

**A Bill**  
**Presented by Elli Berry**  
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- Purpose:** To legalize and regulate the recreational use of marijuana in South Carolina.
- Whereas,** The implementation of a 15% excise tax on marijuana will provide a sustainable source of funding for increasing teacher salaries, improving infrastructure, and expanding access to rehabilitation centers for drug abuse treatment; and,
- Whereas,** Enforcing marijuana-related offenses in South Carolina incurs significant costs each year for policing, prosecution, and incarceration; and,
- Whereas,** Regulating marijuana ensures that it meets established safety standards, allowing for consistent product quality, proper labeling, and responsible distribution, which reduces the risks associated with unregulated products and enhances public safety; and,
- Whereas,** The regulation and legalization of marijuana creates a variety of employment opportunities across sectors such as agriculture, retail, distribution, research, and legal services, contributing to job growth and economic development within local communities.
- Therefore,** Be it enacted by the South Carolina Student Legislature in regular session assembled the following:

**Section I:** To amend Section 44-53-190 of the South Carolina Code of Laws to read:

**Section 44-53-190.** 11. ~~Marijuana~~

**Section II:** **Section 44-53-370(d)(4) of the S.C. Code is amended to read:**

**Section 44-53-370.** (5) possession of more than: one gram of cocaine, one hundred milligrams of alpha- or beta-eucaine, four grains of opium, four grains of morphine, two grains of heroin, two grains of fentanyl or a fentanyl-related substance as described in Section 44-53-190 or 44-53-210, one hundred milligrams of isonipecaine, ~~twenty-eight grams or one ounce of marijuana~~, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4-methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to ~~twenty-eight grams or one ounce or less of marijuana~~ or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional

discharge may be granted in accordance with the provisions of Section 44-53-450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17-22-10 through 17-22-160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14-1-205. The assessment portion of the bail must be distributed as provided in Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable.

**Section III: Section 44-53-370(e)(1) of the S.C. Code is amended to read:**

**Section 44-53-370(e)(1).** (1) ten pounds or more of marijuana, *if the person is not licensed*, is guilty of a felony which is known as 'trafficking in marijuana' and, upon conviction, must be punished as follows if the quantity involved is:

**Section IV: To Amend Section 61-15 To the S.C. Code to read:**

**Section 61-15.** *Title 61 of the S.C. Code is amended by adding:*

*Chapter 15*

*Marijuana Control Act*

*Article 1*

*Personal Use of Marijuana:*

**Section [61-15-100](#).** (A) *A person twenty-one years of age or older may legally:*

*(1) possess, use, purchase, process, or manufacture one ounce or less of marijuana, provided that not more than five grams of marijuana in his possession may be in the form of marijuana concentrate;*

*(2) within the person's primary residence, possess up to ten ounces of marijuana and any marijuana produced by marijuana plants cultivated at his primary residence, and possess, cultivate, or process not more than six marijuana plants for personal use;*

*(3) assist another person who is twenty-one years of age or older in any of the acts permitted pursuant to this section; and*

*(4) give or otherwise transfer without remuneration up to one ounce of marijuana, except that not more than five grams of marijuana may be in the form of marijuana concentrate, to a person twenty-one years of age or older, as long as the transfer is not advertised or promoted to the public.*

*(B) A person who violates this section shall be subject to a civil penalty of five hundred dollars and forfeiture of the person's marijuana.*

*Section [61-15-110](#). No person shall consume marijuana or marijuana products in a public place or smoke marijuana in any place where tobacco smoking is prohibited. A person who violates this section shall be subject to a civil penalty of two hundred fifty dollars.*

## *Article 2*

### *Taxation of Marijuana*

*Section 61-15-200. A 15% sales tax shall be placed on all retail sales of recreational marijuana within the State of South Carolina to the final sale price of the product.*

*Tax revenue from Marijuana sales should be allocated as follows:*

- 1. 30% to the South Carolina's Department of Education*
- 2. 30% to the South Carolina Department of Alcohol and Other Drug Abuse Services*
- 3. 30% to the South Carolina Department of Transportation*
- 4. 10% to the South Carolina Law Enforcement Division*

## *Article 3*

### *Prohibited Actions and Penalties for Violations*

*Section [61-15-300](#). (A) A licensed marijuana retailer that knowingly sells marijuana or marijuana products to a person under the age of twenty-one is guilty of a misdemeanor and, upon conviction:*

*(1) for a first offense, must be fined not less than two hundred dollars and not more than three hundred dollars, imprisoned not more than thirty days, or both; and*

*(2) for a second or subsequent offense, must be fined not less than four hundred dollars and not more than five hundred dollars, imprisoned not more than thirty days, or both.*

*(B) Failure of a person to require identification to verify a person's age is prima facie evidence of a violation of this section.*

*(C) A person who violates the provisions of this section is also required to successfully complete a DAODAS-approved merchant marijuana enforcement education program. The program must be a minimum of two hours, and the cost to the person may not exceed fifty dollars.*

*Section [61-15-310](#). (A) It is unlawful for a person under the age of twenty-one to purchase or attempt to purchase marijuana or marijuana products from a licensed marijuana retailer. It is also unlawful for a person to falsely represent his age for the purpose of procuring marijuana or marijuana products from a licensed marijuana retailer.*

*(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars and not more than two hundred dollars, must be imprisoned for not more than thirty days, or both.*

*(C) A person who violates the provisions of this section is also required to successfully complete a DAODAS-approved marijuana prevention education or intervention program. The program must be a minimum of eight hours, and the cost to the person may not exceed one hundred fifty dollars.*

*(D) The provisions of this section do not apply to a person under the age of twenty-one who is recruited and authorized by a law enforcement agency to test an establishment's compliance with the laws relating to the unlawful transfer or sale of marijuana or marijuana products to a minor. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person's parental consent.*

*Section [61-15-320](#). It is unlawful for a person who purchases marijuana or marijuana products while on licensed premises to give the marijuana or marijuana products to a person to whom they cannot lawfully be sold on the premises. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:*

*(1) for a first offense, must be fined not less than two hundred dollars and not more than three hundred dollars, imprisoned not more than thirty days, or both; and*

*(2) for a second or subsequent offense, must be fined not less than four hundred dollars and not more than five hundred dollars, imprisoned not more than thirty days, or both.*

#### *Article 4*

##### *Product Labeling and Advertising*

*Section [61-15-400](#). Labeling of a package containing marijuana or marijuana products shall contain:*

- (1) a symbol, easily recognizable mark, or stamp issued by the department that clearly indicates that the package contains marijuana or a marijuana product;*
- (2) a symbol, easily recognizable mark, or stamp issued by the department that clearly indicates to children that the product is harmful to children;*
- (3) the name and contact information of the marijuana cultivator that cultivated the marijuana or the marijuana product manufacturer that produced the marijuana product;*
- (4) the results of sampling, testing, and analysis conducted by a licensed independent testing laboratory;*
- (5) a seal or stamp certifying that the marijuana or marijuana product meets testing standards;*
- (6) a unique batch number identifying the production batch associated with the manufacturing, processing, and cultivation of the marijuana or marijuana product;*
- (7) a list of ingredients and possible allergens contained in marijuana products;*
- (8) the THC content;*
- (9) the number of servings in a package of marijuana products if there are multiple servings;*
- (10) a use-by date, if applicable; and*
- (11) a notice stating that: 'This product has not been analyzed or approved by the Food and Drug Administration. There is limited information concerning the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast feeding may pose potential harms to a child. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.'*

*Section [61-15-410](#). (A) For marijuana and marijuana products, there is a prohibition on advertising, marketing, and branding:*

- (1) that is deceptive, false, or misleading;*
- (2) by means of television, radio, internet, billboard, or print publication unless at least eighty-five percent of the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data;*
- (3) that utilizes statements, designs, representations, pictures, or illustrations that portray a person younger than twenty-one years of age;*
- (4) that utilizes mascots, cartoons, brand sponsorships, and celebrity endorsements that are reasonably expected to appeal to a person younger than twenty-one years of age;*

(5) that make false or misleading statements about licensees;

(6) that utilize promotional giveaways, coupons, or free marijuana or marijuana products;

(7) that utilize radio or loudspeaker equipment inside or outside of a marijuana establishment for the purpose of attracting attention to the establishment; or

(8) through the use of sponsorships of any kind.

(B)(1) A website maintained by a licensed marijuana establishment must be equipped to verify that an entrant is at least twenty-one years of age.

(2) A licensed marijuana establishment may not utilize unsolicited pop-up advertisements on the internet.

Section [61-15-420](#). Retail dealers are prohibited from using in an advertisement for marijuana a subject matter, language, or slogan addressed to and intended to encourage persons under twenty-one years of age to purchase or consume marijuana or marijuana products.

## Article 5

### Licensing Marijuana Establishments

Section [61-15-500](#). (A) The Department of Revenue shall issue, subject to suspension or revocation, a license to a qualified applicant to engage in business as a marijuana establishment.

(B) The Department of Revenue has sole and exclusive authority to issue, suspend, and revoke all licenses.

**Section V:** On the effective date of this Act, all prior convictions for offenses that are decriminalized pursuant to this act are pardoned and the pardoned convictions are expunged.

**Section VI:** South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS) shall develop a marijuana prevention education or intervention program for people under twenty-one years of age who violate Section [61-15-310](#).

**Section VII:** If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Section VIII:** This bill will go into effect January 1, 2026 upon passage by the General Assembly and the signature of the Governor.