

THE STATE OF MARIJUANA



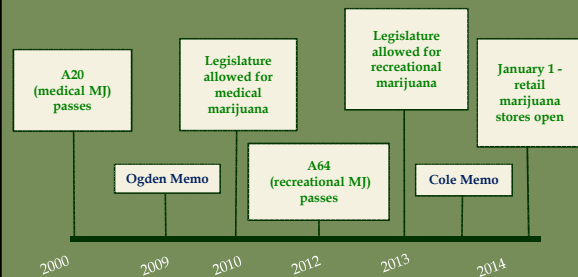
Matthew Durkin
Deputy Attorney General
Colorado Attorney General's Office



HISTORY OF MARIJUANA

- 2000: Amendment 20 - Medical Marijuana
- 2010: Colorado Legislative Session
 - HB 10-1284: Created Medical Marijuana Industry
 - SB 10-109: Regulation of Physicians
- 2011: Colorado Legislative Session
 - HB 11-1043: Medical Marijuana
- 2012: Amendment 64: Retail Marijuana
 - HB 13-1061: Responsible Vendor Stds. - Dept. of Rev.
 - HB 13-1317: A64 Working Group Maj. Recs.
 - HB 13-1318: Retail Marijuana Taxes
 - SB 13-241: Industrial Hemp
 - SB 13-250: Revised criminal code for drugs
 - SB 13-283: A64 Working Group Consensus - CCJJ Reconciliation

How did we arrive here?



Constitutional Amendments

Amendment 20	Amendment 64
<ul style="list-style-type: none"> • Debilitating medical condition • Affirmative defense or exemption • Caregivers • Plant count • A person < 21 can legally obtain medical marijuana 	<ul style="list-style-type: none"> • Anyone ≥ 21 can . . . • Can possess up to 1 oz. of marijuana • Paraphernalia is legal • Can grow, process and keep the yield of 6 plants • Can assist others with growing • Legal to transfer 1oz or less without remuneration • And . . .

John Hickenlooper, Colorado Governor, Discourages Other States From Legalizing Pot

Colorado Gov. John Hickenlooper has a word of warning for states considering marijuana legalization.

"I urge caution," Hickenlooper said at the National Governors Association meeting in Washington, D.C., on Friday. Saying that pot "doesn't make people smarter, doesn't make people healthier," Hickenlooper added that state governments "don't know what the unintended consequences are going to be" if they legalize the drug.

"I don't think governors should be (in) the position of promoting things that are inherently not good for people," he said, noting that Colorado has implemented a robust regulatory system for marijuana, which the state recently legalized for recreational use. Hickenlooper, a Democrat, has been a vocal opponent of pot legalization from the start, going so far as to say that he "hates" his state's legal weed "experiment." (He did say on Friday, however, that he thinks the drug war has been a "disaster.")

In Colorado, tax revenue from recreational pot lower than expected



placing special excise and sales taxes on recreational marijuana. The **fiscal analysis** appended to the ballot measure predicted the state would rake in about \$33 million in taxes in the first six months of 2014.

But according to the Department of Revenue study, the state brought in about \$12 million in tax revenue from recreational pot sales through June.

Moreover, it notes that recreational marijuana is not pulling users out of the medicinal marijuana market. recreational marijuana sales were being derived from tourists traveling to the state. Moreover, it notes that recreational marijuana is not pulling users out of the medicinal marijuana market.

State of Colorado Marijuana Taxes, Licenses, and Fees Transfers and Distribution

Line	TAXES	Year-to-Date	Year-to-Date	Change	
		FY2014-15	FY2013-14	\$	%
1	Sale Tax Transfer to Marijuana Cash Fund (2.9% rate) (2+3)	\$ 18,545,895	\$ -	\$ 18,545,895	N/A
2	Medical Marijuana	5,214,809	5,214,809		N/A
3	Retail Marijuana	5,130,786	5,130,786		N/A
4	Retail Marijuana Sales Tax (10% rate) (3+4+7)	\$ 17,889,213	\$ -	\$ 17,889,213	N/A
5	Local Government Overhead (1% of Total)	2,655,887	2,655,887		N/A
6	Marijuana Cash Fund Transfer (87% of Total)	15,027,449	15,027,449		N/A
7	Collection Not Yet Allocated*	189,877	189,877		N/A
8	Retail Marijuana Excise Tax (20% rate) (9+10+11)	\$ 8,380,438	\$ -	\$ 8,380,438	N/A
9	Public School Capital Construction Assistance Fund Transfer	8,137,481	8,137,481		N/A
10	Marijuana Cash Fund Transfer	-	-		N/A
11	Collection Not Yet Allocated*	22,749	22,749		N/A
12	Total Marijuana Tax Transfers and Distribution (1+4+6)	\$ 56,878,239	\$ -	\$ 56,878,239	N/A
LICENSES AND FEES					
13	Licenses and Application Fees Transfer to Marijuana Cash Fund (14+15)	\$ 7,436,761	\$ 4,694,761	\$ 2,741,940	36.4%
14	Medical Marijuana	4,382,711	2,990,761	1,371,950	31.2%
15	Retail Marijuana	2,673,090	1,704,000	969,090	56.9%
TAXES, LICENSES, AND FEES TOTALS					
16	Total Marijuana Cash Fund Transfers (1+4+10+11)	\$ 32,809,748	\$ 4,694,761	\$ 28,114,987	88.9%
17	Total All Marijuana Taxes, Licenses, and Fees (12+13)	\$ 44,611,948	\$ 4,694,761	\$ 39,917,179	87.5%

* Indicates those receipts that have passed to the accounting system but have not yet been reconciled to the relevant sales/excise tax return. These receipts may affect the precision of the calculations to transfer or distribute the sales/excise taxes to their proper disposition.
Source: Colorado Department of Revenue

NO OVER TAXATION, a Registered Colorado Issue Committee,
LARISSA BOLIVAR, an individual,
MIGUEL LOPEZ, an individual,
WILLIAM CHENGELIS, an individual,
KATHLEEN CHIPPEL, an individual,
JOHN DOE, a pseudonym for an individual,
JANE ROE ENTERPRISES, a pseudonym for a Colorado entity,
Plaintiffs,
vs.
JOHN HICKENLOOPER, in his Official Capacity as Governor of Colorado,
STATE OF COLORADO DEPARTMENT OF REVENUE,
MICHAEL HANCOCK, in his Official Capacity as Mayor of Denver, Colorado,
DENVER TREASURY DIVISION,
Defendants.

COURT USE ONLY

Case No. 14CV____

Courtroom: _____

Attorneys for Plaintiffs:
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COMPLAINT AND APPLICATION FOR INJUNCTIVE AND DECLARATORY RELIEF, REFUND OF ILLEGALLY COLLECTED TAXES AND DAMAGES, AND REQUEST FOR TRIAL BY JURY

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter pursuant to C.R.C.P. 106(a)(2); 106(a)(4); C.R.C.P. 65; Colorado Declaratory Judgment Act, C.R.S. § 13-51-101 et seq., and C.R.C.P. 57.

13. Pursuant to C.R.C.P. 98, venue is proper in this Court because most of the Plaintiffs and Defendants reside in the City and County of Denver, and the principal decisions and actions taken by the Defendants occurred or will occur in the City and County of Denver.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

14. God made marijuana and gave it to mankind. See Genesis 1:29. The marijuana plant, scientifically classified as *cannabis sativa L.*, is a seed-bearing plant. *Cannabis sativa L.* has been consumed by human beings for thousands of years for many purposes, including medicinal, recreational, spiritual,

POINT-COUNTERPOINT

Are recreational pot's low tax numbers worrisome? Yes

Educate our kids now about ill effects of pot use

By Rachel O'Byran

POSTED: 8/30/2014 12:52:48 PM MDT
UPDATED: 8/30/2014 12:25:20 PM MDT

Colorado voters passed Amendment 64 with many expectations, including that \$40 million would be raised annually for public school construction under the Building Excellent Schools Today (BEST) program.



Earlier this month, we learned that only \$195,318 was collected in excise taxes during the first month of recreational marijuana sales, for a projected annualized collection of \$2.34 million. (The sales taxes collected during the same time on recreational pot totaled \$1.4 million, plus another \$416,690 from the state's standard 2.9 percent sales tax.)

POINT-COUNTERPOINT

Are recreational pot's low tax numbers worrisome? No

Legalization was still the right thing to do in Colo.

By Jeffrey Miron

POSTED: 8/31/2014 12:52:38 PM MDT
UPDATED: 8/31/2014 12:25:57 PM MDT

7 COMMENTS

increased tax revenue was never the main reason for legalizing marijuana.

its first data on the tax, fee and license revenue from legalized marijuana sales in the state. For January, the figure is \$3.5 million when you combine revenue from medical (\$1.5 million) and

But the most important benefit is that legalization enhances the welfare of those who use marijuana, or would like to do so. When pot criminalization is in place, users often fear a

white paper published by the Cato Institute, I predicted that if the federal government and all states legalized, Colorado would collect

RELATED STORIES

The worst impact of prohibition is the increased violence and corruption generated by black markets. In legal markets, consumers and firms resolve their disputes with law enforcement, generate \$134 million for the fiscal year starting in July.

spending pot taxes

Home Sections Weather Traffic

Before shooting his wife, Denver Police say suspect Richard Kirk allegedly ate pot candy

Police: Man bought pot products that evening

By: Alan Gathright, Phil Tenser

POSTED: Apr 17, 2014
UPDATED: 42 mins ago

Murder Investigation

Ate marijuana candy
Took prescription pain pills
Police waiting for blood test results

Richard Kirk

BREAKING NEWS

On the 911 recording, 47-year-old Richard Kirk can be heard in the background talking about taking marijuana "candy" that he had purchased from a recreational marijuana shop, the documents say.

Authorities say Kirk shot his wife in the head about 12 minutes into her call with 911, although 7NEWS has determined that it took Denver police at least 16 minutes to respond to the home at 2112 S. St. Paul St., near the University of Denver.

On Thursday, Denver Police Chief Robert White ordered an investigation into how police, dispatchers and 911 operators responded to what dispatchers initially described as a domestic violence call.

At one point in the call, Kristine Kirk told the 911 operator to "please hurry" and send officers because her husband was "totally hallucinating" and frightening their children, the document says.

Home Sections Weather Traffic

Police: Nathaniel Tallman killed after planning marijuana deal; blood found in suspect's van

Autopsy: Tallman died of gunshot wound

By: Anira Padilla

POSTED: Mar 17, 2014
UPDATED: 31 days ago

Police think Nate Tallman was killed during a drug deal. His body was found last week in Wyoming. Lance Hernandez

VIDEO BY 7NEWS

Home Sections Weather Traffic

International money laundering allegations in indictments of 4 men in case linked to marijuana raids

POSTED: 2:33 PM, Apr 28, 2014
UPDATED: 1 hour ago

10 MINUTES NOW STOP NEWS

NEW THIS MORNING

FOUR PEOPLE INDICTED IN MONEY LAUNDERING SCHEME
MONEY ASSOCIATED WITH GROWING & DISTRIBUTING MARIJUANA

Home Sections Weather Traffic

Wyoming college student plunges to death from Denver hotel balcony after eating marijuana cookie

Coroner: Marijuana intoxication factor in death

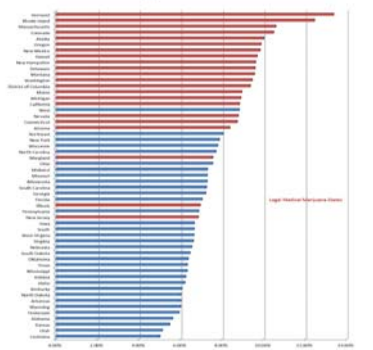
By: Alan Gathright, Lance Hernandez

POSTED: Apr 2, 2014
UPDATED: 11 days ago

CHILD ABUSE

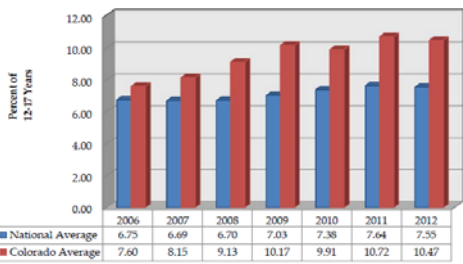


Past Month Usage by 12 to 17-Year-Olds in Medical Marijuana States, 2012



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, 2012

Youth (Ages 12 to 17 Years) Past Month Marijuana Use National vs. Colorado



SOURCE: Data from SAMHSA.gov, National Survey on Drug Use and Health 2013



Longmont toddler tests positive for THC; Mother says girl ate a pot cookie she found

BY: Jaclyn Allen
 POSTED: Jan 2, 2014
 UPDATED: 104 days ago



Concerns are being raised about a possible surge in kids injecting pot, now that marijuana is legal in Colorado. VIDEO BY KMGH
 Jaclyn Allen reports.

American Academy of Pediatrics
 DEDICATED TO THE HEALTH OF ALL CHILDREN®

The Impact of Marijuana Policies on Youth: Clinical, Research, and Legal Update

Seth Ammerman, MD, FAAP; Sheryl Ryan, MD, FAAP; William P. Adelman, MD, FAAP
 THE COMMITTEE ON SUBSTANCE ABUSE, THE COMMITTEE ON ADOLESCENCE

Largest pediatric medical group in the US takes firm stance against legalization. It joins the American Medical Association, American Psychiatric Association, American Medical Association, American Society of Addiction Medicine, and other major medical groups who have already voiced opposition to legalization.

WASHINGTON, DC - The American Academy of Pediatrics, an organization of 62,000 pediatricians committed to the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults, today came out firmly against marijuana legalization and wide-scale medical marijuana. The group also urged research into marijuana's medical components and the use of treatment instead of criminalization for users.

Table 1. Demographics of Patients Seen in the Children's Hospital Emergency Department for Ingestions^a

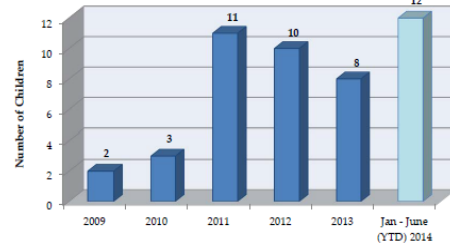
Characteristic	January 1, 2005, Through September 30, 2009	October 1, 2009, Through December 31, 2011
No. of patients	790	588
Age, median (IQR), y	2.6 (1.6-3.0)	2.3 (1.5-3.6)
Male sex	449 (56.8)	334 (56.8)
Types of ingestions		
Acetaminophen	90 (11.3)	48 (8.2)
Antihistamine	43 (5.4)	32 (5.4)
Antidepressant	23 (2.9)	14 (2.3)
Antitussive	18 (2.2)	14 (2.3)
Marijuana exposures	0	14 (2.3)

Abbreviation: IQR, interquartile range.

^a Values are given as number (percentage) unless otherwise noted.

Source: "Pediatric Marijuana Exposures in a Medical Marijuana State", George Sam Wang, MD; Genie Roosevelt, MD, MPH; Kenan Heard, MD

Marijuana Ingestion Among Children Under 12 Years-of-Age



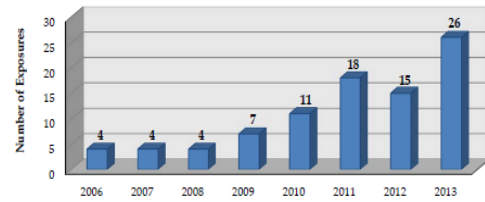
SOURCE: Dr. George Sam Wang, pediatric emergency physician, Children's Hospital Colorado, July 8, 2014

Table 2. Pediatric Patients With Marijuana Exposures

Case No./Sex/Age	Symptoms	Ancillary Tests	Disposition	Source of Marijuana
1/M/8 mo	Lethargy, rigidity	CMP, CBC, UA, Utox	Observation	Unknown
2/M/10 mo	Fussiness, somnolence	CMP, CBC, UA, amylase/lipase, Utox, CT head, c-spine x-rays, abdominal x-rays	Observation	POC medical marijuana
3/F/10 mo	Lethargy, hypoxic	CMP, CBC, UA, RSJ, Utox, CT head, CXR, W antibiotics	Admission	Unknown
4/M/1 y	Lethargy	BMP, CBC, Utox, CT head	Admission	POC with medical marijuana cigarette
5/M/2 y	Lethargy	UA, CMP, CBC, APAP/ASA levels, EKG, Utox, CT head, CXR	Admission	Babysitter with marijuana
6/M/2 y	Ataxia	CMP, CBC, UA, Utox, CT head, LP	Admission	Unknown
7/F/3 y	Lethargy	APAP/ASA levels, Utox, charcoal	Admission	FOC medical marijuana cookie
8/F/3 y	Lethargy	BMP, CBC, UA, Utox, CT head, CXR, LP	Admission	Family friend's medical marijuana cookie
9/M/3 y	Lethargy	BMP, CBC, APAP/ASA levels, val-proic acid levels, Utox, CTR, VBG	Admission to PICU	GFOC medical marijuana cookie
10/F/3 y	Lethargy	Utox	Observation	FOC medical marijuana candy
11/M/4 y	Lethargy	UA, BMP, CBC, APAP/ASA levels, EKG, Utox	Observation	GMOX medical marijuana cookie
12/M/5 y	Respiratory insufficiency	CMP, CBC, APAP/ASA levels, EKG, Utox, CT head, VBG	Admission to PICU	GFOC marijuana
13/F/7 y	Asymptomatic	Utox	Discharge	GFOC medical marijuana cookie
14/M/12 y	Dizziness	BMP, CBC, EKG, Utox, rapid strep test	Observation	Marijuana cake

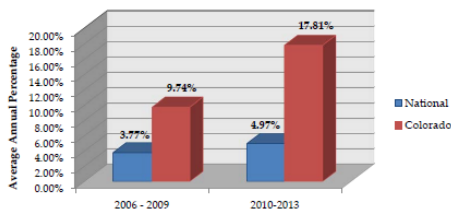
Source: "Pediatric Marijuana Exposures in a Medical Marijuana State", George Sam Wang, MD; Genie Roosevelt, MD, MPH; Kenan Heard, MD

Marijuana-Related Exposures Children Ages 0 to 5



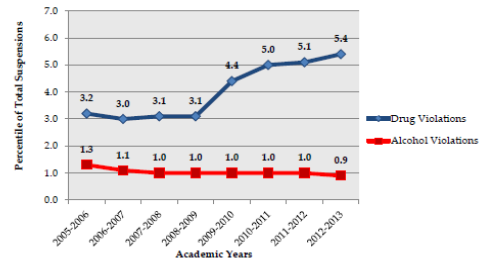
SOURCE: Rocky Mountain Poison Center

Average Percent of Children Ages 0 to 5 Years for Reported Marijuana Exposure Cases

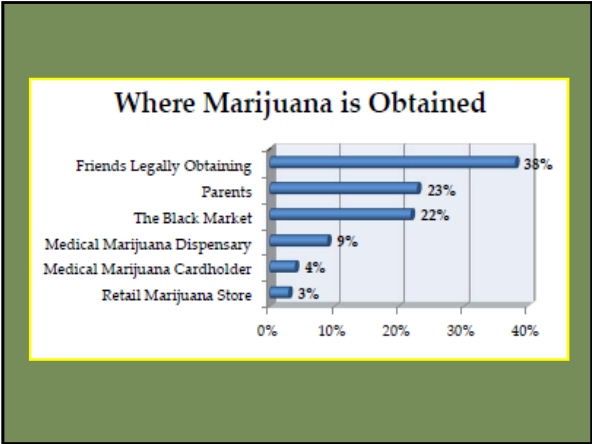


SOURCE: Rocky Mountain Poison Center and American Association of Poison Control Centers, Annual Reports

Percentage of Total Suspensions in Colorado, 2005 - 2013 School Years



SOURCE: Colorado Department of Education, Academic Years 2006-2013



Neighbors: Marijuana grow house smelling up Commerce City neighborhood

Neighbors complain to HOA

BY: *Jaclyn Alim*
POSTED: 3:36 PM, Jan 24, 2015

COMMERCE CITY, Colo. - People in a Commerce City neighborhood say the smell of marijuana coming from a grow house is so strong, at times, they can't go outside.

On Saturday, Trudy Moser went before her Homeowners Association in the Fronterra Village to ask whether it can issue fines for the nuisance smell coming from one house, five doors down the road.

"Last summer, as it started to warm up, it's like, "Gosh, what is that smell?" said Moser. "We couldn't sit out on our patio, because it just kind of ruins your drink or your dinner."

Other neighbors are also turning up their noses to the stink.

"You can close every window turn everything off, and you can still smell it inside," said Melissa, who did not want to use her last name.



Home Sections Weather Traffic

Hash oil production blamed for house explosion in Littleton Saturday night

2 children placed with other family members

BY: *Anita Padilla*
POSTED: 11:08 AM, Apr 17, 2014
UPDATED: 11 hours ago

LITTLETON, Colo. - An explosion at a home in Littleton was the result of hash oil production.

There were two adults, one man and one woman, as well as two children present during the explosion, according to Mark Techmeyer with the Jefferson County Sheriff's Office.

Hash oil blamed for explosion in Manitou Springs

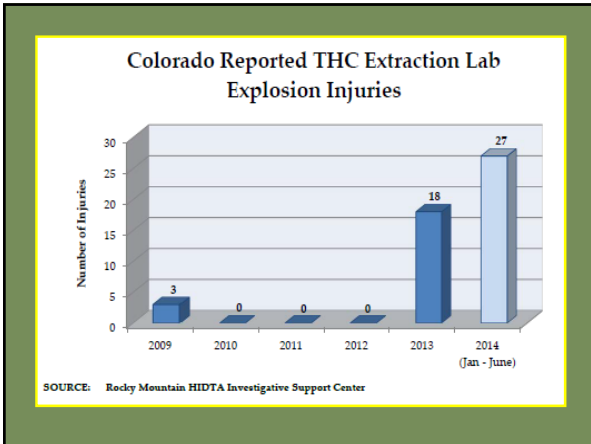
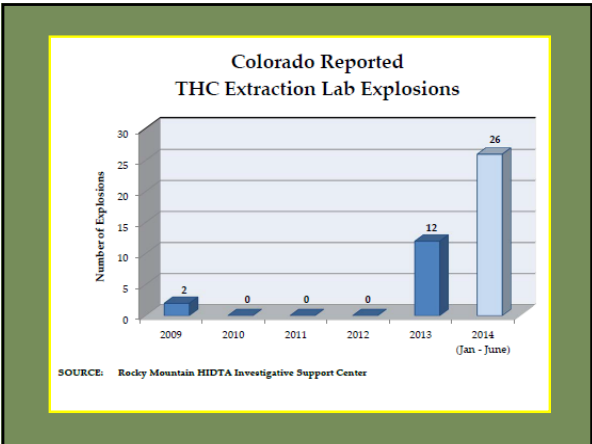
2 arrested following blast

POSTED: 11:07 AM, May 17, 2014

The Gazette reports (<http://bit.ly/ikbLmjU>) 23-year-old Audrey Horowitz and 18-year-old Michael Austin were arrested on suspicion of first-degree arson, reckless endangerment and child abuse after the explosion early Friday morning. Horowitz's 3-year-old daughter was in the apartment at the time.

No one was injured in the blast, which blew out the windows of the apartment.

Hash oil is typically made by packing the castoff leaves and stems of pot plants into a pipe and pouring highly flammable butane through it. The concoction is heated to make the potent oil for far cheaper than it can be bought in stores.



- ## HASH OIL EXTRACTION
- ☐ Child Abuse
 - §18-6-401(1)(a)
 - ☐ Hazardous Substance Incident, section 29-22-101
 - F4: Intentional
 - F5: Knowing, Reckless, Negligence
 - ☐ 2015 General Session



Fatalities Involving Operators Testing Positive for Marijuana

Crash Year	Total Statewide Fatalities	Fatalities with Operators Testing Positive for Cannabis	Percentage Total Fatalities (Cannabis)
2006	535	37	6.92%
2007	594	39	7.04%
2008	548	43	7.85%
2009	465	47	10.1%
2010	450	49	10.89%
2011	447	63	14.09%
2012	472	78	16.53%

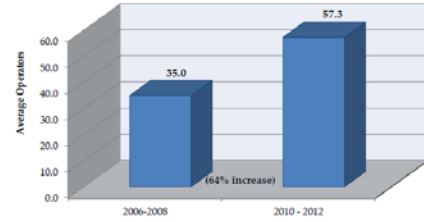
SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDTA 2012 (See NOTE on page 8)

Operators Involved in Fatalities Testing Positive for Marijuana

Crash Year	Total Operators Involved in Crashes	Operators in Fatal Crashes Testing Positive for Cannabis	Percentage of Total Operators Who Tested Positive for Cannabis
2006	795	32	4.03%
2007	866	34	3.93%
2008	782	39	4.99%
2009	718	46	6.41%
2010	652	45	6.9%
2011	648	57	8.81%
2012	732	70	9.56%

SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDTA 2012 (See NOTE on page 8)

Average Operators Testing Positive for Marijuana Pre- and Post-Medical Marijuana Commercialization Year (2009)



SOURCE: National Highway Transportation Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and RMHIDTA 2012 (See NOTE on page 8)

DUID HB 13-1325

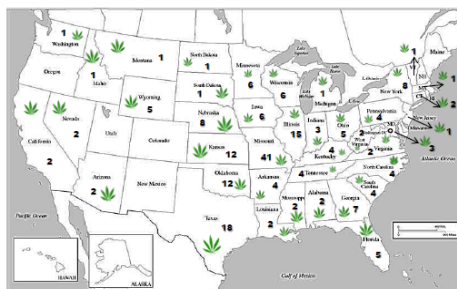
- ▣ "Permissible Inference" of impairment
- ▣ 5 nanograms or more
- ▣ DUI, DWAI, Vehicular Homicide, and Vehicular Assault

Difficulty in identifying impaired drivers



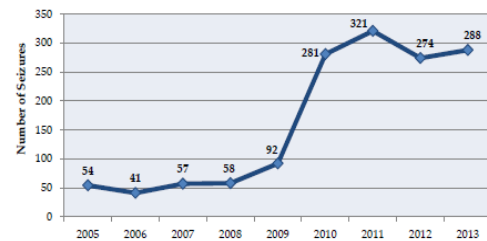
States to Which Colorado Marijuana Was Destined (2013)

(Total Reported Incidents Per State)

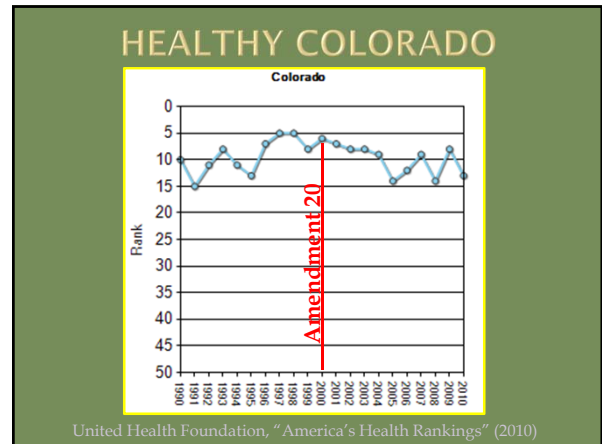
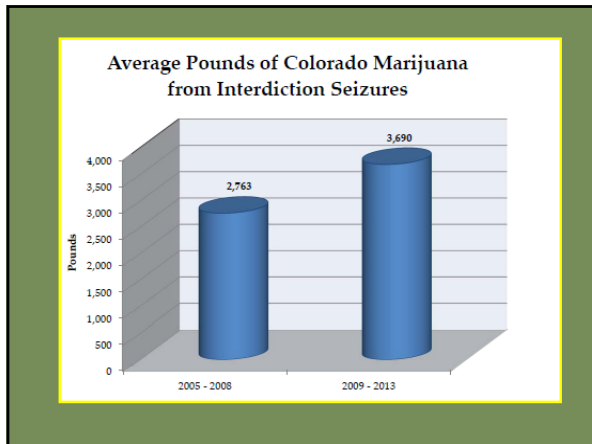


SOURCE: El Paso Intelligence Center (EPIC), National Seizure System

Colorado Marijuana Interdiction Seizures



SOURCE: El Paso Intelligence Center, National Seizure System



AMENDMENT 20 (2000)

Current Colorado and federal criminal law prohibits the possession, distribution, and use of marijuana. The proposal does not affect federal criminal laws, but amends the Colorado Constitution to legalize the medical use of marijuana for patients who have registered with the state ... **distribution of marijuana will still be illegal** in Colorado.

Quoted in *People v. Clendenin*, 232 P.3d 210 (Colo. App. 2009)

AMENDMENT 20 (2000)

EXCEPTION FROM CRIMINAL LAW

... For any patient or primary care-giver in lawful possession of a registry identification card to engage or assist in the medical use of marijuana...

*** Must be "in lawful possession of a registry identification card..."

Sec. 14, Paragraph(2)(b)

AMENDMENT 20 (2000)

AFFIRMATIVE DEFENSE

- 1) Diagnosis by a physician of a debilitating medical condition
- 2) Patient advised by his physician, in the context of a bona-fide patient/physician relationship, patient might benefit from med marijuana...
- 3) The patient and his care-giver were collectively in possession of marijuana only as permitted ...

Sec. 14, Paragraph(2)(a)(I)(II)(III)

AMENDMENT 20 (2000)

MEDICAL MARIJUANA

- No more than 2 oz. (56.7g) usable form
- Six plants (with three or less being mature, flowering, producing plants)
- Or... that such greater amounts were medically necessary

Sec. 14, Paragraph(4)(a)(I)(II)(b)

AMENDMENT 20 (2000) DEBILITATING MEDICAL CONDITION

- ☐ Cancer
- ☐ Glaucoma
- ☐ HIV/AIDS
- ☐ Disease which causes: Cachexia, severe pain, severe nausea, seizures, muscle spasms
- ☐ Any other medical condition...

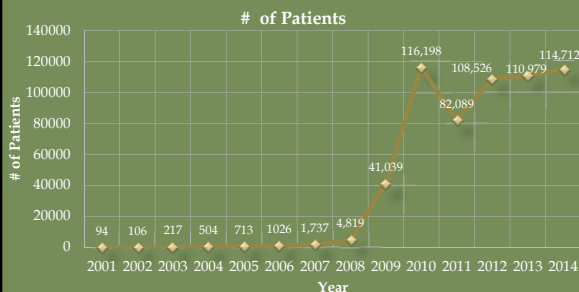
Sec. 14, Paragraph(1)(a)(I)(II)(III)

Reported Conditions*

Condition	# of Patients	% of Patients
Severe Pain	108,669	94%
Muscle Spasms	17,608	15%
Severe Nausea	11,508	10%
Cancer	3,830	3%
Seizures	2,624	2%
Cachexia	1,031	1%
Glaucoma	1,253	1%
HIV/AIDS	685	1%

*Does not add to 100% as some patients report more than one condition
November 2014 MMR Monthly Report
Source: CDPHE

Active Patients by Year



2010 - Significant increase due to passage of HB-1284 and SB 10-109
2011 - Data reflects application processing backlog
2012 - Elimination of backlog, steady incline continues
2014 - Retail MJ, patient numbers continue to increase
* 2014 - 11 months of data only, does not include patient data for December 2014

Selected Patient Characteristics

As of November 2014:

- 57% of patients reside in the Denver-metro area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson)
- 44% designated care-giver or a medical marijuana care center
- 455 patients are minors (under the age of 18)

Sex	Percent on Registry	Average Age**
Male	65%	41
Female	35%	44

Age Group	Number of Patients	Percent on Registry
0-10	262	<1%
11-20	3,734	3%
21-30	26,836	23%
31-40	24,935	21%
41-50	19,022	16%
51-60	21,908	19%
61-70	16,336	14%
71 and Older	3,183	3%

Source: CDPHE

AMENDMENT 20 (2000) PRIMARY CARE-GIVER

Means a person, other than the patient and the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition

Sec. 14, Paragraph(1)(d)

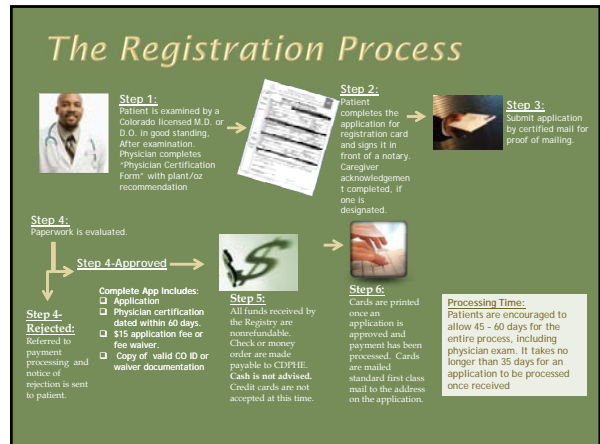
People v. Clendenin, 232 P.2d 210 (Colo. App. 2009)
(Cert. Denied, June 1, 2010)

FACTS

- ☐ Longmont PD receives tip of "come and go" traffic out of house
- ☐ Utility usage 4x normal
- ☐ Trash run - Three marijuana stalks
- ☐ Search warrant
- ☐ Two grow rooms with four kinds of marijuana because *she suffered from migraines*
- ☐ Guilty: Cultivation, Possession with Intent, Possession of MJ Concentrate, Possession of MJ

People v. Clendenin, 232 P.2d 210 (Colo. App. 2009)
(Cert. Denied. June 1, 2010)

We conclude that to qualify as a “primary care-giver” [under the Colorado Constitution] a person must do more to manage the well-being of a patient who has a debilitating medical condition than merely supply marijuana. *212



AMENDMENT 20 (2000)

LIABILITY

Any property interest that is possessed, owned, or used in connection with medical marijuana ... shall not be harmed, neglected, injured, or destroyed while in the possession of law enforcement ... marijuana and paraphernalia seized by law enforcement from a patient or primary caregiver ... shall be returned immediately upon ... a decision not to prosecute, the dismissal of charges, or acquittal.

Sec. 14, Paragraph(2)(e)



Plant Cultivation Designation

Who is designated to grow?	Number of Patients	Percentage of Patients
Self	57,614	51%
Caregiver	4,349	4%
Medical Marijuana Center	51,543	45%
TOTAL PATIENTS	113,506	100%

Data extracted 8/27/14

Increased Plant Counts

	Number	Percent of Total Cultivation
Total patients with increased plant count	26,661	N/A
•Increased count grown by patient	15,377	58%
•Increased count grown by caregiver	2,093	8%
•Increased count grown by MMC	9,191	34%
Physicians recommending increased plant counts	202	N/A

Data extracted 8/27/14

AMENDMENT 20 (2000)

CONFIDENTIALITY
Section 18-18-406.3(5), C.R.S.

Any person including, but not limited to, any officer, employee, or agent of the department, or any officer, employee, or agent of the state or local law enforcement agency, who releases or makes public any confidential record or any confidential information contained in such record that is provided to or by the marijuana registry of the dept. without the written authorization of the marijuana registry patient commits a M1

HB 10-1284 12-43.3-301

MARIJUANA INDUSTRY

- ☐ Medical Marijuana Center License
- ☐ Optional Premises Cultivation License
- ☐ Medical Marijuana-Infused Products Manufacturing License

MEDICAL NECESSITY?

US Fittest Cities*	#MMC & MIPs/State Rank**
☐ #1 Ft. Collins, CO	☐ 33 / #4
☐ #2 Boulder, CO	☐ 89 / #3
☐ #4 Colorado Spgs., CO	☐ 208 / #2
☐ #10 Denver/Aurora	☐ 400 / #1

* Gallup-Healthways Well-Being Index (2010). Based on obesity rates, healthy behaviors, community conditions, and physical health

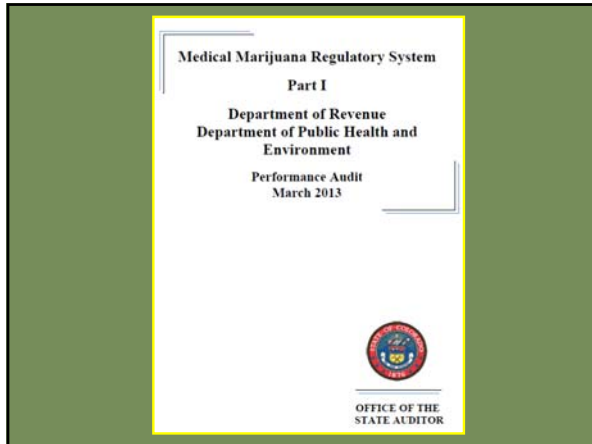
** The Denver Post, "A Map of Colorado's Medical-Marijuana Dispensaries" (Sept. 26, 2011)

HB 10-1284 12-43.3-103(2)(b) 70/30 %

On or before Sept. 1, 2010, a business operation shall certify that it is cultivating at least seventy percent of the medical marijuana necessary for its operation.

HB 10-1284 LOCAL OPTION

- ☐ Cities and counties may vote to prohibit medical marijuana centers, optional premises, or medical marijuana-infused products by a special election or by a majority of the governing board (city council and/or county commissioners) by July 1, 2011 12-43.3-106
- ☐ Local governing body may adopt additional regulations 12-43.3-301(2)(b)



KEY FACTS AND FINDINGS

- The Division has taken an average of about 23 months to issue final licensing decisions on applications submitted by August 1, 2010, the effective date of a 2-year moratorium on new medical marijuana businesses. The shortest approval time was 436 days, while the longest approval time was 807 days.
- For 13 (37 percent) of 35 new business application files we reviewed, we found evidence of potentially disqualifying information about the applicants. Ten licenses were issued, however four were questionable based on this evidence.
- The envisioned "seed-to-sale" model for regulating Colorado's medical marijuana industry does not currently exist. The Division planned to develop a marijuana plant tracking system, spent about \$1.1 million in Fiscal Years 2011 and 2012, but was unable to pay the remaining \$400,000 and implement the system due to financial difficulties. The Division reports that it will implement the system by the end of Calendar Year 2013.

Section 16. Personal use and regulation of marijuana

(I) Purpose and findings.

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(3) **Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

**DISTRIBUTION TO A MINOR,
TWO YEAR AGE DIFFERENCE
18-18-406(1)**

Distribution of 2 ½ lbs+	DF 1	Mandatory 8 - 32 yrs
Distribution of 6 oz - 2 ½ lbs	DF 2	4 - 8 yrs DOC
Distribution of 1 - 6 oz	DF 3	2 - 4 yrs DOC
Distribution of < 1 oz	DF 4	1 - 2 yrs DOC

**DISTRIBUTION
18-18-406(2)**

LEVEL OF CRIME	MARIJUANA	MARIJUANA CONCENTRATE
DF 1: Mandatory 8 - 32 yrs DOC	50 lbs+	25 lbs+
DF 2: 4 - 8 yrs DOC	5 - 50 lbs	2 ½ - 25 lbs
DF 3: 2 - 4 yrs DOC	12 oz - 5 lbs	6 oz - 2 ½ lbs
DF 4: 1 - 2 yrs DOC	4 oz - 12 oz	2 - 6 oz
DM 1: 6 - 18 months jail	Up to 4 oz	Up to 2 oz

CULTIVATION 18-18-406(3)

LEVEL OF CRIME	PLANTS
DF 3: 2 - 4 yrs DOC	30+ Plants
DF 4: 1 - 2 yrs DOC	6 - 30 Plants
DM 1: 6 - 18 months jail	Less than 6 plants

POSSESSION 18-18-406(4)

LEVEL OF CRIME	MARIJUANA	MARIJUANA CONCENTRATE
DF 4*: 1 - 2 yrs DOC	12 oz+	3 oz+
DM 1: 6 - 18 months jail	6 - 12 oz	Up to 3 oz
DM 2: Up to 12 months jail	2 - 6 oz	

*Subject to "The Wobbler": Allows the Court to vacate the felony conviction and enter a misdemeanor conviction if the offender completes a community based sentence. Unless conviction for prior crime of violence, is probation ineligible, or has two or more "prior felony convictions" for a drug offense.

OPEN USE 18-18-406(5)

LEVEL OF CRIME	AMOUNT
D PO: Up to \$100 fine and 24 hours community service	Less than 2 oz
Punished as possession	More than 2 oz



**Colorado Commission on Criminal and Juvenile Justice
and its Drug Policy Task Force**

Concerning the Implementation of Amendment 64 (Personal Use and Regulation of Marijuana): Recommendations to the General Assembly per Senate Bill 13-283

OPEN CONTAINER - VEHICLES

Recommendation FY14-OP #2

The Commission recommends amending C.R.S. 42-4-1305.3 as follows:

42-4-1305.3. Open marijuana container - motor vehicle - prohibited. (1) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "MARIJUANA" SHALL HAVE THE SAME MEANING AS IN SECTION 18 (2)(F) OF ARTICLE XXIV OF THE STATE CONSTITUTION.

(B) "MOTOR VEHICLE" MEANS A VEHICLE DRIVEN OR DRAGN BY MECHANICAL POWER AND MANUFACTURED PRIMARILY FOR USE ON PUBLIC HIGHWAYS BUT DOES NOT INCLUDE A VEHICLE OPERATED EXCLUSIVELY ON A RAIL OR RAILS.

(C) "OPEN MARIJUANA CONTAINER" MEANS A RECEPTACLE OR MARIJUANA ACCESSORY THAT CONTAINS ANY AMOUNT OF MARIJUANA AND:

(I) THAT IS OPEN OR HAS A BROKEN SEAL;

(II) THE CONTENTS OF WHICH ARE PARTIALLY REMOVED; OR AND

(III) THERE IS EVIDENCE THAT MARIJUANA HAS BEEN CONSUMED WITHIN THE MOTOR VEHICLE.

(D) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS, INCLUDING SEATING BEHIND THE DRIVER, WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE IN HIS OR HER SEATING POSITION, INCLUDING BUT NOT LIMITED TO THE GLOVE COMPARTMENT.

(2) (A) EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH (3) OF THIS SUBSECTION (D), A PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY OF THIS STATE OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY OF THIS STATE MAY NOT KNOWINGLY:

(I) USE OR CONSUME MARIJUANA, OR

(II) HAVE IN HIS OR HER POSSESSION AN OPEN MARIJUANA CONTAINER.

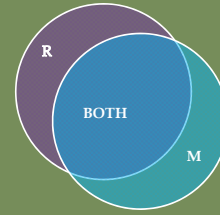
MINOR IN POSSESSION

Penalties	
Introduction	Illegal possession or consumption of ethyl alcohol (A), marijuana (B) or marijuana drug paraphernalia (C) is an unclassified petty offense and is punishable as described below.
First offense (part 1)	Current statute/practice in which prosecutor discretion is preserved.
First offense (part 2)	Upon first conviction: <ul style="list-style-type: none"> Up to \$100 fine AND Substance abuse education program as determined by the court and approved by the Office of Behavioral Health in the Department of Human Services. If the defendant successfully complies with court orders the case shall be automatically sealed.
Second offense	Upon second conviction: <ul style="list-style-type: none"> Up to \$100 AND Substance abuse education AND If determined appropriate by the court, a substance abuse assessment and any recommended therapy resulting from such assessment, AND Up to 24 hours of community service. With successful completion, case is eligible for sealing after one year.
Third offense	Upon third and subsequent convictions: <ul style="list-style-type: none"> Up to \$250 AND Shall undergo a substance abuse assessment AND shall be required to follow any recommended therapy from such assessment AND Up to 36 hour of useful public service. With successful completion, case is eligible for sealing after one year.
Unsealing	Any offense sealed shall automatically be unsealed upon a subsequent offense.
Final provision	Prosecutors are encouraged to enter into a diversion or deferred judgment agreement with any underage person for any offense under this section if such an agreement would be consistent with the legislative declaration of this section.

RETAIL MARIJUANA

- ❑ Emergency Retail Rules: Adopted July 1, 2013
- ❑ Applications for retail licenses open: October 1, 2013
- ❑ Permanent Retail Rules: Adopted October 15, 2013 (Medical Rules updated: October 15, 2013)
- ❑ Seed to sale RFP process: Closes December 31, 2013

RETAIL MARIJUANA RULES NEW; MEDICAL MARIJUANA RULES REVISED



(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS, ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (b) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (b) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

AMENDMENT 64 (2012) Industrial Hemp

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

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