

# Consumer Safety/Social Issues Work Group

Amendment 64 Guidelines  
Concerning Regulations and  
Discussion of Possible  
Recommendations Concerning  
Regulatory Issues

# Amendment 64 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

# Amendment 64 Purpose and Findings

(Quoted from the actual text of Amendment 64)

- (a) In the interest of 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 and 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.

## Amendment 64 Purpose and Findings, cont.

- (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 the strains of cannabis with higher delta-9 tetrahydrocannabinol (THC) concentrations.
- (d) The people of the state of Colorado further find and declare that it is necessary to ensure consistency and fairness in the application of this section throughout the state and that, therefore, the matters addressed by this section are, except as specified herein, matters of statewide concern.

# Amendment 64 Blue Book Analysis

- Arguments for Amendment 64
  - Current state policies that criminalize marijuana fail to prevent its use and availability and have contributed to an underground market. By creating a framework for marijuana to be legal, taxed, and regulated under state law, Amendment 64 provides a new direction for the state.
  - It is preferable for adults who choose to use marijuana to grow it themselves or purchase it from licensed businesses that are required to follow health and safety standards, rather than purchasing products of unknown origin from individuals involved in the underground market. A regulated market will provide a safer environment for adults who purchase marijuana and, by requiring age verification, will restrict underage access to marijuana. The measure will also add sales tax revenue and may add job opportunities to the state economy.
  - The adoption of Amendment 64 will send a message to the federal government and other states that marijuana should be legal and regulated and that industrial hemp should be treated differently than marijuana. Adults should have the choice to use marijuana, just as they have that choice with other substances such as alcohol and tobacco. Further, because of its commercial applications in fuel, building materials, clothing and food, industrial hemp should be allowed to be grown, processed, and sold domestically.

# Amendment 64 Blue Book Analysis

- Arguments against Amendment 64
  - Even if Amendment 64 is adopted, the possession, manufacture, and sale of marijuana remain illegal under current federal law, so the adoption of the measure may expose Colorado consumers, businesses, and governments to federal criminal charges and other risks. People who invest time and money to open marijuana establishments have no protections against federal seizure of their money and property. Because federal banking laws do not allow banks to accept the proceeds of, or loan money for, activities that are illegal under federal law, marijuana businesses will likely need to be cash-only businesses. In addition, enhanced federal scrutiny and competition from retail marijuana establishments could jeopardize the existing medical marijuana system. The efforts of individuals who feel marijuana use should be legal for all adults are more appropriately directed at changing federal law.

# Amendment 64 Blue Book Analysis

- Arguments against Amendment 64 (cont'd)
  - Marijuana impairs users; coordination and reasoning and can lead to addiction. Allowing state-regulated stores to sell marijuana will make it more accessible, which is likely to increase use and may give the impression that there are no health risks or negative consequences to marijuana use. Greater accessibility and acceptance of marijuana may increase the number of children and young adults who use the drug, which, due to their ongoing brain development, may be especially dangerous. Furthermore, because more people are likely to use marijuana, the number of those who drive while under the influence of or while impaired by the drug may increase.

# Amendment 64 Blue Book Analysis

- Arguments against Amendment 64 (cont'd)
  - A ballot measure cannot direct any vote cast by a legislator. Amendment 64 asks voters to approve a regulatory structure for the sale of marijuana, but does not specify critical details about what the regulations will entail. Furthermore, because the provisions of Amendment 64 will be in the state constitution and not in the state statutes, where most other business regulations appear, there may be unintended consequences that cannot easily be remedied. For example, the state legislature cannot adjust the deadlines, fees, and other details regarding the implementation of the measure. In addition, by constitutionally permitting marijuana use, the measure, despite its stated intent, could create conflicts with existing employment, housing and other laws and policies that ban the use of illegal drugs.

# Amendment 64 Legal Issues to Consider

(From the Task Force Co-Chairs)

- 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.

# Amendment 64 Financial Issues to Consider

- 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 assumed that the Medical Marijuana Enforcement Division is fully funded at \$5.7 million annually. Funding is closer to \$2.1 million annually.

# Amendment 64 Requirements

(From Task Force Co-Chairs)

## ■ Legislature

- Amend current statutes regarding possession, sale, distribution or transfer of marijuana.
- 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 the existing laws.
- Revise possession of drug paraphernalia laws to exclude "marijuana accessories" for those persons 21 years of age or older.
- Revise marijuana cultivation laws.
- Codify allowable acts relative to marijuana testing facilities, marijuana product manufacturing facilities, and retail facilities.
- Codify marijuana consumption restrictions to be consistent with the amendment, e.g., it can't be open, public, or done in a manner to endanger others.
- Establish excise tax
- Enact legislation regarding industrial hemp cultivation, processing and sale by July 1, 2014.

# Amendment 64 Requirements

(From Task Force Co-Chairs)

## ■ Department of Revenue

- Procedures for issuing, renewing, suspending and revoking a license to operate a marijuana establishment.
- A schedule of application, licensing and renewal fees.
- Qualifications for a license that are related to operating a marijuana establishment.
- Security requirements for marijuana establishments.
- Requirements to prevent the sale of marijuana and marijuana products to persons under twenty-one years of age.\*
- Labeling requirements for marijuana and marijuana products.\*
- Health and safety standards for the manufacture of marijuana products and the cultivation of marijuana.\*
- Restrictions on advertising and display of marijuana and marijuana products.\*
- Civil penalties for noncompliance with regulations.

## Preventing the sale of marijuana or marijuana products to persons under twenty-one years of age

- Amendment 64-
  - “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...”
  - Individuals will have to show proof of age before purchasing marijuana.
  - Selling, distributing, or transferring marijuana to minors and other individuals under the age of twenty-one shall remain illegal.

# Preventing the sale of marijuana or marijuana products to persons under twenty-one years of age

## ■ Liquor Code-

- It is unlawful for any person: “To sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years.”
- There are a number of additional laws and regulations relating to the above, including the following: [It shall be unlawful] To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

### WARNING

IT IS ILLEGAL TO SELL WHISKEY, WINE, OR BEER TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME. IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY. IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE WHISKEY, WINE, OR BEER FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE. FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

# Preventing the sale of marijuana or marijuana products to persons under twenty-one years of age

## Suggested Statutory Language

Recommend a law that is substantially similar to 12-47-901 including the signage requirement for retail stores- “It is illegal to sell marijuana to any person under twenty-one years of age and it is illegal for any person under twenty-one years of age to possess or to attempt to purchase the same... [It shall be unlawful] To fail to display at all times in a prominent place a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter to be a minimum of one-half inch in height, which shall read as follows:

### WARNING

IT IS ILLEGAL TO SELL MARIJUANA IN ANY FORM INCLUDING MARIJUANA PRODUCTS TO ANY PERSON UNDER TWENTY-ONE YEARS OF AGE AND IT IS ILLEGAL FOR ANY PERSON UNDER TWENTY-ONE YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE THE SAME. IDENTIFICATION CARDS WHICH APPEAR TO BE FRAUDULENT WHEN PRESENTED BY PURCHASERS MAY BE CONFISCATED BY THE ESTABLISHMENT AND TURNED OVER TO A LAW ENFORCEMENT AGENCY. IT IS ILLEGAL IF YOU ARE TWENTY-ONE YEARS OF AGE OR OLDER FOR YOU TO PURCHASE MARIJUANA IN ANY FORM INCLUDING MARIJUANA PRODUCTS FOR A PERSON UNDER TWENTY-ONE YEARS OF AGE. FINES AND IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS.

# Labeling Requirements for Marijuana and Marijuana Products

- Amendment 64- “Marijuana sold in this state will be labeled and subject to additional regulations to ensure that consumers are informed and protected.”
- Medical Marijuana Code- “A. No licensee shall sell, transfer or give away any medical marijuana that does not contain a label with a list of all ingredients, including all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers that were used in its cultivation and production.
  - LEGAL / HEALTH WARNING STANDARDS TO BE DEVELOPED BY THE DEPARTMENT OF REVENUE?
  - CONSIDER REQUIRING INCLUSION OF: statement of the company name and State Licensing Authority license number, together with the company's telephone number or mailing address or website information.

# Labeling Requirements for Marijuana and Marijuana Products

## ■ Liquor Code-

- Alcohol beverages sold in Colorado must have first obtained either a “Certificate of Label Approval” or a “Certificate of Exemption” from the Alcohol and Tobacco Tax and Trade Bureau (“TTB”). \*\*Please note this is a Federal Agency
- Additionally, Colorado laws regarding all other liquor labeling requirements refer to the federal **TTB labeling** criteria as found in the “Federal Alcohol Administration Act” 27 CFR Subchapter A -- Liquor Part 4, Subpart D; Part 5, Subpart D; and Part 7, Subpart C.

# Labeling Requirements for Marijuana and Marijuana Products

Suggested Statutory Language:

- “No licensee shall sell, transfer or give away any marijuana or marijuana product that does not contain a label with a list of all ingredients, including all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers that were used in its cultivation and production.”
- Restrict or prohibit the use of certain specific additives? (Additives to tobacco were brought up in public comment at our previous meeting)

# Health and safety standards for the manufacture of marijuana products and the cultivation of marijuana

- Amendment 64-
  - “Marijuana cultivation facilities mean: an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.”
  - Marijuana products are defined as: “concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
  - Marijuana product manufacturing facility is defined as: “an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.”
- Medical Marijuana Code-
  - All licensed premises on which medical marijuana-infused products are manufactured shall meet the sanitary standards for medical marijuana-infused product preparation promulgated pursuant to section 12-43.3-202(2)(a)(XII).
  - The medical marijuana-infused product shall be sealed and conspicuously labeled in compliance with this article and any rules promulgated pursuant to this article. The labeling of medical marijuana-infused products is a matter of statewide concern.

# Health and safety standards for the manufacture of marijuana products and the cultivation of marijuana

## Suggested Statutory Language-

- All licensed premises on which marijuana and marijuana products are cultivated and manufactured shall meet the sanitary standards for marijuana cultivation and product preparation promulgated pursuant to section \_\_\_\_\_.
- All marijuana products shall be sealed and conspicuously labeled in compliance with this article and any rules promulgated pursuant to this article. The labeling of marijuana products is a matter of statewide concern.

## Restrictions on advertising and display of marijuana or marijuana products

- Amendment 64- calls for “restrictions on the advertising and display of marijuana and marijuana products.”
- Medical Marijuana Code-
  - “It is unlawful for any person licensed to sell medical marijuana pursuant to this article:
    - To display any signs that are inconsistent with local laws or regulations;
    - To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.”
- Liquor Code- Signs are defined as “any visual message intended for the consumer that is located within, or on the exterior of, licensed premises for the purposes of displaying advertising messages or other information related to alcohol beverage suppliers or their products.”

# Restrictions on advertising and display of marijuana or marijuana products

## Suggested Statutory Language

“It is unlawful for any person licensed to sell marijuana pursuant to this article:

- To display any signs that are inconsistent with local laws or regulations;
- To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.
- Signs are defined as: any visual message intended for the consumer that is located within, or on the exterior of, licensed premises for the purposes of displaying advertising messages or other information related to marijuana or marijuana products.”