



March 15, 2013

Honorable John Morse
Honorable Mark Ferrandino
Members of the Colorado General Assembly

Honorable Bill Cadman
Honorable Mark Waller

Dear President Morse, Speaker Ferrandino, Leader Cadman, Leader Waller and Members:

Introducing Smart Colorado!

Smart Colorado is a growing statewide coalition of concerned citizens, parents, organizations and professionals from the health, medical, education, law enforcement and business communities advocating for a smart, responsible and reasonable approach to marijuana policies. We have been actively engaged in the Governor's Amendment 64 Implementation Task Force and look forward to working with each of you as implementation enters the legislative process.

Thank you to Task Force co-chairs Jack Finlaw and Barbara Brohl and all members of the task force and working groups for their service to the state of Colorado. Despite the very limited timeframe and the tremendous complexity of creating a new industry, the Task Force did an admirable job in putting forth its recommendations on the multitude of issues that faced them.

Smart Colorado advocates for smart policies that decrease marijuana use and its harm to our citizens, communities, businesses and healthcare system using reputable science and sound principles of public health and safety.

We support many of the recommendations as they meet the principles upon which we are guided. There are areas within the Task Force recommendations, however, that have room for improvement, and a number of additional issues that were not addressed and are necessary to further protect public health and safety. Enclosed, we provide a brief overview of our guiding principles and our thoughts on some of the recommendations and outstanding issues. We look forward to working with you and members of the Joint Committee to assure these areas of concern are addressed.

As you consider smart marijuana policy for Colorado, please look to Smart Colorado as a resource and support for sound, measured marijuana policy counsel. Smart Colorado is represented at the statehouse by Sandra Hagen Solin of Capitol Solutions and Mike Feeley of Brownstein Hyatt Farber & Shreck. We invite you to seek them out during your deliberations. Sandra can be reached by phone or text at 303.810.1914 or shsolin@capitol-solutions.com and Mike can be reached by phone or text at 303.475.2925 or mfeeley@bhfs.com.

Learn more about Smart Colorado by visiting our website, www.smartcolorado.org.

We wish you well in your work.

Sincerely,

A handwritten signature in black ink that reads "Doug Robinson".

Doug Robinson
Smart Colorado



Putting the public's interests
ahead of the marijuana industry's

SMART THOUGHTS

On the Amendment 64 Implementation Task Force Recommendations

SMART COLORADO

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WHAT WE SUPPORT

In implementing Amendment 64, we support policies that:

- Acknowledge that the voters of Colorado approved Amendment 64
- Ensure public health and safety of Colorado's citizens is not subservient to building a marijuana industry
- Establish a robust and efficient regulatory framework that ensures the most measured and accountable implementation of Amendment 64
- Ensure the marijuana industry pays for itself through taxes and fees. Taxpayers must not lose money on marijuana
- Minimize and dissuade the diversion of marijuana into the hands of youth under the age of 21
- Ensure marijuana is used only by adults in strict compliance with laws and regulations and in a manner that does not infringe upon other persons and the majority of society that choose to abstain
- Dissuade marijuana use by supporting prevention programs financed from industry dollars which educate youth and adults about the dangers, risks, and consequences of use

WHERE THE TASK FORCE DID WELL

- Reject an open regulatory framework model
- Recommend that the maximum excise tax (15%), plus an escalation after 2017, be paid at the wholesale level
- Create a special marijuana sales tax paid by the consumer at a rate that ensures fully funded implementation, enforcement, long term regulation, and funding of prevention and education programs
- Empower affected executive agencies charged with implementation the authority to impose any reasonable fees deemed necessary to fully fund their costs to implement A64.
- Guarantee employers can maintain drug use policies as they deem appropriate; including allowing employers to fire employees for off-the-job marijuana use
- Allow limited marijuana sales to out-of-state residents visiting Colorado to mitigate trafficking and "pot tourism"
- Require marijuana to be sold in child-proof packaging
- Clarify that marijuana given away in exchange for a donation is illegal
- Include marijuana in Clean Indoor Air Act by banning smoking marijuana at bars, restaurants and other licensed businesses, effectively barring cannabis clubs
- Require marijuana grown at home to be in a space with four walls and a ceiling. No outdoor or unsecured growing of marijuana.

- Require dual-licensing system of marijuana stores between state and local governments to respect local control
- Impose clear and informative labeling requirements, including potency levels
- Combine the enforcement and administration of MMED and MED to ensure efficiency and cooperation
- Restrict the number of licenses that may be awarded in year one of implementation
- Establish significant consequences for transfer of marijuana to anyone under age 21
- Prohibit “open containers” of marijuana in motor vehicles
- Prohibit home marijuana cultivation in a family child care home
- Establish consequences for child care facilities for employee use or being under the influence
- Establish funding for a data-gathering study of law enforcement activity and costs
- Protect property owners rights to restrict or prohibit the use and possession of marijuana on their property
- Establish a Colorado residency requirement for all retail licensees, officers, investors, and related employees
- Prohibit or regulate additives to marijuana products that make the product dangerous, harmful, more appealing to youth or more addictive
- Direct CDPHE to monitor emerging science regarding the health effects associated with marijuana use
- Direct Department of Public Safety to monitor and report upon law enforcement activity and costs associated with A64
- Authorize funding from industry dollars for marijuana educational materials and website

AREAS WITH ROOM FOR IMPROVEMENT

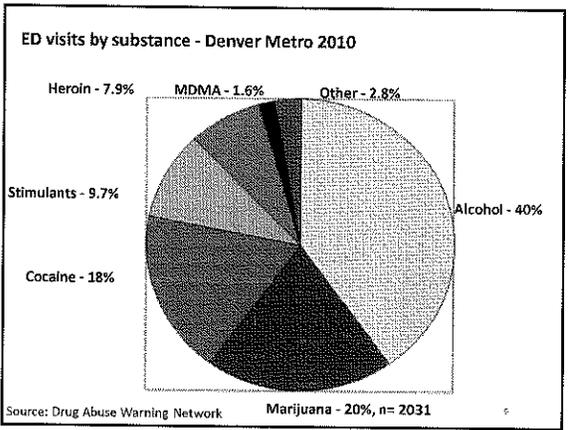
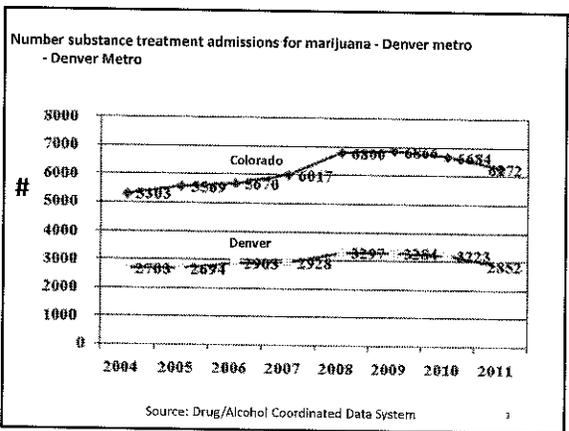
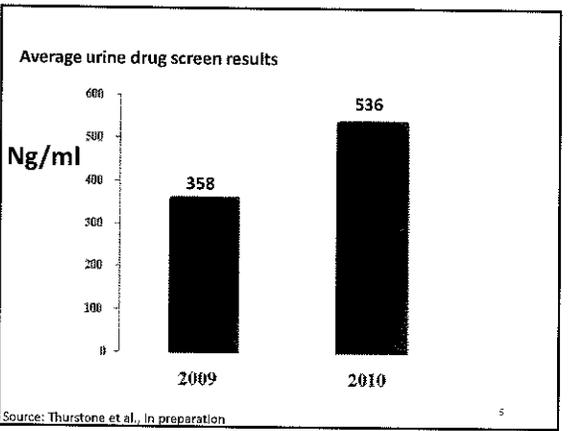
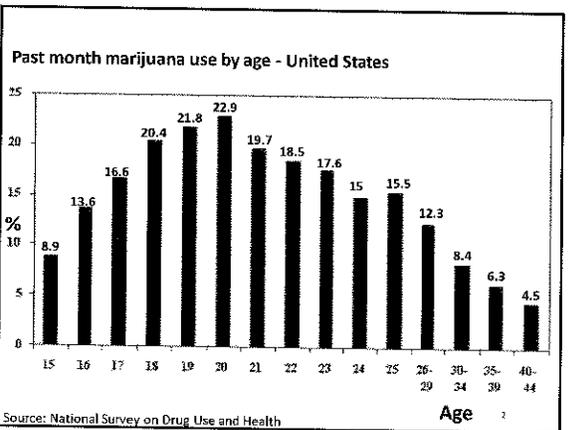
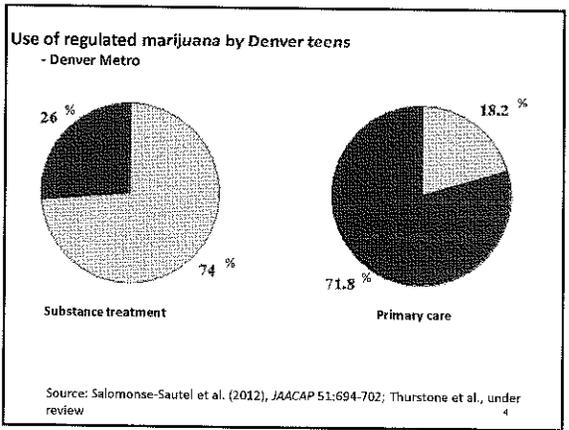
- Implement a 100% vertical integration regulatory framework
- Further restrict where and how marijuana stores can advertise
- Further restrict the potency of marijuana products
- Further restrict the number of licenses that may be awarded
- Impose a residency requirement on the purchase of marijuana
- Impose additional security protections on marijuana vending machines
- Impose additional packaging and labeling requirements

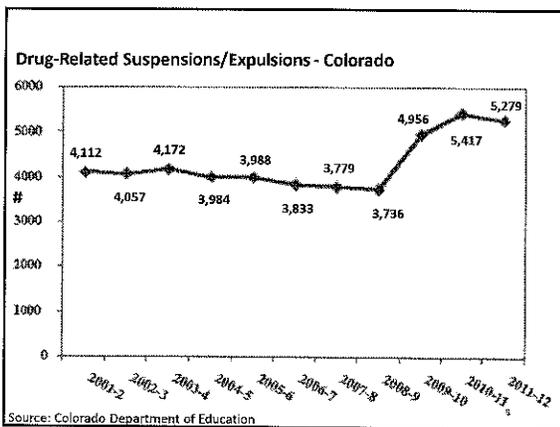
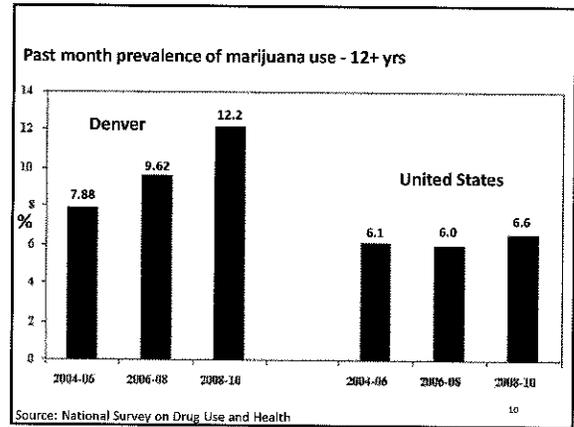
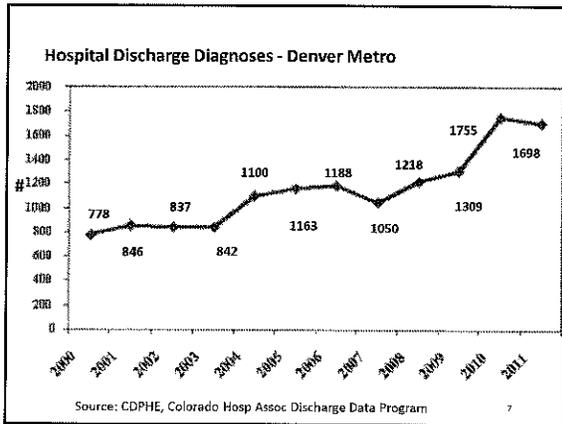
ADDITIONS NECESSARY TO FURTHER PROTECT PUBLIC HEALTH AND SAFETY

- Restrict the type and numbers of edibles that can be produced
- Prohibit the utilization of smoked marijuana in the outdoors of any premises whether public or private by including such use in the definition of “open and public” consumption
- Impose a zero-tolerance, *permissive inference* policy for DUI-D for those under 21
- Mandate a robust independent testing and certification program
- Require a “needs and desires” test for approval of retail licenses
- Provide law enforcement authority to destroy confiscated marijuana and grant that they are under no obligation to keep marijuana plants alive
- Prohibit loyalty/frequent buyer programs at retail establishments
- Require that the web address for an MJ addiction, education and prevention resource website be listed on all advertising, websites, merchandising and packaging
- Direct CDPHE to monitor, study and report on the health effects upon Colorado’s citizens of A64
- Direct the Office of Economic Development and International Trade to monitor, study and report on the economic development and Colorado-brand implications of A64
- Require a statewide curriculum in middle school on the health impact of marijuana use on youth
- Authorize funding for marijuana use prevention programs
- Enact a 1/8 per transaction limit for Colorado residents

Social Costs of Marijuana

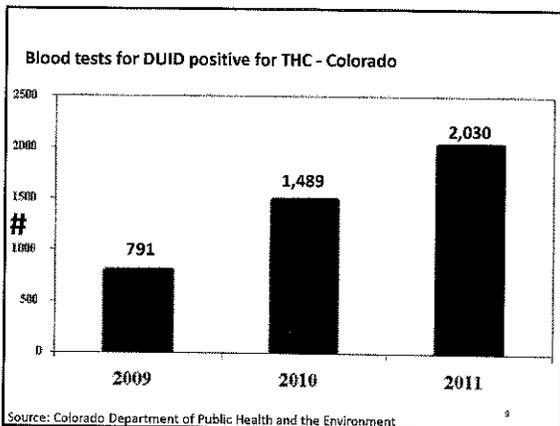
Christian Thurstone, M.D.
March 15, 2013





Summary

- Multiple social costs (substance tx, ED visits, hospitalizations, school expulsions/suspensions, driving)
- Social costs shouldered disproportionately by youth
- Tighter regulatory system is needed





COLORADO

Putting the public's interests ahead of the marijuana industry's

SMARTSCORECARD

REGULATORY FRAMEWORK

	SUPPORT	OPPOSE	MODIFY	NEUTRAL	FOOTNOTE
1. REGULATORY STRUCTURE					
1.1 Vertical Integration			√		1
<i>Restrict number of common ownership licenses</i>	√				
<i>Restrict size of MJ cultivation facilities</i>	√				
<i>3 year Sunset Review</i>	√				
<i>1 year grace period to restrict new applications to MMJ license holders</i>			√		2
1.2 State Run Model				√	
1.3 State and Local Licensing	√				3
1.4 Single Marijuana Enforcement Division	√				
2. REGULATORY FINANCING					
2.1 Financing Plan	√				
2.2 Application Fees	√				
2.3 Licensing Fees	√				
2.4 Operating Fees	√				
4. LICENSEE REQUIREMENTS					
4.1 Residency requirement for Owners/Employees	√				
4.2 Review of suitability requirements for licensees	√				
<i>Allow those with prior controlled substance felony to hold license (dissenting view)</i>		√			
4.3 Responsible Retailers Program/Statewide Advisory Group	√				
5. TRANSITION TO A64 REGULATORY ENVIRONMENT					
5.1 Complete Transition From MMJ to Adult-Use MJ				√	
5.2 Partial Transition for Cultivation & Manufacturing				√	

	SUPPORT	OPPOSE	MODIFY	NEUTRAL	FOOTNOTE
5.3 Partial Transition for Cultivation & Retail				√	
5.4 Separation of inventories in dual-use cultivation & manufacturing				√	
5.5 Complete separation of dual-use medical & retail				√	
6. OPERATIONAL REQUIREMENTS					
6.1 Commercial Transport of MJ				√	
6.2 Disposal of MJ, Products and Waste	√				
7. INTERACTION WITH CONSUMERS					
7.1 Purchase of MJ by Residents & Visitors			√		
<i>Non-Resident Purchase</i>		√			4
<i>Per transaction limit for residents</i>	√				5
<i>Per transaction limit for non-residents</i>	√				6
7.2 Automated Dispensing Machines			√		7
11. CHILD CARE FACILITIES					
11.1 Child Care Licensing Consequences	√				
11.2 Excluding Cultivation in a Child Care Family Home	√				
17. FOLLOW UP WORK					
17.1 Formation of a follow-up task force in three years	√				
ITEMS FOR FURTHER CONSIDERATION					
1. Definition of "remuneration"	√				
2. Define "open and public consumption"	√				
<i>Prohibit consumption of smoked MJ on outside premises of private property</i>	√				8
<i>Prohibit consumption of edible MJ on outside premises of private property</i>				√	
<i>Prohibit consumption of smoked and edible marijuana in public venues, including parks, ski areas, public sidewalks, etc</i>	√				

Prohibit consumption of MJ at private social clubs	√				
ADDITIONAL ITEMS FROM SMART COLORADO					
1. Mandate a robust independent testing and certification program	√				
2. Needs and desires test for approval of licenses	√				

FOOTNOTES

- Smart CO supports the most restrictive regulatory structure legally allowable under Amendment 64. Smart Colorado supports a 100% vertical integration model to minimize diversion of marijuana, ease enforcement of product standards and industry regulations
- Smart CO supports limiting the number of license holders in year one, however, we oppose the creation of a pseudo-monopolies by existing MMJ license holders
- Smart CO supports the addition of a "needs and desires" community standard for the approval of retail licenses at the state and local level to assure community interests are a significant factor in approval
- Smart CO supports a residency requirement for the purchase of marijuana in Colorado as it 1) provides the greatest opportunity to minimize diversion of MJ out of state and 2) reduces the possibility of federal preemption; and 3) lessens the viability of pot tourism thereby protecting/restoring Colorado's brand
- Absent a restriction on the purchase of MJ to non-residents, a limitation on the amount of MJ that a non-resident can purchase should be imposed to reduce diversion of MJ out of state. We support the recommendation of 1/8 oz per transaction.
- Smart CO supports a per transaction limitation for residents and non-residents alike at a rate of 1/8 oz per transaction
- Smart Colorado believes that marijuana vending machines will encourage adult use of marijuana and lead to the diversion of marijuana to persons under the age of 21 by automating sales without the human interface needed to verify age and residency of the customer and amount of the sale. The purpose of vending machines is to minimize sales staff, yet the requirements of Amendment 64 will necessitate posting a sales person at the vending machine.
- Smart CO recommends that for purposes of consuming smoked mj, "publicly" should be defined as "in plain view" and "openly" should be defined to be consistent with general nuisance concepts of doing something that works some substantial annoyance, inconvenience or injury to others. Additionally, we support an alignment of policy with current medical marijuana law pertaining to consumption of smoked marijuana on outside premises of private property.
- Smart Colorado believes even so called "private clubs" are not constitutionally protected because they will violate the prohibition against open and public consumption. It is clear from established Colorado case law that the standards for establishing a true private club are high. Any privately owned shops or bars have a common area open to the public. A business cannot operate under the guise of a private club to get around the limitations of Amendment 64.

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