

OMAHA TRIBE OF NEBRASKA

FREQUENTLY ASKED QUESTIONS (FAQS) REFERENDUM TO ALLOW USE OF CANNABIS (MARIJUANA) AND GROWTH OF HEMP

WHY IS AN ELECTION BEING HELD?

Recently, the Department of Justice has issued guidance on legalized marijuana on Indian Reservations. The Tribal Council is seeking input from the tribal membership to assist the Tribal Council in determining whether the tribal membership wants the Tribal Council to pursue legalization of marijuana.

UNDER WHAT AUTHORITY IS THIS ELECTION BEING HELD?

Article IV, Section 1 (l) of the Constitution of the Omaha Tribe of Nebraska, which provides the Tribal Council with the power to regulate the manner of making nominations for tribal offices and the holding of elections.

WHAT IS THE DATE FOR THIS ELECTION?

November 3, 2015

WHAT ARE THE QUESTIONS THAT ARE ON THE BALLOT FOR THIS ELECTION?

1. “Should the Omaha Tribe of Nebraska allow the recreational use of Marijuana for adults (age 21 and older)? (“Recreational Use” means the use of marijuana for personal enjoyment)”[Yes or No]
2. “Should the Omaha Tribe of Nebraska allow the medicinal use of Marijuana? (“Medicinal Use” means the use of marijuana to alleviate the symptoms associated with approved medical conditions) [Yes or No]
3. “Should the Omaha Tribe of Nebraska allow the growth of Industrial Hemp? (“ Industrial Hemp” means the plant Cannabis Sativa L, with a very low THC concentration that is commonly used in products such as rope, clothing, textiles, food or paper and is not used for recreational purposes)” [Yes or No].

ARE THE RESULTS OF THIS REFERENDUM BINDING ON THE TRIBAL COUNCIL?

No. This referendum is strictly advisory and non-binding in nature. The Tribal Council is not bound by the results of the referendum.

WHY IS THE TRIBE CONSIDERING ALLOWING THE USE OF MARIJUANA ON THE RESERVATION?

The Department of Justice has issued guidance on legalized marijuana on Indian Reservations. The memo does not change federal law, however, it gives guidance to U.S. Attorneys to not place a priority on prosecuting marijuana offenses in jurisdictions that have legalized marijuana and that regulate the sale and possession of marijuana in accordance with federal guidelines. The Tribe will maintain an open dialogue with the federal government and would regulate marijuana on the Reservation in conformance with the federal government guidance. The answers to the questions below reflect the type of regulation the Tribal Council would consider imposing on legalized marijuana in an effort to conform to such guidelines. (Specific rules and regulations regarding legalization of marijuana and or hemp would be created through Tribal Ordinance). The answers to the questions below presume Tribal approval of at least one of the referendum questions.

WHAT ARE THE FEDERAL GUIDELINES?

The Department of Justice has stated its focus will be on enforcing federal laws regarding marijuana if the Tribe's regulations and enforcement do not prevent the following:

1. Participation of drug cartels or other criminal persons or enterprises in the sale of, or receipt of revenues from marijuana.
2. Distribution of marijuana to minors.
3. Diversion of marijuana off the Omaha Reservation into jurisdictions where it is illegal.
4. Use of the legal sale of marijuana pursuant to Tribal law to become a pretext or cover for the sale or trafficking in other illegal drugs or other illegal activities.
5. Violence and the use of firearms in the cultivation and sale of marijuana.
6. Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.
7. Growth and possession of marijuana on federal lands and federal property.

ARE THE MANUFACTURE, SALE AND POSSESSION OF MARIJUANA AND/OR HEMP ILLEGAL UNDER FEDERAL LAW?

Yes. Passage of a Tribal referendum and further acts by the Tribal Council to legalize marijuana and/or hemp on the Reservation will not affect federal law.

IF THE REFERENDUM PASSES WILL MARIJUANA AND/OR HEMP IMMEDIATELY BECOME LEGAL TO USE ON THE RESERVATION?

No. This is an advisory referendum. The Tribal Council would still need to amend the current Tribal Controlled Substance Ordinance in order to legalize either medical or recreational marijuana and/or the growth of hemp on the Reservation. The Tribal Council would also need to create an ordinance regulating the use of marijuana and/or hemp in order to conform to the United States Department of Justice guidelines referenced above. The answers to the questions below presume Tribal approval of at least one of the referendum questions, and passage of the type of Tribal regulatory ordinance intended to conform to the Department of Justice guidelines.

DOES THIS MEAN TRIBAL MEMBERS CAN GROW MARIJUANA AND/OR HEMP FOR PERSONAL USE?

No. Tribal members cannot grow marijuana and/or hemp. Only a licensed marijuana or hemp business would be able to legally grow marijuana or hemp.

WHO WOULD BE ABLE TO LEGALLY PURCHASE AND POSSESS MARIJUANA PURSUANT TO OMAHA TRIBAL LAW?

If the Tribe authorizes recreational use, any person over the age of 21, who has obtained a Marijuana Purchase Permit from the Tribe. If the Tribe authorizes medicinal use any person who has received a written recommendation or prescription from a medical provider, for use of marijuana for an approved medical condition. Any possession of marijuana outside of these requirements would be illegal and be subject to criminal penalties.

WHO WOULD BE ABLE TO GROW HEMP PURSUANT TO OMAHA TRIBAL LAW?

If the Tribe authorizes the growth of hemp, any person who has obtained a hemp growth permit from the Tribe.

WILL THE TRIBE OR A TRIBALLY OWNED BUSINESS CULTIVATE, GROW, MANUFACTURE, SELL OR DISTRIBUTE MARIJUANA?

No. The current intent is that the Tribe will regulate and tax marijuana, but the cultivation, growth, manufacture, and sale or distribution of marijuana will be done by a private business that has been licensed by the Tribe.

WHO WILL BE ABLE TO LEGALLY CULTIVATE, GROW, MANUFACTURE, SELL AND DISTRIBUTE MARIJUANA?

The Tribe will develop a law under which only a marijuana business licensed by the Tribe may cultivate, grow, manufacture, sell and distribute marijuana. Any cultivation, growing, manufacturing, selling or distributing marijuana by any person other than a

licensed marijuana business will be illegal and subject to criminal penalties.

WILL THE TRIBE OR A TRIBALLY OWNED BUSINESS CULTIVATE, GROW, MANUFACTURE, SELL OR DISTRIBUTE HEMP?

The Tribe will develop a law under which only a hemp business licensed by the Tribe may cultivate, grow, manufacture, sell and distribute hemp. Any cultivation, growing, manufacturing, selling or distributing hemp by any person other than a licensed hemp business will be illegal and subject to criminal penalties.

WHERE WOULD I BE ABLE TO PURCHASE MARIJUANA?

You will only be allowed to purchase marijuana from a facility licensed by the Tribe and operated by a tribally licensed marijuana business.

HOW MUCH MARIJUANA WILL I BE ABLE TO PURCHASE?

The Tribal law would set a limit on the amount of marijuana able to be purchased. The amount would be small, perhaps as little as 1.0 gram per day. Possession of any amount greater than allowed by law would be illegal.

HOW MUCH IS 1.0 GRAMS OF MARIJUANA?

1.0 grams of marijuana is 0.03527396 ounces. This would equate to approximately 1-2 marijuana cigarettes.

CAN I USE MARIJUANA IN PUBLIC?

No. Marijuana must be used on the premises of a business that specifically allows for such use.

IF MARIJUANA IS LEGALIZED, WILL THE TRIBE BE IN VIOLATION OF THE DRUG FREE WORKPLACE ACT?

No. The Tribe, as a federal contractor, is subject to the requirements of the Drug Free Workplace Act. That Act requires the Tribe to prohibit the manufacture, sale, use and possession of marijuana in the workplace. This remains illegal under current tribal law and policy and the Tribe will still have to meet all of the requirements set forth in the Drug Free Workplace act even if marijuana is legalized.

CAN I STILL BE DRUG TESTED AT WORK IF MARIJUANA IS LEGAL?

Yes. Legalizing marijuana has no effect on employer drug testing or drug free workplace policies.

CAN I BE FIRED FROM MY JOB IF I TEST POSITIVE FOR MARIJUANA?

Yes. Legalization of marijuana will not change employer drug testing or drug free workplace policies, or the penalties for violation of those policies.

CAN I BE EVICTED FROM A RENTAL UNIT OR HAVE MY APPLICATION FOR HOUSING DENIED FOR POSSESSION OR USE OF MARIJUANA?

Yes. Legalization of marijuana will have no effect on the terms of a lease or policy of a landlord or public housing entity in regard to housing rentals. It will still be permissible for a landlord to prohibit possession, use, growth, sale or distribution of marijuana in a rental unit.

IF MARIJUANA IS LEGALIZED WILL IT BE LEGAL FOR ME TO DRIVE UNDER THE INFLUENCE OF MARIJUANA?

No. Absent a change in the Tribe's motor vehicle code, driving under the influence of marijuana, or with any THC in your system will remain illegal.

WILL THE FEDERAL GOVERNMENT STILL BE ABLE TO PROSECUTE ME FOR POSSESSION OF MARIJUANA?

Yes. However, local law enforcement and not the federal government usually handle low-level possession of marijuana.

CAN THE FEDERAL GOVERNMENT CONFISCATE MY ASSETS?

Yes. However, local law enforcement and not the federal government usually handle low-level possession of marijuana.

IS THE MANUFACTURE, SALE OR POSSESSION OF MARIJUANA ILLEGAL UNDER THE LAWS OF THE STATE OF NEBRASKA?

Yes. However, state criminal laws do not apply to Natives on the Omaha Indian Reservation. State criminal laws do, however, apply to Natives for activities occurring outside the borders of the Omaha Indian Reservation and on public roads on the Omaha Indian Reservation. State criminal laws may apply to non-Natives on the Omaha Indian Reservation. State criminal laws will also apply to non-Natives for activities occurring outside the borders of the Omaha Indian Reservation.

WILL THE TRIBE TAX THE SALE OF MARIJUANA?

Yes. The Tribe will impose a tax on the sale price of marijuana for the purpose of offsetting the cost of regulation and raising revenue for the Tribe.

HOW MUCH TAX REVENUE WILL THIS GENERATE FOR THE TRIBE?

It is not presently possible to accurately gauge the total amount of revenue that may be generated.

WHAT STATES HAVE LEGALIZED RECREATIONAL ADULT USE MARIJUANA?

Colorado, Washington, District of Columbia, Alaska and Oregon.

WHAT STATES HAVE LEGALIZED MEDICINAL USE OF MARIJUANA?

Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington.

WHAT STATES HAVE NOT LEGALIZED USE OF MARIJUANA OF ANY KIND?

Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

HAVE ANY OTHER NEBRASKA TRIBES LEGALIZED MARIJUANA?

No.

HAVE ANY OTHER TRIBES HELD REFERENDUMS TO LEGALIZE MARIJUANA?

Yes. For example, the Flandreau Santee Sioux Tribe intends to allow for the use of recreational and medical marijuana on tribal lands commencing in January 2016. The Menominee Tribe of Wisconsin approved an advisory referendum allowing for the use of recreational and medicinal marijuana. The Pinoleville, Pit River XL Rancheria and Alturas Tribes of California have medical marijuana growth operations. Several Washington Tribes are planning referendums or operations, including Colville, Suquamish, Squaxin Island and Tulalip.

WHAT ARE THE DIFFERENCES BETWEEN HEMP AND MARIJUANA?

Hemp and marijuana are like a sweet potato and a baking potato, or a Beagle and a Poodle. Hemp and marijuana are both part of the cannabis plant family but are VERY different.

CAN I GET “HIGH” FROM INGESTING HEMP BY SMOKING OR OTHERWISE CONSUMING IT?

No. Hemp contains very low THC and will not cause a psychoactive effect.

WHAT EXACTLY IS “INDUSTRIAL” HEMP?

Industrial hemp is the non-psychoactive, low-THC, oilseed and fiber varieties of the Cannabis sativa plant. Hemp has absolutely no use as a recreational drug.

WHERE IN THE WORLD IS HEMP GROWN?

Hemp is grown in Australia, Austria, Canada, Chile, China, Denmark, Egypt, Finland, France, Germany, Great Britain, Hungary, India, Italy, Japan, Korea, Netherlands, New Zealand, Poland, Portugal, Romania, Russia, Slovenia, Spain, Sweden, Switzerland, Thailand, Turkey, and Ukraine.

HAVE ANY STATES MADE HEMP LEGAL TO GROW?

Yes. California, Colorado, Indiana, Kentucky, Maine, Montana, North Dakota, Oregon, Utah, Vermont, Washington, and West Virginia. According to the [2014 Farm Bill](#) the growing of Hemp for pilot programs or for research is now allowed in those states listed above where growing Hemp is now legal.

IS HEMP LEGAL TO GROW ACCORDING TO UNITED STATES FEDERAL LAW?

No. Hemp products, however, are legal to possess. For example, no one can arrest you for wearing a hemp shirt, or using hemp paper.

WHY WAS GROWING HEMP MADE ILLEGAL?

According to the National Hemp Association, newspaper publisher William Randolph Hearst led the crusade to ban hemp. Hearst owned millions of acres of prime timberland and a machine that simplified the process of making paper from hemp had just been invented. Hearst used his power as a publisher to create public panic about the evils of hemp and marijuana. Another big money player, Pierre DuPont, held patent rights to the sulfuric acid wood pulp paper process. In 1937 DuPont patented nylon rope made from synthetic petrochemicals. Along with DuPont backer Treasury Secretary Andrew Mellon, the big money people prevailed and near the end of 1937 Congress passed the Marijuana Tax Act. By placing a prohibitively high tax on hemp production and spreading the false information that it is no different than marijuana, it destroyed the industry.

WHAT WOULD WE DO WITH HEMP?

Hemp has an incredible variety of uses. It can be used as a food. Hemp seed is a highly nutritious source of protein and essential fatty oils. While classification as a Schedule I drug meant hemp could no longer be grown in the U.S., products containing hemp, such as lotions, fabric and food, are legal for purchase in the U.S. and are often found at natural and health food retailers including Whole Foods, Costco and Sprouts grocers. Hemp can be used for cloth, paper, rope, bio-fuel and construction material.