

ARIZONA STATEWIDE BALLOT PROPOSITIONS GUIDE

A PUBLICATION OF GOODMAN SCHWARTZ PUBLIC AFFAIRS

General Election | November 3, 2020

BALLOT PROPOSITIONS

Under the Arizona Constitution, the Arizona Legislature and residents have the right to place propositions on the General Election ballot in order to make changes to either the Arizona Constitution or Arizona Revised Statutes.

A referendum is a ballot proposition that has been placed on the ballot by the Arizona Legislature. Unlike other legislation, a referendum does not go to the Governor for approval or veto. Rather, if a majority of the Arizona House of Representatives and Arizona State Senate pass the legislation, the measure is automatically placed on the ballot.

An initiative gives residents the same right as the Arizona Legislature to place an issue on the ballot, provided that the citizens collect enough valid signatures from registered voters to qualify.

For full text of the propositions, the analysis provided by the Arizona Legislative Council and a complete listing of all submitted arguments for and against a proposition, please find the Publicity Pamphlet on the Arizona Secretary of State's website at: www.arizona.vote

IMPORTANT DATES

Vote by Mail begins on
October 7th

Mail Vote by Mail ballot by
October 27th

General Election is
November 3rd

ABOUT THIS GUIDE

This guide is intended to educate interested voters about the statewide ballot propositions on the November 2020 General Election ballot in Arizona.

Nothing in this document should be construed as an endorsement or opposition to any particular ballot proposition.

Rather, diligent care has been taken to objectively describe each ballot proposition and to provide the typical arguments used by proponents and opponents, respectively.

In the unlikely event there is a discrepancy between the actual ballot proposition and the information contained herein, the actual ballot language shall take precedence.



HOW BALLOT PROPOSITIONS ARE NUMBERED

Arizona state law requires that ballot measures be numbered according to four criteria:

100 series (Prop. 1XX) represents constitutional amendments, whether initiated by the people or referred to by the Arizona Legislature.

200 series (Prop. 2XX) represents initiatives pursued by the people to create new state laws or amend existing state statute.

300 series (Prop. 3XX) represents a referral to the ballot by the Arizona Legislature to create new laws or amend existing state statute.

400 series (Prop. 4XX) represents local ballot measures.

PROPOSITION 207

Yes No

SMART AND SAFE ARIZONA ACT

Proposition 207 would:

1. Allow a person who is at least 21 years of age to lawfully possess and use one ounce or less of marijuana, including not more than 5 grams of marijuana concentrate (for example, hashish), as well as up to 6 marijuana plants at that person's primary residence. (Producing, possessing and using marijuana would remain illegal under existing federal law.)
2. For a person who is under 21 years of age, reduce the penalties for unlawful use of marijuana to a civil penalty for the first violation, a petty offense for a second violation and a class 1 misdemeanor for subsequent violations.
3. In addition to the current sales tax, impose a 16% excise tax on the retail sale of marijuana and marijuana products.
4. Transfer \$45,000,000 from the medical marijuana fund for a variety of different programs and purposes, including the Arizona teachers academy, public health, traffic enforcement, education relating to legalizing marijuana, expunging certain criminal records and implementing a social equity ownership program.
5. Establish a petition process to expunge law enforcement and court records relating to arrests, charges, adjudications, convictions and sentences for specific marijuana-related drug offenses that occurred before the effective date of the measure.
6. Direct that monies from licensing and renewal fees, application fees, civil penalties, excise taxes and penalties related to selling and testing marijuana be deposited in the Smart and Safe Arizona Fund. Monies in that Fund would be used first to pay for the costs of implementing, administering and enforcing the measure. If monies remain in the Fund, the monies would be allocated to community college districts and provisional community colleges, municipal police and fire departments, fire districts and county sheriffs' departments, the Arizona highway user revenue fund and various "justice reinvestment programs" including:
 - a) Public and behavioral health, including substance use prevention and treatment.

(b) Restorative justice, jail diversion, workforce development, industry-specific technical assistance or mentoring services for economically disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration.

(c) Reducing drug-related arrests and the prison population in this state.

Under Proposition 207, not more than 12 marijuana plants could be produced at a single residence. Marijuana produced by those plants could be cultivated only in an enclosed, locked area within the premises that is not visible from public view. The person could also transfer one ounce or less and up to 6 marijuana plants to another person who is at least 21 years of age if the transfer were without remuneration.

Proposition 207 would not authorize a person to:

1. Smoke marijuana in a public place or open space.
2. Operate any motorized form of transport while impaired to even the slightest degree by marijuana.
3. Consume marijuana while operating or riding in the passenger compartment of any motorized form of transport.
4. Provide marijuana to a person who is under 21 years of age.

An employer would not be required to allow a person to possess or consume marijuana in the workplace. (Under the current drug-free workplace laws, an employer may discipline or terminate an employee based on the employee's positive drug test for marijuana, even if the employee consumed the marijuana outside the workplace.) An employer, school, day care center, adult day care facility, health care facility or corrections facility could prohibit or regulate possessing, smoking, producing, processing, manufacturing or selling marijuana on the property. A person who owns, manages or leases a property could prohibit or regulate possessing, smoking, producing, processing, manufacturing or selling marijuana on the property.

A person would not be guilty of driving while under the influence (DUI) because of the presence of metabolites or components of marijuana in the person's body unless the person were also impaired to the slightest degree. (Under current state statute, a person violates the DUI statutes when any drug or its metabolite is present in the person's body.)

Proposition 207 would require the Department of Health Services (Department) to adopt rules to

regulate marijuana, marijuana products, marijuana establishments and marijuana testing in this state, including licensing marijuana establishments and marijuana facilities, licensing and renewal fees, security requirements, cultivating, processing and manufacturing requirements, tracking, testing, labeling and packaging requirements (which would include child-resistant packaging), delivery, acceptable forms of government-issued identification required for purchases, potency of edible marijuana products and to create a social equity ownership program to address ownership and operation by individuals from communities disproportionately impacted by previous marijuana law enforcement.

Delivery of marijuana would not be allowed until the department adopts rules after January 1, 2023. Delivery would be prohibited to any property owned or leased by the federal, state or local government, including the universities under the control of the Arizona Board of Regents.

A marijuana establishment would be allowed to sell, cultivate, process and manufacture marijuana and marijuana products in licensed locations. The number of marijuana establishment licenses would be capped at one marijuana establishment license for every 10 pharmacies that have obtained a pharmacy permit and operate in this state.

Beginning January 19, 2021 through March 9, 2021, the Department would be required to accept early applications for marijuana establishments from only:

1. Currently registered nonprofit medical marijuana dispensaries.
2. Applicants seeking to operate a marijuana establishment in a county with fewer than 2 nonprofit medical marijuana dispensaries.

After issuing early applicant marijuana establishment licenses, the Department would be required to issue the remaining marijuana establishment licenses by a random selection process. Notwithstanding the cap, the Department would be required to issue, not later than 6 months after adopting rules, an additional 26 licenses to entities under the social equity ownership program.

A city, town or county could enact reasonable ordinances or rules that generally govern the time, place and manner of marijuana establishment and marijuana testing facility operations, except that the city, town or county could not:

1. Restrict or interfere with the ability of an entity to operate a nonprofit medical marijuana dispensary and a marijuana establishment at a shared location.

2. Adopt a more restrictive ordinance or rule than a comparable ordinance or rule that applies to nonprofit medical marijuana dispensaries.

A marijuana establishment and a nonprofit medical marijuana dispensary would be allowed to engage in regulated advertising.

Proposition 207 would establish penalties or offenses for certain actions, including:

1. Petty offenses punishable by a maximum fine of \$300 and community restitution for: Smoking marijuana in a public place. Possessing more than one ounce but not more than 2.5 ounces of marijuana, including not more than 12.5 grams of marijuana concentrate
2. A civil penalty of not more than \$100 for a first violation of underage use. The second violation would be a petty offense.
3. A petty offense for the first violation of unauthorized production (including growing marijuana plants subject to public view without the use of optical aids). The second violation would be a class 3 misdemeanor.

The Arizona Constitution limits the ability of the Legislature to amend an approved initiative measure or to appropriate or divert monies created or allocated by an approved initiative measure. Any future legislative changes to the initiative measure may be made only if they are approved by at least three-fourths of the members of each house of the Legislature and the changes further the purposes of the initiative measure.

[Analysis provided by the Arizona Legislative Council].

PROPOSERS OF PROPOSITION 207

Marijuana is safest when it is sold in a taxed, tested and regulated environment to individuals at least 21 years of age, as opposed to illegal activity on street corners.

Legalization of marijuana is anticipated to generate \$3 billion in new revenue within the first 10 years.

There is overwhelming evidence that criminalizing law-abiding residents who choose to responsibly consume marijuana is an outdated policy that wastes limited government resources. Incarceration and felony convictions for marijuana have multigenerational social, economic and health impacts that have been disproportionately adverse on minority communities. Additionally the

legalization of marijuana will free up law enforcement to deal with more serious issues that actually jeopardize public safety.

Legalizing marijuana directly creates jobs in retail, manufacturing and agriculture. In addition, the measure will increase demand for construction, farming supplies, machinery and a myriad of other goods and services.

If enacted, state government will be able to exercise its full regulatory authority to enforce purchasing age-limits, packaging and potency standards, regulate advertising and place of use restrictions, enact workplace use policy requirements and solidify vehicle operation restrictions and penalties.

OPPONENTS OF PROPOSITION 207

While Prop. 207 is limited to the legal use of marijuana by individuals 21 years and age, states that have legalized its use, such as Colorado, have experienced nearly a 50% increase in the use of marijuana by youth. The legalization of marijuana will increase the availability and social acceptance of the use of marijuana among the adolescent population.

Alcohol is the substance most abused by teens with e-cigarettes close behind. Both are legal products available to adults and, as a result, accessible to kids. The legalization of marijuana will follow the same path. This access is important, as multinational studies have found significant increases in psychosis among youth who used high-potency marijuana.

Based on experiences in other states, such as California and Massachusetts, the legalization of marijuana did not generate the projected revenue anticipated by proponents. While Colorado has met the anticipated revenue projections, costs related to public health and safety have increased dramatically and well beyond the revenue generated by the legalization of marijuana.

Nationally recognized traffic safety advocates have suggested that the growing use and acceptance of marijuana have increased the risks associated with driving. In Washington state, a study was conducted in which it was identified that drivers involved in fatal crashes that tested positive for THC increased from approximately 9 percent in the five-year period prior to legalization to nearly 18% in the proceeding five years.

PROPOSITION 208

Yes No

INVEST IN EDUCATION ACT

Beginning January 1, 2021, Proposition 208 would impose a 3.5% income tax surcharge on taxable individual income (including pass-through income from typically small businesses such as sole proprietorships, partnerships, limited liability companies and subchapter S corporations) over:

1. \$250,000 for a single person or a married person filing separately.
2. \$500,000 for a married couple or a single person who is a head of household. The current tax rate of 4.5% on taxable income over the above-stated amounts, combined with the new 3.5% surcharge would result in a total tax of 8% on taxable income over the above-stated amounts (an increase of 77.7%).

The new revenue generated by the income tax surcharge would be placed in the Student Support and Safety Fund, to be used first to pay the administrative costs of implementing, administering and enforcing the measure, and then as follows:

1. 50% for grants to school districts, charter schools, the state education system for committed youth, and the state schools for the deaf and blind for teacher and classroom support personnel hiring and base salary increases. Proposition 208 would define "teacher" as any nonadministrative personnel who instruct students or support student academic achievement, as determined by the school district or charter school governing body, including instructional coaches and academic interventionists and would define "classroom support personnel" as any nonadministrative personnel who provide classroom support and instructional support services, as determined by the school district or charter school governing body, including librarians, nurses, counselors, social workers, speech pathologists, behavioral coaches and psychologists.
2. 25% for grants to school districts, charter schools, the state education system for committed youth, and the state schools for the deaf and blind for student support services personnel hiring and base salary increases. Proposition 208 would define "student support services personnel" as any classified, nonadministrative personnel who provide student support services, as defined by the school district or charter school governing

body including classroom aides, media specialists, health assistants, security personnel, clerical staff, student food service personnel, student transportation personnel and school site plant operators.

3. 10% for grants to school districts, charter schools, the state education system for committed youth, and the state schools for the deaf and blind for mentoring and retaining new classroom teachers in their first, second or third year of teaching. A mentor hired with these monies could not be assigned to mentor more than 15 new classroom teachers.
4. 12% for grants to school districts, charter schools and career technical education districts for a career training and workforce program for students in grades 9-12. The grant monies could be used for a variety of purposes, including developing new or expanded programs tied to medium-to-high wage/high-demand careers, developing new or expanded programs that inspire and prepare students to become classroom teachers, hiring school counselors, expanding college-level educational opportunities (including advanced placement, international baccalaureate and dual credit courses), assisting students completing the ninth grade to be on track for on-time graduation, expanding tutoring, mentoring, counseling and mental health services and funding students in career and technical education programs.
5. 3% for the Arizona teachers academy, which incentivizes college students to enter the teaching profession and to commit to teach in Arizona. The measure would eliminate the current caps on the scholarship amount that each student enrolled in the academy may receive and allow each enrolled student to receive up to the actual cost of tuition and fees for the student's program of study. Also, the marketing plan for the academy would have a particular emphasis on ensuring that the academy participants reflect the diversity of the state's student population.

The new revenue generated by the income tax surcharge could not replace, reduce or supplant other school district, charter school or career technical education district funding.

The Arizona Constitution limits the ability of the Legislature to amend an approved initiative measure or to appropriate or divert monies created or allocated by an approved initiative measure. Any future legislative changes to the initiative measure may be made only if they are approved by at least three-fourths of the members of each house of the Legislature and the changes

further the purpose of the initiative measure.

[Analysis provided by the Arizona Legislative Council].

PROPONENTS OF PROPOSITION 208

Prop. 208 only applies to personal income that exceeds \$250,000 for single filers and \$500,000 for married filers. The 3.5% surcharge only applies to personal income that exceeds the \$250,000 and \$500,000 threshold, depending on the single versus married status of the taxpayer. The tax rates for the first \$250,000 or \$500,000 of personal income are taxed at the present rate.

Arizona business leaders have consistently said that the key to improving Arizona's business climate and the economy is increased funding for Arizona's K-12 public education system. As Arizona is ranked 48th in the country for per pupil spending, this underfunding has resulted in a significant teacher shortage, crowded classrooms and outdated learning materials and supplies.

Prop. 208 is a reasonable solution to generate revenue for public education without impacting working and middle-class families and small business owners. These will not see any increase to their taxes. Investing in public education is especially important to assist students recover from the learning losses caused by COVID-19.

95% or more of Arizona students attend public schools, yet Arizona is ranked in the bottom five nationally for teacher pay and per-pupil investment with the nation's second-largest class sizes.

OPPONENTS OF PROPOSITION 208

Prop. 208 will impact small business at a disproportionate rate, as small businesses will be subject to higher taxes than large corporations (8% compared to 4.9%) at an economically vulnerable time, catapulting Arizona into the 9th highest tax rate in the country.

The measure raises the income tax rate by 77.7%, from 4.5% to 8% for individuals, including small business, who earn over \$250,000 or households earning more than \$500,000. Of the filers impacted by this initiative more than 50% will be small businesses. It is projected that Prop. 208 will result in a loss of 124,000 jobs in Arizona.

Prop. 208 does not require that the additional funding generated by the measure actually be used in the classroom nor does it increase the formula for teacher pay.