation, the simplest way of stating a proposition is usually the best way. Well-crafted legislation is concise, specific, uses active verbs, and is consistent and uniform throughout the text.

Other style and form changes we suggest are explained more thoroughly in the Guide to Legislative Drafting (<http://www.sdlegislature.gov/docs/referencematerials/draftingmanual.pdf>), which may be accessed on the Legislative Research Council website. Of particular note with regard to the submitted draft, you may refer to the sections of the guide that discuss the use of catch lines, severability clauses, short titles, the numbering convention of the South Dakota Codified Laws, the use of numerals versus text when providing numbers, and the use of legislative declarations and findings.

With regard to the draft you submitted, although we provide style and form suggestions for sections 1, 2, 3, and 9 for your review and consideration, these four sections provide declarations and findings. As you will note in the Guide to Legislative Drafting, declarations and findings are strongly discouraged and these four sections should therefore be removed from the draft. These sections would not be included in any bills drafted for the Legislature.

The following comments are in regard to section 5 of your submitted draft. Parts A, B, G, H, and M all propose to override statutes currently in effect. We recommend that you specifically provide the sections within the South Dakota Codified Laws and amend those sections to effectuate the draft's policy objective. A blanket statement that repeals or amends laws in general will not achieve the draft's goal. Actions are presumed legal unless specifically prohibited in statute, so if the draft seeks to legalize an activity, the most effective way of achieving that goal is to revise or repeal any section of the code that prohibits the activity.

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Parts C, J-1, K-1, N-6, and O of the submitted draft are all unnecessary as the language states a legal outcome that would be already assumed were cannabis legalized in the state. Part F of the draft also is unnecessary as the process of sentence modification and criminal records expungement already exists and would be available to anyone penalized under any law that would be repealed or revised under this Act.

Section D of the submitted draft is not an accurate statement of the law. Although South Dakota may legalize activity that remains illegal under federal law, any person who engages in the activity would be subject to a criminal penalty under federal law.

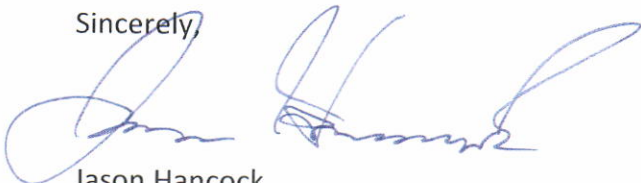
Sections J-2 and K-2 through K-5 require specific rulemaking authority for any agency that would be authorized to prohibit or regulate activity related to cannabis. Rulemaking authority in South Dakota must be in compliance with the Administrative Procedures Act located in chapter 1-26 of the South Dakota Codified Laws.

Regarding Section K-3, if the intent of the draft is that the Department of Agriculture would set licensing fees, that needs to be stated and the department given rulemaking authority to set the fees.

Attached is a copy of your initiative with all our suggested style and form changes.

This letter constitutes neither an endorsement of your initiative nor a guarantee of its statutory sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiative, please take care to ensure your statements or advertising do not imply that this office endorses or approves your proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Hancock", written over a faint, illegible typed name.

Jason Hancock
Director

JH:DO:ct

Enclosure

CC: The Honorable Shantel Krebs, Secretary of State
The Honorable Marty Jackley, Attorney General

AN INITIATED MEASURE IN THE STATE OF SOUTH DAKOTA TO DECRIMINALIZE CANNABIS

This Act may be cited as "THE 2018 FREE CANNABIS ACT OF SOUTH DAKOTA"

Be it enacted by the people of The State of South Dakota ..

1: ETHICAL AND LEGAL DECLARATIONS

A. AMERICAN ENTERPRISE USED MARIJUANA AND CANNABIS PROHIBITION INAPPROPRIATELY

1. A GRAIN BINDING INNOVATION CALLED THE DECORTICATOR THREATENED THE TIMBER INDUSTRY, WHO LOBBIED HEAVILY AGAINST CANNABIS TO REDUCE COMPETITION
2. CANNABIS PATIENTS REPORT POSITIVE CANNABIS MEDICINAL VALUE FOR AIDS/HIV, ALZHEIMER'S DISEASE, AMYOTROPHIC LATERAL SCLEROSIS, CANCER, CHRONIC TRAUMATIC ENCEPHALOPATHY, CROHN'S DISEASE, EPILEPSY, FIBROMYALGIA, GLAUCOMA, INFLAMMATORY BOWEL DISEASE, PARKINSON'S DISEASE, OTHER, MAKING CANNABIS A THREAT TO THE PHARMACEUTICAL INDUSTRY WHO LOBBIES ACTIVELY TO REDUCE COMPETITION
3. MARIJUANA, THE DRIED FLOWER OF THE CANNABIS PLANT, CONTAINS DEMONSTRABLY SAFER RECREATIONAL PROPERTIES THAT ARE SHOWN SAFER THAN ALCOHOL AND TOBACCO, MAKING CANNABIS A THREAT TO THE ALCOHOL AND TOBACCO INDUSTRY AS AN ALTERNATIVE INTOXICANT, ENTICING OPPOSITION LOBBY FROM BAR OWNERS AND ALCOHOL MANUFACTURERS WHO SEEK TO STIFLE COMPETITION
4. PERVASIVE WITH MARIJUANA USE, A BURGEONING SOUTHWESTERN UNDOCUMENTED LATIN AMERICAN POPULATION BECAME THE TARGET OF FEDERAL DRUG ENFORCEMENT AFTER ALCOHOL PROHIBITION WAS REPEALED, INCITING DRUG ENFORCEMENT AT THE FEDERAL LEVEL TO TAKE RENT THROUGH SELECTIVE PROSECUTION OF UNDOCUMENTED LATIN AMERICAN IMMIGRANTS
5. IT IS PRESENTLY LEGAL TO IMPORT VALUE-ADD HEMP PRODUCTS FROM OTHER COUNTRIES INTO THE UNITED STATES, BUT IT IS ILLEGAL TO PRODUCE THE RAW MATERIAL REQUIRED TO PRODUCE THE SAME HEMP GOODS DOMESTICALLY
6. THE ENFORCEMENT OF CANNABIS CRIMES IS OVERKILL AND CREATES WIDESPREAD DAMAGE TO GOOD AMERICANS BY CRIMINALIZING VICTIMLESS CANNABIS-RELATED ACTIVITIES

2: ECONOMIC DECLARATIONS

A. VALUABLE CANNABIS ECONOMIC/INNOVATION OPPORTUNITIES

1. HENRY FORD CREATED THE WORLD'S FIRST PLASTIC CAR USING A CANNABIS POLYMER EXTRACT
2. CANNABIS OIL EXTRACTS CAN FUEL AUTOMOBILES, TRUCKS, AND TRAINS

3. CANNABIS TEXTILES CAN BE USED IN CLOTHING, ACCESSORIES, BAGS, FLAGS, ROPES, FURNITURE, OTHER
4. CANNABIS LEGALIZATION VERTICALLY INTEGRATES THE CANNABIS SUPPLY CHAIN, GIVING AMERICAN FARMERS COMPETITIVE ADVANTAGE IN THE CANNABIS MARKETPLACE
5. REQUIRING GOVERNMENT TO PURCHASE CANNABIS RELATED PRODUCTS IS NOT A LIMITATION ON FREE CHOICE IN THE MARKETPLACE, BUT RATHER THROUGH THE DEMOCRATIC PROCESS IS AN EXPRESSION OF CHOICE OF THE CITIZENRY WITH REPECT TO THE ARRAY OF PRODUCTS TO BE CONSUMED BY GOVERNMENT, WITHOUT CRIMINALIZING CANNABIS COMPETITION
6. CANNABIS LEGALIZATION CREATES A FREE MARKET THAT MORE EVENLY DISTRIBUTES ECONOMIC BENEFIT, INCREASING THE VELOCITY OF MONEY INTO AND OUT OF THE CANNABIS ECONOMY WITH INCREASINGLY LOWER PRICES, ALLOWING REALLOCATION OF THE CANNABIS DOLLAR TO OTHER POTENTIALLY MORE CRITICAL AREAS OF THE AVERAGE SOUTH DAKOTAN'S BUDGET

3: SECURITY DECLARATIONS

A. LAW ENFORCEMENT RESOURCE ALLOCATION

1. LAW ENFORCEMENT RESOURCES ENFORCING BASELESS LAW REDUCES SECURITY TO THE MORALLY AND ETHICALLY INNOCENT AND INCREASES THE COST OF LAW ENFORCEMENT SERVICES
2. DECRIMINALIZATION OF CANNABIS CREATES A COMPETITIVE FREE MARKET THAT WILL REDUCE THE COST OF CANNABIS, REDUCING FINANCIAL PRESSURE ON AN ALREADY POOR AND DESPERATE ELECTORATE
3. IN THE ENFORCEMENT OF CANNABIS LAWS, CREATING CIVIL FINES OR PRISON TIME CREATES FINANCIAL INCENTIVE TO OVER-POLICE, CREATING A SECURITY RISK TO THE POPULACE FROM POLICE DEPARTMENTS INFILTRATED BY ORGANIZED CRIME ENTERPRISE

4: CANNABIS DEFINITION

A. TECHNICAL SPECIFICATION OF CANNABIS AND RELATED CONCEPTS SUBJECT TO THE SCOPE OF LEGALIZATION HEREIN

1. "CANNABIS" REFERS TO THE PLANT GENUS CANNABIS, ITS ACCESSORIES, ITS GROWING IMPLEMENTS, ITS MEANS OF PROCESSING, ITS MEANS OF RESELLING, ALL PARTS OF THE PLANT, WHETHER GROWING OR NOT, CANNABIS SEEDS, THE RESIN EXTRACTED FROM ANY PART OF A PLANT OF THE GENUS CANNABIS, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE OR PREPARATION OF SUCH PLANT, ITS SEEDS, RESIN, AND ANY OF ITS PARTS AND COMPONENTS, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF SUCH RESIN, AND ANY CANNABINOIDS DERIVED FROM THE PLANT GENUS CANNABIS, INCLUDING, BUT NOT LIMITED TO TETRAHYDROCANNABINOL (THC), CANNABIDIOL (CBD), AND CANNABIGEROL (CBG).

5: DECRIMINALIZATION OF CANNABIS

A. STATEMENT OF INTENT

1. THE CITIZENS OF SOUTH DAKOTA WISH IT ENACTED THAT CANNABIS SHALL BE IMMEDIATELY DECRIMINALIZED AND LEGALIZED IN THE STATE OF SOUTH DAKOTA AS PROVIDED HEREIN

B. HEMP EXEMPTION

1. INDUSTRIALLY EXTRACTED HEMP FIBER, FROM WHICH CLOTHING, ROPE, CANVAS, AND OTHER TEXTILES ARE DERIVED, SHALL HAVE NO RESTRICTIONS WHATSOEVER WITHIN REASONABLE BOUNDS, COMPARABLE TO AGRICULTURAL PRODUCTS OF SIMILAR TYPE
2. HEMP MAY BE PRODUCED, POSSESSED, TRANSPORTED, SOLD, AND PURCHASED FREELY LIKE ANY OTHER AGRICULTURAL COMMODITY BY ANY PERSONS OF ANY AGE, IN COMPLIANCE WITH STATE LABOR AND AGRICULTURAL LAWS, AS LONG AS THE HEMP IN QUESTION DOES NOT CONTAIN MORE THAN 3% THC

C. GUN RIGHTS CLARIFICATION AND AFFIRMATION

1. A PERSON'S RIGHT TO OWN AND BEAR ARMS SHALL NOT BE INFRINGED UPON, NOR PUT INTO ANY REPORT, WRITTEN ELECTRONIC, DIGITAL, OR OTHER, BY LAW ENFORCEMENT OR ANY AGENTS OF THE STATE OF SOUTH DAKOTA BASED SOLELY ON A FINDING THAT THERE WAS CANNABIS OR ITS METABOLITES IN A PERSON'S BODY OR BREATH OR IN THE PERSON'S POSSESSION

D. FREEDOM FROM FEDERAL ENFORCEMENT

1. STATES ARE NOT REQUIRED TO ENFORCE FEDERAL LAW OR PROSECUTE PEOPLE FOR ENGAGING IN ACTIVITIES PROHIBITED BY FEDERAL LAW
2. THEREFORE, COMPLIANCE WITH THE LEGAL REQUIREMENTS HEREIN DOES NOT PUT THE STATE OF SOUTH DAKOTA IN VIOLATION OF FEDERAL LAW

E. STATE SUPPORT FOR CANNABIS PRODUCTS THROUGH DEMOCRATIC MARKET CHOICE

1. AS AN EXPRESSION OF SOUTH DAKOTA VOTER PRODUCT CHOICE, THE STATE OF SOUTH DAKOTA SHALL SUPPORT THE SAFE PRODUCTION, SALE, AND CONSUMPTION OF CANNABIS TO THE EXTENT THAT CAN BE REASONABLY EXPECTED OF A GOVERNMENT AMONG CONSTITUTIONALLY FREE PEOPLE
2. MEANS OF EXPRESSING SUPPORT SHALL INCLUDE GIVING PREFERENCE TO LOCALLY PRODUCED CANNABIS UNIFORM PATCHES AND PAPER PRODUCTS WHEN IT COMES TIME FOR THE STATE TO PURCHASE THESE ITEMS
3. PRODUCTS MUST PASS THE APPLICATION OF REASONABLE QUALITY ASSURANCE STANDARDS FOR PRICE, DURABILITY, AND AESTHETIC
4. THE BURDEN OF PRODUCING AND PRESENTING VIABLE ALTERNATIVE CANNABIS SUBSTITUTES SHALL FALL ON THE DYNAMIC FORCES OF THE FREE AND COMPETITIVE MARKET THAT THIS INITIATIVE CREATES AND IT SHALL NOT BE THE RESPONSIBILITY OF THOSE OPERATING IN GOVERNMENT AND ENACTING PURCHASES TO SEEK-OUT THE PRODUCTS
5. ONCE A CANNABIS PRODUCT IS PRESENTED TO GOVERNMENT, THE GOVERNMENT SHALL DISCONTINUE PURCHASE OF COMPETING NON-CANNABIS RELATED PRODUCT, USE EXISTING SUPPLIES TILL EXPIRATION, AND SHALL PURCHASE AND INTEGRATE CANNABIS PRODUCTS AT THE NEXT OPPORTUNITY TO REPLENISH SUPPLIES