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## Pot Group Joins Challenge to Initiatives Law

By Dara Kam

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The political committee Smart & Safe Florida is trying to put a recreational-marijuana proposal on the 2026 ballot.

TALLAHASSEE — Backers of a renewed attempt to pass a recreational-marijuana constitutional amendment have joined a court challenge to a new law that makes it harder for groups to place initiatives on the ballot, saying the measure imposes “draconian restrictions on Floridians’ sovereign” right to change the state Constitution.

The law (HB 1205), finalized by the Legislature on May 2 and immediately signed by Gov. Ron DeSantis, includes sweeping changes to the initiative process that make it more difficult for signature gatherers to collect petitions, create new crimes and heighten existing penalties for wrongdoing and shorten the time frame for petitions to be submitted to supervisors of elections.

The Republican-controlled Legislature approved the changes following fierce fights over ballot proposals in November 2024 aimed at allowing recreational use of marijuana and placing abortion rights in the Constitution. DeSantis led crusades to defeat the measures, which fell short of receiving the required 60 percent approval to pass, and pushed state lawmakers to impose stricter regulations on the ballot-initiative process.

Smart & Safe Florida, the political committee behind the 2024 marijuana proposal, is trying to place a similar recreational weed measure on next year’s ballot, and has about 219,000 valid signatures for the effort. The group is also launching a proposal that would allow medical-marijuana patients to grow their own cannabis. Chief U.S. District Judge Mark Walker on Monday granted a request by Smart & Safe Florida to join a lawsuit filed last week by Florida Decides Healthcare, a committee backing an initiative aimed at expanding Medicaid coverage.

In court documents filed Saturday, lawyers for Smart & Safe Florida argued that the new law “changes the law at halftime” for sponsors already working to place initiatives on the 2026 ballot.

“Worse, the most burdensome of those changes took effect immediately upon becoming law on May 2, 2025, with no warning nor opportunity to appropriately prepare,” Glenn Burhans and other attorneys with the firm Stearns Weaver Miller Alhadeff & Sitterson, P.A. wrote.

The law is the latest effort by the Legislature and business groups such as the Florida Chamber of Commerce to make it harder for groups to place initiatives on the ballot. Supporters of the restrictions have argued, in part, that policy changes should be made by the Legislature instead of through constitutional amendments. Also, backers of the new law argued changes were needed to prevent fraud.

But the court documents filed Saturday called arguments justifying the law “gaslighting” and asserted that the new restrictions “impose unconstitutional barriers” to First Amendment rights protecting political speech and

freedom of association.

The new law “is cloaked behind the high-minded principle of ensuring” ballot integrity “as justification to impose draconian restrictions on Floridians’ sovereign constitutional right to amend their state Constitution via the citizen initiative process. Beware, as Justice Scalia famously remarked, ‘this wolf comes as a wolf,’” lawyers for Smart & Safe Florida wrote, referring to the late U.S. Supreme Court Justice Antonin Scalia. The restrictions will “effectively destroy the people’s right to invoke the citizen initiative,” they added. Smart & Safe Florida targeted a number of parts of the law.

As an example, the law caps how many completed petitions unregistered signature-gatherers can possess and makes violations of the restriction a felony. Only Florida residents who are U.S. citizens and have had their voting rights restored if they have been convicted of a felony can register to collect signatures. Unregistered people would be allowed to possess petitions for themselves, 25 other people and certain family members. Petitions collected by ineligible people or unregistered individuals who violate the 25-petition cap would not be counted toward the number of signatures required for ballot placement.

The new law “is already dramatically infringing upon Smart & Safe’s core speech,” lawyers for the marijuana proposal’s sponsor wrote.

Out-of-state petition firms “already are luring” workers from Florida, including many who “have left or will soon leave” the state and are fearful of the “punitive impact” of the new law, the lawyers argued.

Another controversial part of the law shortens from 30 to 10 days the length of time for completed petitions to be submitted to supervisors of elections and increases penalties for late-filed petitions. Sponsors face \$50-a-day fines for each petition that is turned in late and up to \$2,500-a-day fines for “willful” violations of the time restriction. Completed petitions must be turned into supervisors of elections offices in the county where the voter resides, regardless of where they were signed.

The 30-day deadline allowed Smart & Safe Florida to employ “quality controls,” such as flagging incomplete or defective petitions and segregating them to make the validation process more efficient for elections officials and to help address allegations of fraudulent submissions and penalties.

“Mandating an arbitrary and severely truncated delivery deadline has nothing to do with protecting ballot integrity” and “sets sponsors up for failure because it creates unreasonable constraints on the petition gathering process and renders any meaningful quality control impossible — leading to invalidity rates, errors, and subsequent punitive fines,” the committee’s lawyers wrote.

Smart & Safe Florida also is gearing up to sponsor a second proposal for the 2026 ballot that would allow

medical-marijuana patients and their caregivers to grow their own cannabis, according to the court documents.

The committee submitted a “Home Cultivation of Medical Marijuana” proposal to the Department of State on Thursday, an email from Burhans to the state Division of Elections showed.

The legal challenge also targets part of the new law that prohibits sponsors from backing more than one amendment. The law does not specify if sponsors can only back one proposal at a time or if the single-proposal restriction lasts forever.

“Not only is this an outright ban on core political speech bearing zero relation to ballot integrity, the provision is vague and ambiguous,” Smart & Safe Florida’s lawyers argued.

As of Monday, Smart & Safe had submitted 218,983 valid signatures for the recreational-marijuana proposal — just shy of the 220,000 signatures needed to trigger a financial impact statement and Florida Supreme Court review of the measure. The committee needs to submit roughly 880,000 signatures by Feb. 1 to make it on the 2026 ballot. The group is eyeing the 2028 ballot if the proposal fails to get before voters next year, according to court documents.

Lawyers for the committee are asking Walker to find that the law is unconstitutional and block state and local officials from enforcing it.