

Amendment 64 Implementation Task Force Tax/Funding and Civil Law Working Group

Ralph L. Carr Colorado Judicial Center
1300 Broadway, 1st Floor
Denver, Colorado 80203

Meeting Minutes

Wednesday, February 6, 2013
11:00 a.m. – 1:00 p.m.

TOPIC: Civil Law Issues

I. Call To Order:

- a. Co-Chairs David Blake and Senator Cheri Jahn called the meeting to order at 11:06a.m.

II. Introductions:

- a. Attendance:
 - i. Sub-Committee Members Present: Co-Chair David Blake, Co-Chair Cheri Jahn, Bill Callison, Don Childears, Michael Elliott, Holli Hartman, John Vecchiarelli, Dan Krug, Adrienne Russman, Kimberlie Ryan, Tamra Ward, Mike Cerbo, Alexis Senger, Dorinda Floyd, Mary Jo McGuire, Kristal Bernert
- b. Vote to adopt minutes from January 30th, passed unanimously

III. Discussion of Civil Law Issues:

- a. Contracts *void ab initio*
 - i. The group discussed several cases that have arisen in Colorado between growers and counties regarding contracts. These cases have held that the contracts are void because the contracts violate federal law and public policy. The group then discussed including that it is Colorado public policy that marijuana related businesses do not violate policy, therefore not void if heard in Colorado Courts in a recommendation.
 - ii. The group also discussed the impact of unenforceable contracts will have on the non-marijuana parties. If federal courts voids the contract, what happens? The recommendation needs to covers businesses that don't need to be licensed and those parties that are not Colorado residents.
 - iii. There was the decision for the recommendation to use the term "enforceable" rather than void or voidable.
- b. Property Rights (Amendment 64(6)(d) & 4(f))
 - i. 6(b) is a really clear statement
 - ii. Michael discussed the new Greenwood Village ordinance which has essentially made the use of marijuana completely illegal. There was an agreement by the group to keep the status quo, just like in their employer/employee recommendation. The group wants real property owners to still have the ability to determine whether marijuana will be allowed on their property. Also, want the repercussions that exist now for bringing alcohol on property where it's not allowed, to be the same for bringing marijuana on property where it's not allowed. It was agreed to leave the whole trespassing issue out of the recommendation completely.
 - iii. Suggesting that real property owners review their current policies was suggested as a part of the recommendation.

IV. Excise Tax

- a. Michael discussed some issues that have been brought up with regard to excise tax. The main concern is the whether they should base the excise tax off costs or off of the

volume. He brought up the concern with a vertical integration business, where the same business owns a grow and a retail store and is basically selling to themselves. Said possibly one way is to come up with a fair market value, but the question remains how they would assess that.

V. Public Comment

- a. There was a discussion about the process of drafting recommendations. Believes that the task force shouldn't be fighting over wording. Upset with Greenwood Village's ordinance and says you can't leave your house there if you use cannabis. Michael and him are drafting a formal proposal on the bans and if you want to email him, please feel free to do so.
- b. There was comment on the problem with vertical integration. Also, discussion of right-of-ways and asks that those be considered with property rights.
- c. Lastly, there was comment in support of implementing a user tax.

VI. Closing

- a. There will be a vote on the contracts and property recommendation on Friday, February 8, 2013
- b. The Friday, February 8, 2013 meeting will be held in Room 352 in the Capitol from 1pm-5pm
- c. Meeting ended at 1:25pm.