

**By Senator Martin**

33-00932A-26

20261056

A bill to be entitled

An act relating to open containers of marijuana products in motor vehicles; creating s. 316.19361, F.S.; defining terms; prohibiting a person from possessing an open container of certain products while operating or a passenger in or on a vehicle or while seated in or on a vehicle that is parked or stopped within a road; providing that such open container is considered to be in a person's possession under certain circumstances; providing applicability; providing penalties; authorizing a local government to adopt certain ordinances; providing construction; creating s. 316.19362, F.S.; providing legislative intent; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.19361, Florida Statutes, is created to read:

316.19361 Possession of open containers of edibles, hemp, hemp extract, low-THC cannabis, marijuana, or THC beverages in vehicles prohibited; penalties.-

(1) As used in this section and s. 316.19362, the term:

(a) "Edibles" has the same meaning as in s. 381.986(1).

(b) "Hemp" has the same meaning as in s. 581.217(3).

(c) "Hemp extract" has the same meaning as in s.

581.217 (3).

(d) "Low-THC cannabis" has the same meaning as in s.

381.986 (1) .

33-00932A-26

20261056

30           (e) "Marijuana" has the same meaning as in s. 381.986(1).

31           (f) "Open container" has the same meaning as in s.

32           316.1936(1).

33           (g) "Qualified patient" has the same meaning as in s.

34           381.986(1).

35           (h) "Road" has the same meaning as in s. 316.1936(1).

36           (i) "THC beverage" means a beverage infused with hemp, hemp  
37 extract, or low-THC cannabis.

38           (2) (a) It is unlawful for any person to possess an open  
39 container of edibles, hemp, hemp extract, low-THC cannabis,  
40 marijuana, or THC beverage while operating a vehicle in this  
41 state or while a passenger in or on a vehicle being operated in  
42 this state.

43           (b) It is unlawful for any person to possess an open  
44 container of edibles, hemp, hemp extract, low-THC cannabis,  
45 marijuana, or THC beverage while seated in or on a motor vehicle  
46 that is parked or stopped within a road. This paragraph does not  
47 apply to passengers in vehicles designed, maintained, and used  
48 primarily for the transportation of persons for compensation or  
49 in motor homes.

50           (3) An open container of edibles, hemp, hemp extract, low-  
51 THC cannabis, marijuana, or THC beverage is considered to be in  
52 the possession of the operator of a vehicle if the open  
53 container of such product is not in the possession of a  
54 passenger and is not located in a locked glove compartment,  
55 locked trunk, or other locked nonpassenger area of the vehicle.

56           (4) An open container of edibles, hemp, hemp extract, low-  
57 THC cannabis, marijuana, or THC beverage is considered to be in  
58 the possession of a passenger of a vehicle if the open container

33-00932A-26

20261056

59 of such product is in the physical control of the passenger.

60 (5) This section does not apply to:

61 (a) A passenger of a vehicle in which the driver is  
62 operating the vehicle pursuant to a contract to provide  
63 transportation for passengers, and such driver holds a valid  
64 commercial driver license with a passenger endorsement issued in  
65 accordance with the requirements of chapter 322;

66 (b) A passenger of a bus in which the driver holds a valid  
67 commercial driver license with a passenger endorsement issued in  
68 accordance with the requirements of chapter 322; or

69 (c) A passenger of a self-contained motor home that is  
70 longer than 21 feet.

71 (6) (a) An operator of a vehicle who violates this section  
72 commits a noncriminal moving traffic violation, punishable as  
73 provided in chapter 318. If the operator is a qualified patient,  
74 his or her identification card shall be suspended.

75 (b) A second offense is punishable by imprisonment for not  
76 more than 90 days or by a fine of at least \$25 but not more than  
77 \$500, or by both such fine and imprisonment. If the operator is  
78 a qualified patient, his or her identification card shall be  
79 permanently revoked.

80 (c) A third or subsequent offense is punishable by  
81 imprisonment for not more than 6 months or by a fine of at least  
82 \$50 but not more than \$1,000, or by both such fine and  
83 imprisonment.

84 (7) A passenger of a vehicle who violates this section  
85 commits a noncriminal moving traffic violation, punishable as  
86 provided in chapter 318. If the passenger is a qualified  
87 patient, his or her identification card shall be suspended for a

33-00932A-26

20261056

88 first offense and permanently revoked for a second offense.

89 (8) A county or municipality may adopt an ordinance that  
90 imposes more stringent restrictions than those imposed by this  
91 section on the possession of edibles, hemp, hemp extract, low-  
92 THC cannabis, marijuana, or THC beverages in vehicles.

93 (9) This section does not prohibit the enforcement of s.  
94 316.302.

95 Section 2. Section 316.19362, Florida Statutes, is created  
96 to read:

97 316.19362 Legislative intent; edibles, hemp, hemp extract,  
98 low-THC cannabis, marijuana, or THC beverages.—It is the express  
99 intent of the Legislature that the “plain smell” of edibles,  
100 hemp, hemp extract, low-THC cannabis, marijuana, or THC  
101 beverages constitutes probable cause for a vehicle search.

102 Section 3. This act shall take effect July 1, 2026.