

South Dakota Cannabis Operators Eye Adult-Use Legalization Boost

South Dakota Voters to Decide on Recreational Cannabis Possession and Cultivation in 2024

South Dakota voters are set to make a crucial decision on Election Day that could further shape the future of cannabis legalization in the state. The ballot includes **Initiated Measure 29 (IM 29)**, a proposal that would legalize recreational marijuana possession and home cultivation for adults 21 and older. However, unlike previous initiatives, IM 29 does not include provisions for establishing a regulated market for cannabis sales, making this a unique and potentially transformative moment for the state.

This would be the third consecutive election cycle where South Dakotans are voting on adult-use cannabis legalization, a rare occurrence across the United States. But this time, the proposal is more limited in scope, aiming to avoid legal pitfalls that derailed a broader legalization initiative in 2020.

A Legalization Effort with Limits

IM 29 seeks to legalize the possession and small-scale cultivation of marijuana for personal use but does not establish a legal framework for regulated sales. This restrained approach is intentional, crafted in response to a 2020 voter-approved measure that was later struck down by a state judge. The 2020 initiative, known as **Amendment A**, had called for both recreational cannabis legalization and the establishment of a regulatory framework for cannabis sales. It was deemed unconstitutional due to violating the state's "single-subject" rule for ballot measures.

To prevent a similar fate, IM 29 focuses solely on personal possession and cultivation, allowing adults to grow cannabis at home and gift it to others without compensation. The measure's proponents hope that this streamlined proposal will hold up under legal scrutiny while providing South Dakotans with the ability to use and grow marijuana without fear of prosecution.

However, the lack of a regulated market in the measure has raised concerns about its long-term impact. Without a legal framework for sales, the cannabis industry remains in a gray area, leaving the door open for the illicit market to thrive. As a result, even supporters of legalization see the measure as an incomplete solution that will require further action from the state legislature.

Public Opinion and Voter Sentiment

IM 29 is facing a close race as Election Day approaches. A recent South Dakota News Watch poll shows 51% of voters opposing the measure, while 44% are in favor, and 5% remain undecided. These numbers suggest that while there is still significant support for cannabis reform in the state, persuading the undecided voters will be critical for the measure's success.

South Dakotans for Better Marijuana Laws, the campaign backing IM 29, is optimistic that the measure will pass despite the tight polling numbers. Advocates argue that the measure offers a necessary step to end the state's prohibition on marijuana and decriminalize personal use. However, opponents, including law enforcement groups and some business organizations, continue to voice concerns about potential negative impacts on public safety and youth exposure.

Challenges Facing the Medical Cannabis Industry

The medical marijuana (MMJ) industry in South Dakota is closely watching the outcome of IM 29. Operators in the MMJ market are advocating for the expansion of legalization to include a regulated market, citing concerns over the declining number of registered patients in the state. Since March, the number of patients enrolled in the state's MMJ program has dropped from 13,500 to 12,500, a trend attributed to increased competition from unregulated hemp-derived products.

The proliferation of hemp-derived products, such as **delta-9 THC**, which can be sold legally due to their low concentration of THC, has cut into the MMJ industry's consumer base. Many medical marijuana patients have turned to these hemp products, which are often easier to access and less expensive than regulated MMJ products. This dynamic has prompted calls for stronger enforcement of existing laws governing hemp-derived products and for the state to establish a legal recreational cannabis market.

Legislative Uncertainty

If IM 29 passes, state lawmakers will face pressure to create a regulatory framework for cannabis sales, even though the measure does not mandate one. Some industry insiders are optimistic that the legislature will take action in 2025 to legalize and regulate cannabis sales. Lawmakers, particularly in the Republican Party, have indicated that they might be open to discussing regulation if voters approve the measure.

However, there is no guarantee that the legislature will act quickly. South Dakota's political climate remains divided on the issue of cannabis legalization, and opponents of IM 29 are likely to push back against any efforts to create a commercial market. If lawmakers fail to pass legislation establishing a regulated market, cannabis cultivation and possession would be legal, but there would still be no legal way to buy or sell it, perpetuating a reliance on the illicit market.

Hemp Competition and Enforcement Gaps

Another challenge facing the MMJ industry is the competition from hemp-derived cannabinoids, which continue to be sold in South Dakota despite attempts to regulate them. Earlier this year, the state passed a law banning "synthetically produced" cannabinoids, but the law does not address the sale of hemp-derived **delta-9 THC** products, which remain legal.

MMJ operators argue that the proliferation of unregulated hemp products has contributed to the declining number of registered medical marijuana patients. Many patients who reach their purchase limits in the MMJ program are turning to unregulated hemp shops for alternative products. This competition has made it harder for MMJ businesses to sustain their operations, further fueling calls for the state to create a regulated market.

In addition to the impact on the MMJ industry, the lack of regulation surrounding hemp products has raised concerns about public safety. MMJ operators, along with some legalization opponents, have voiced concerns about the potential for these products to fall into the hands of minors, calling for stronger enforcement and oversight.

The Future of Cannabis in South Dakota

South Dakota has a unique history when it comes to cannabis legalization. In 2020, it became the first state to simultaneously approve medical and recreational cannabis measures on the same ballot. However, the recreational measure was struck down by the courts, leaving only medical marijuana in place. Since then, advocates have been working to bring recreational cannabis back to the ballot.

The outcome of IM 29 will determine whether South Dakota moves forward with decriminalizing cannabis possession and cultivation. If the measure passes, it could pave the way for future legislative efforts to create a regulated market. If it fails, cannabis advocates will likely regroup and push for another attempt in future election cycles.

As Election Day approaches, the debate over cannabis legalization in South Dakota remains a hot topic. With voters once again deciding the fate of marijuana laws, the outcome could have significant implications for both the cannabis industry and the state's approach to drug policy moving forward.

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