Amendment 64 Implementation Task Force

Sub-Committee on Tax/Funding and Civil Law
January 9, 2012
Department of Law – 1525 Sherman St, Denver, Room 610¹

AGENDA

TOPIC: Marijuana Businesses Banking

- I. Introductions
- II. Discussion of sub-committee process, future meetings, and topic prioritization (30 mins)
- III. Presentation by Colorado Bankers Association (30 mins including Q&A)
- IV. Discussion of Banking Restrictions for Marijuana business entities (30 mins)
 - a. Nexus with Federal law an absolute prohibition?
 - b. Why the approach of SB12-075 (State Financial Institution/Co-Op) failed.
 - c. Letter from Amendment 64 News.
 - d. Other ideas or work-arounds?
- V. Public Comment on Banking (15 mins)

For discussion purposes only please consider the following draft Recommendation (15 mins):

"Because the U.S. banking system and infrastructure, including private financial institutions and state banks as well as debit, checking and credit card usage and insurance, each have a clear nexus to Federal law and because Federal law prohibits the sale of marijuana and because the Federal government banking regulatory agencies have already taken enforcement actions against banks in Colorado who were maintaining medical marijuana bank accounts and because federal law enforcement under this Administration have advised banks against maintaining accounts for medical marijuana businesses and brought money laundering charges against targets in California and because the Amendment 64 Implementation Task Force cannot identify a reliable mechanism to safely and lawfully bank the proceeds from the legal sale of marijuana in the State of Colorado, it is recommended that the Governor and Attorney General of Colorado along with the Colorado congressional delegation immediately request written guidance with a response deadline of March 31, 2013, from the Federal government, including the Federal Reserve Bank, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Department of Justice Drug Enforcement Administration regarding their intention to enforce Federal money laundering laws and regulations against depository institutions doing business in Colorado with marijuana businesses that are in strict compliance with state law."

- VI. Time Permitting: additional discussion topics, include but are not limited to:
 - a. Employment Address employment issues such as rules related to drug-free work places (zero-tolerance), issues related to hiring and termination for legal use outside of the

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- workplace, testing issues, federal rules and contract requirement and questions related to unemployment and workers' comp insurance.
- b. Taxes Must the General Assembly enact an excise tax on recreational marijuana and, if so, is it bound by the terms of Amendment 64 since the new tax would be subject to a vote of the people? What alternatives exist, if any? Must a tax referred measure go to the voters in November 2013? Are there any restrictions on citizen initiatives? How is excise tax defined? How does Colorado address the 280E tax issue at the state level? How will taxes be collected? Where in the supply chain will the excise tax be collected?
- c. Civil Law What is the interaction between recreational users and family law, student loans, aid, public benefits, contract enforcement and means-tested benefit programs, etc?
- d. Constitutionality Is Amendment 64 subject to facial or as applied constitutional challenge and if so under what theory? What are likely defenses?
- e. Funding Funding sources for implementation of Amendment 64, including regulatory efforts, enforcement, testing, criminal law enforcement, assistant to state and local and litigation, etc.