

# STATE OF COLORADO

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**DEPARTMENT OF REVENUE**

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Colorado voters have approved an amendment to the state constitution that makes the personal use, possession and limited home-growing of marijuana legal under Colorado law for adults 21 years of age and older and requires the state to establish a system in which marijuana is regulated and taxed similarly to alcohol.

The possession and use of marijuana remains a crime under federal law. Persons who use marijuana for recreational purposes will still be subject to criminal prosecution under federal law.

Because federal law generally preempts state law, Colorado's Department of Revenue will consult and work with the U.S. Department of Justice to understand the federal government's approach in light of potential conflicts with federal laws.

The Department of Revenue will take into consideration the federal government's intention to enforce federal marijuana prohibitions as the Department considers how to implement the regulatory and taxing system called for by the amendment.

## Implementation Timeline:

- November 6, 2012 – General Election
- January 2013 – Legislative Session – Drafting of enabling legislation begins
- July 1, 2013 – Department shall adopt necessary regulations
- October 1, 2013 – Department shall begin accepting and processing license applications
- January 1, 2014 – Department must begin issuing licenses (90-day requirement)
- July 1, 2014 – Deadline for legislature to enact legislation concerning industrial hemp

## Issues to Consider

### Legal:

- The amendment directs the General Assembly to create a regulatory structure for sale of marijuana, which remains an illegal substance under federal law.
- The amendment limits the ability of lawmakers and regulators to adjust deadlines and fees.
- The amendment creates conflicts with existing employment, housing and other law and policies that ban the use of illegal drugs.
- Federal banking laws prohibit accepting proceeds from activities that are illegal, so the marijuana industry likely would be comprised of cash-only businesses.
- The amendment creates a complex, and potentially confusing regulatory structure, e.g., if a local authority issues the license, state regulations do not apply.

### Financial:

- The amendment establishes an excise tax on marijuana and designates the first \$40 million collected to be used for constructing schools.
  - The tax must still be approved by a separate statewide vote.
- Application fees for a business to start selling marijuana may not exceed \$5,000 – far less than the application fee to start a medical marijuana business (range is \$7,500 to \$18,000 depending on the size of the operation), likely creating a funding gap from the outset.
- The proposed regulatory structure assumes that the Medical Marijuana Enforcement Division is fully staffed with 55 FTE. Current staffing is 15 FTE.
- Blue Book analysis assumes that Medical Marijuana Enforcement Division is fully funded at \$5.7 million per year = funding is closer to \$2.1 million annually.

## Amendment 64 Requirements

GOVERNOR – Amendment becomes effective upon official declaration of the vote via Governor's Proclamation

LEGISLATURE – Statutory changes to be considered include:

1. Amend current statutes regarding possession, sale, distribution or transfer of marijuana.

2. Driving laws. While no specific changes are required by the amendment because current language says “. . . one or more drugs, or a combination of alcohol and one or more drugs,” the General Assembly may want to review existing laws.
3. Revise possession of drug paraphernalia laws to exclude “marijuana accessories” for those 21 and older.
4. Revise possession of marijuana laws to exclude possession of less than one ounce for persons 21 years of age or older.
5. Revise marijuana cultivation laws.
6. Codify allowable acts relative to marijuana testing facilities, marijuana product manufacturing facilities, and retail facilities.
7. Codify marijuana consumption restrictions to be consistent with the amendment, e.g., it can't be open, public, or done in manner to endanger others.
8. Establish excise tax.
9. Enact legislation regarding industrial hemp cultivation, processing and sale by July 1, 2014.

DEPARTMENT OF REVENUE – Establish regulations by July 1, 2013 that include:

1. Procedures for issuing, renewing, suspending and revoking a license to operate a marijuana establishment.
2. A schedule of application, licensing and renewal fees.
3. Qualifications for a license that are related to operating a marijuana establishment.
4. Security requirements for marijuana establishments.
5. Requirements to prevent the sale of marijuana and marijuana products to persons under 21 years old.
6. Labeling requirements for marijuana and marijuana products.
7. Health and safety standards for the manufacture of marijuana products and the cultivation of marijuana.
8. Restrictions on advertising and display of marijuana and marijuana products.
9. Civil penalties for noncompliance with regulations.

## LOCAL GOVERNMENTS

1. Ordinances and regulations are required by October 1, 2013.
2. Enact ordinance or regulation to identify office within local government to process marijuana licenses if the Department of Revenue does not adopt regulations or fails to process and issue licenses.
3. Can adopt ordinances or regulations governing time, place, manner and number of marijuana operations as long as they do not conflict with the amendment.
4. Can adopt ordinances or regulations establishing procedures for issuing, suspending and revoking a license to operate a marijuana establishment.
5. Can adopt ordinances or regulations establishing a schedule of annual operating, licensing and application fees for marijuana establishments.