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From Documented Problems to Practical Solutions

WHY THIS DOCUMENT EXISTS

The Tennessee Freedom & Fact Coalition's Rule of Law Initiative began as an effort to understand how controlled-substance scheduling operates in Tennessee.

Our research examined Tennessee law, Public Chapter 789, public records, administrative procedures, federal scheduling law, and the relationship between scientific review and final government action.

The historical background and supporting evidence are covered in separate materials. This document focuses only on the problems identified by that research and the practical solutions we propose.

This is not a request to eliminate regulation. It is a proposal to make regulation more scientific, transparent, timely, and accountable.

THE PROBLEM IN PLAIN LANGUAGE

Controlled-substance laws require scientific and medical evidence to be considered.

However, scientific review does not always control the final legal outcome.

Administrative officials, enforcement agencies, and lawmakers may still delay action, reject scientific recommendations, add new conditions, or require another government body to act first.

While that process continues, the existing classification and criminal penalties remain in place.

The result is a system in which scientific evidence may be reviewed without producing a timely legal correction.

PUBLIC CHAPTER 789 CREATES AN IMMEDIATE TENNESSEE PROBLEM

Public Chapter 789 created a special process for marijuana.

If marijuana is rescheduled or removed under federal law, Tennessee's commissioner cannot make the same state change unless the General Assembly first:

**establishes a marijuana regulatory framework; and
separately authorizes the commissioner to act.**

The law does not create that framework itself.

It does not clearly define everything the framework must contain.

It does not establish a firm deadline for lawmakers to act.

It does not guarantee that Tennessee will ever follow a future federal scheduling change.

In plain language, federal law and the scientific classification could change while Tennessee's existing marijuana classification and criminal penalties remain in place.

AN ADDITIONAL CONDITION HAS BEEN RAISED OUTSIDE THE SCHEDULING LAW

In verified public Facebook replies, Senator Adam Lowe stated that there is no affordable marijuana impairment test comparable to an alcohol breathalyzer and concluded:

“No street test = no legalization.”

Impaired driving and workplace safety are legitimate public concerns.

However, Tennessee’s scientific scheduling factors do not require a marijuana breathalyzer or street test before marijuana can be rescheduled.

Public Chapter 789 does not expressly require such a test either.

Cannabis and alcohol also behave differently in the body. A THC number does not measure present impairment as reliably as blood-alcohol concentration.

Tennessee already investigates drug-impaired driving through officer observations, field sobriety procedures, toxicology, specialized training, and Drug Recognition Experts.

The issue is not whether impaired driving matters.

The issue is whether a test that is not required by the scheduling law—and may not be scientifically possible in an alcohol-equivalent form—should be used to block action based on the scientific evidence that already exists.

THREE DIFFERENT GOVERNMENT FUNCTIONS ARE BEING MIXED TOGETHER

There are three separate questions:

Scientific classification:

What does the evidence show about the substance's medical use, risks, dependence potential, public-health effects, and proper schedule?

Public policy and regulation:

What age limits, licensing rules, taxes, possession limits, product standards, packaging requirements, and market controls should apply?

Public-safety enforcement:

How should impaired driving, unsafe workplace conduct, illegal sales, and dangerous behavior be investigated and punished?

These are related questions, but they are not the same question.

When they are mixed together, concerns about future legalization or enforcement can be used to prevent correction of the scientific classification itself.

An official may effectively say that the classification cannot change until a separate regulatory or enforcement issue is solved.

That allows a condition outside the scientific scheduling criteria to override or indefinitely delay the review required by law.

DELAY CAUSES REAL HARM

Delay is not neutral.

While government reviews, debates, redirects responsibility, adds new requirements, or waits for another institution to act, the existing law remains in force.

Citizens may continue to face:

arrest and prosecution;

criminal records;

court costs and legal fees;

probation or supervision;

employment and professional-license barriers;

housing and education consequences;

family disruption;

lost income; and

exclusion from a regulated legal market.

Taxpayers may continue paying for:

police enforcement;

prosecution and public defense;

courts and incarceration;

probation and supervision;

laboratory testing;

administrative reviews; and

repeated hearings and litigation.

When delay preserves penalties and public spending, failure to decide can operate like a decision—without the transparency of a written decision.

THE BACK-END TENNESSEE PROCESS IS DIFFICULT TO TRACE

Tennessee law identifies scheduling authority and scientific factors.

However, our research has not located one clear, publicly available process that answers every basic operational question.

Questions remain about:

who begins a Tennessee-only scheduling review when no federal action has occurred;

whether a citizen can formally petition for review;

where scientific or commission recommendations must be sent;

who is required to respond;

what deadlines apply;

where findings and final decisions are published; and

what remedy exists if no agency or official acts.

Public-record requests were submitted to multiple Tennessee entities.

Some offices reported that they did not possess the requested records or redirected the requests elsewhere.

That does not prove that no records exist.

It does show that the records produced so far have not revealed a complete, easily traceable path from scientific review to final action.

A process cannot be meaningfully monitored when citizens cannot clearly identify who starts it, where the records are kept, what deadline applies, or what happens when government does not act.

OUR PROPOSED SOLUTIONS

1. IMMEDIATE DECRIMINALIZATION

Tennessee should immediately stop imposing criminal penalties for responsible adult possession while a complete adult-use regulatory framework is developed.

Decriminalization would stop the most immediate harm caused by arrest, prosecution, and criminal records.

2. RESPONSIBLE ADULT-USE LEGALIZATION

Medical access should remain available, but it should not be the only lawful path.

Adults should not have to obtain a diagnosis, physician approval, or health-insurance access simply to avoid criminal punishment for cannabis use.

A responsible adult-use framework can include:

age limits;
licensing;
possession limits;
product testing;
labeling and packaging;
taxation;
consumer protections;
impaired-driving enforcement; and
penalties for unsafe or unlawful conduct.

Decriminalization stops the immediate criminal harm. Legalization creates the regulated system that replaces prohibition.

3. CORRECT PUBLIC CHAPTER 789

Public Chapter 789 should be amended or repealed so that scientific classification cannot be blocked indefinitely while lawmakers create a separate commercial framework.

At minimum, the law should:

clearly define “regulatory framework”;

state exactly what legislative authorization is required;

establish a firm deadline after a federal scheduling change;

explain what happens if lawmakers do not act;

make government inaction reviewable; and

prevent silence or delay from preserving criminal penalties indefinitely.

Scientific classification and commercial regulation should not be treated as the same decision.

4. SEPARATE SCIENCE, LAWMAKING, AND ENFORCEMENT

Each part of government should have a clear role.

Scientific experts should determine what the scientific evidence supports.

Lawmakers should establish the lawful regulatory framework.

Law-enforcement agencies should enforce the law after those decisions are made.

Enforcement agencies may provide important information about public safety, trafficking, diversion, and impaired driving.

However, an enforcement agency should not have unilateral control over scientific classification.

No single institution should control the scientific finding, the regulatory policy, and enforcement of the resulting law.

5. CREATE INDEPENDENT SCIENTIFIC REVIEW

Scientific review should be protected from political, administrative, and enforcement pressure.

A stronger system could include:

two independent scientific panels; or

one scientific panel with formal outside peer review.

The review should include qualified experts in areas such as:

medicine;

pharmacology;

toxicology;

public health;

dependence and addiction;

mental health;

pain treatment; and

epidemiology.

The evidence reviewed, methods used, findings reached, dissenting opinions, and conflicts of interest should be published.

If an official rejects the scientific recommendation, that official should be required to provide a written explanation identifying:

the legal authority for the departure;

the evidence relied upon;

the specific reason for the decision;

how long the decision will remain in effect; and

when the issue must be reviewed again.

6. CREATE A REAL CITIZEN PETITION PROCESS

Tennessee law should clearly explain:

where a petition is filed;
which office must accept it;
what evidence must be submitted;
when government must acknowledge receipt;
when scientific review must begin;
when a hearing must occur;
when findings must be issued;
when a final decision is required; and
how that decision can be appealed.

A petition right is meaningful only when government must receive it, review it, answer it, and complete the process within a defined period.

Government silence should not be allowed to end the process or preserve a criminal classification forever.

7. REQUIRE FIRM DEADLINES

The law should establish enforceable deadlines for:

acknowledging a petition;
beginning scientific review;
publishing findings;
holding hearings;
issuing an administrative response;
making a final decision; and
completing an appeal.

Any extension should be written, limited, and publicly explained.

The full record should be published in one searchable location.

Annual reports should identify:

pending petitions;
completed reviews;
missed deadlines;
reasons for delay; and
decisions that departed from scientific recommendations.

8. USE CANNABIS-SPECIFIC PUBLIC-SAFETY RULES

Cannabis should be regulated according to cannabis science.

It should not be required to behave like alcohol before government will act.

Tennessee can protect public safety through:

driving-behavior evidence;
officer observations;
standardized field sobriety procedures;
toxicology;
Drug Recognition Experts;
age restrictions;
product testing;
labeling;
packaging;
education; and
penalties for dangerous conduct.

Research into improved impairment testing should continue.

However, the future development of a particular device should not be used as a prerequisite to correcting scientific classification today.

Different substances require different scientific tools.

Equal treatment does not require identical testing. It requires rational, evidence-based standards that fit the substance being regulated.

OUR GUIDING PRINCIPLE

Science should determine scientific classification.

Lawmakers should regulate lawful activity.

Enforcement agencies should enforce the resulting law.

Citizens should have meaningful petition rights.

Government decisions should be documented and publicly accessible.

Every stage of review should have a firm deadline.

Administrative or legislative delay should not preserve criminal
penalties indefinitely.

TNFFC POSITION STATEMENT

The Tennessee Freedom & Fact Coalition believes that Tennessee can protect public safety while also protecting individual liberty, scientific integrity, government transparency, and the rule of law.

We are not asking government to stop regulating cannabis.

We are asking government to regulate it through a process that is transparent, timely, evidence-based, and accountable to the people.

This framework is a starting point.

It is intended to support continued research, public discussion, expert review, legislative drafting, and the development of a stronger system for the future.

We believe Tennesseans can be protected through government transparency, accountability, and citizens working together to hold leaders accountable and ensure they are upholding laws as written, not as preferred.

Tennessee can do away with outdated rhetoric and ideologies that harm public perception of who we are as a people by keeping our officials in line with how they govern **WE THE PEOPLE!**

We can preserve our values, protect our Constitution, and protect our beautiful and great state by ensuring ALL public representatives

STAND ON THE RULE OF LAW!