

SB

62

<TARGET><BILL>SB 62</BILL><SUBJECT>SB
62</SUBJECT><COMM>SSTA29</COMM></TARGET>

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

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Sen. Charlie Huggins
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Sen. Bill Wielechowski

April 7, 2015
Bill Packet Information

HB 93 PROBATION AND PAROLE: WORK, TRAVEL ACCOM.
<Previously Heard/Scheduled on 3/26/15>

Documents posted since last hearing:

- Legal Opinion to SSTA: Granting of a Travel Pass 4-6-15

SB 62 REGULATION OF MARIJUANA BUSINESSES; BOARD
<Previously Heard/Scheduled on 3/5/15, 3/10/15, & 3/12/15>

Documents posted since last hearing:

- Department of Law - Criminal Division - Attorney General Letter - Marijuana Establishment Public Notice 3-18-15
- Alaska Association of Realtors - Response to SSTA Questions on Disclosure of Marijuana Grows 3-17-15
- DCCED Response to SSTA Questions on Public Notice of Marijuana 3-16-15
- Alaska Municipal League - Letter re: Application & Fee 3-6-15
- Alaska State Medical Association - Letter 3-16-15
- Alaska School Activities Association Letter on Marijuana Access Concerns 2-23-15
- Department of Revenue - Tax Division - Letter on Tax Language 3-11-15
- Consolidated Public Input as of 4-7-15
- Additional/New Fiscal Note:
 - DNR-AGR 3-10-15 (Zero)

<Bills Previously Heard/Scheduled>

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March 5, 2014
Bill Packet Information

Governor's Appointments - Confirmation Hearings

- Rebecca Hamon, Alaska Police Standards Council
- Gustaf Sandahl, Alaska Police Standards Council

SB 62 REGULATION OF MARIJUANA BUSINESSES; BOARD

- Sponsor Statement
- Sectional Analysis
- Sponsor Presentation 3-5-15 (IN A SEPARATE ATTACHMENT)
- SB62 ver E
- Fiscal Notes:
 - DCCED-ABC 2-27-15
 - DEC-EHL 2-27-15
 - DEC-FSS 2-27-15
 - DOA-OAH 3-2-15
 - DOR-TAX 2-26-15

SB 24 LEGIS. ETHICS ACT: CONTRACTORS, INTERNS

- Sponsor Statement
- SB 24 ver W
- Recommendations by Ethics Office
- LRS Report on Subcontractors
- Previous SCLE Advisory Opinions
- Previous SCLE Minutes - Committee Action
- Fiscal Note: LEG-SESS 3-2-15

SB 4 FINL. DISCLOSURE: LEGIS AND PUB OFFICIALS

- Sponsor Statement
- Explanation of Changes from Initial Version to Sponsor Substitute
- SSSB 4 ver W
- SB 4 ver A
- Fiscal Note: DOA-APOC 2-26-15



ALASKA STATE SENATE

SENATE JUDICIARY COMMITTEE

Senator Lesil McGuire – Chair, Senator John Coghill – Vice-Chair, Senator Peter Micciche,
Senator Mia Costello, Senator Bill Wielechowski

SPONSOR STATEMENT

Senate Bill 62: “An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date” (29-LS0405\E)

Senate Bill 62 (“SB62”) is sponsored by the Senate Judiciary Committee. The intent of the bill is to establish the framework for a legal (from the State’s perspective) commercial marijuana industry in Alaska. Other goals include: (1) reducing the in-state marijuana “black market;” and (2) providing structural protections for minors.

SB62 accomplishes those goals by:

1. Establishing a system of testing;
2. Limiting certain advertisements and packaging;
3. Allowing, when necessary, local control;
4. Establishing taxes;
5. Establishing a licensing system for legal commercial sales;
6. Stating the process for license applications and renewals;
7. Requiring marijuana reporting and enforcement provisions.

Marijuana, an intoxicant, remains a Schedule 1 substance under federal law. As such, the legislature must balance the commercial interests of those in the industry, with public safety considerations. SB62 finds that balance.

Please join Senate Judiciary Chair Lesil McGuire and Senate Judiciary Vice-Chair John Coghill in supporting SB62.



ALASKA STATE SENATE

SENATE JUDICIARY COMMITTEE

Senator Lesil McGuire – Chair, Senator John Coghill – Vice-Chair, Senator Peter Micciche,
Senator Mia Costello, Senator Bill Wielechowski

SECTIONAL ANALYSIS

Senate Bill 62 (“SB62”): “An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date” (29-LS0405\E)

- Section 1: Inspection by DEC of marijuana testing facilities
- Section 2: Marijuana accessories
- Section 3: Limitations on Advertising
- Section 4: Rulemaking by the board for licensing
- Section 5: Packaging and labeling
- Section 6-21: Applications and issuances of licenses: Board and municipality
- Section 22: Types of licenses
 - Applications for new licenses, renewals, transfers of person and location
 - Criminal justice information pertaining to license applications
 - Notices of applications
 - Denial of new license, denial of renewal, denial of transfer
 - Suspensions and revocation of licenses
 - Location restrictions
 - Zoning limitations
 - Prohibited financial interest
 - Procedures for action on license applications, suspension and revocation
 - Appeals
 - Civil fines
 - Surrender or destruction of license
 - Accessibility of license and inspection
- Section 23-27: Definitions
- Section 28: Home rule and general law municipalities
- Section 29: Excise tax
- Section 30: Monthly statements
- Section 31: Administration and enforcement of tax
- Section 32: Definitions

Section 33: Repeals
Section 34: Effective date

Section 1: AS 03.05.011 adds a new subsection requiring the Commissioner of Environmental Conservation to inspect and certify marijuana testing facilities.

Section 2: AS 17.38.060 is amended to read that the manufacture, possession, or purchase of marijuana accessories is authorized. One can distribute or sell marijuana accessories to a person who is 21 years old or older.

Section 3: AS 17.38 is amended to add a new section (AS 17.38.075). AS 17.38.075 places limitations on advertising. A person may not advertise or market marijuana or marijuana products/accessories in a manner enticing minors.

Section 4: AS 17.38.090 is amended. The focus is on rulemaking. No later than nine months after February 24, 2015 the board is required to adopt regulations for commercial licenses. The regulations may not be unreasonably impracticable (to encourage elimination of the black-market).

The regulations include: (1) procedures for issuance, renewal, suspension, and revocation of a license; (2) schedule for application of a license with fees not exceeding \$5,000 (subject to annual adjustments for inflation) unless a greater fee is necessary to carry out board responsibilities; (3) qualifications for licensure; (4) security requirements for marijuana establishments; (5) requirements for preventing sale to persons under the age of twenty-one; (6) labeling requirements; (7) health and safety standards for manufacture and cultivation; (8) restrictions on advertising and display of marijuana and marijuana products; (9) civil penalties for violations.

Privacy will be protected. Personal information about consumers will not be acquired or recorded.

Section 5: AS 17.38.090 is amended to require the board to adopt regulations for packaging and labeling of marijuana for persons that have a marijuana retailer license. New subsections include (c),(d), and (e).

Subsection (c) states the regulations must provide that: (1) marijuana must have child-proof packaging; (2) the package must be clearly labeled with contents and may not entice minors; (3) the potency and certification of safety must be on the package.

Subsection (d) states that individual doses of edible marijuana (10 milligrams or less of tetrahydrocannabinol (“THC”)) shall be individually wrapped. However the board shall allow retail sales of edible marijuana packages that contain multiple doses.

Subsection (e) states that the board shall adopt regulations regarding the potency, safety or medical characteristics of medical marijuana.

Section 6: AS 17.38.100(a) is amended to read that applications or renewals for marijuana licenses shall be submitted to the board. Renewal applications shall be submitted 90 days before the license expires.

Section 7: AS 17.38.100(c) is amended to read that the board, upon receiving an application or renewal shall immediately forward a copy to the local regulatory authority for the municipality in which the applicant desires to operate the marijuana establishment unless the municipality has not set up a local authority to process licenses.

Refunds shall be given to a municipality if the board collects money in those circumstances.

Section 8: AS 17.38.100(d) is amended to read that the board, provided there are no violations by the applicant, has 90 days to issue an annual license after receiving a new application, or renewal application.

Section 9: AS 17.38.100(e) is amended to read that the board shall consider local municipality numerical limits on marijuana establishments.

Section 10: AS 17.38.100(g) is amended to read that every marijuana establishment shall disclose where they will operate. A separate license shall be required for each location. The establishment must be in-state.

Section 11: AS 17.38.110(a) is amended to read that a municipality may prohibit a marijuana producer establishment, a marijuana processor establishment, a marijuana testing facility, or a marijuana retailer through enactment of an ordinance or voter initiative.

Section 12: AS 17.38.110(b) is amended to read that a municipality may enact ordinances or regulations that govern the time, place, manner, and number of marijuana establishment operations. Civil penalties may be established for time, place, and manner violations.

Section 13: AS 17.38.110(c) is amended to read that a municipality may process applications within the boundaries of the municipality if the board fails to adopt regulations or accept applications.

Section 14: AS 17.38.110(d) is amended to allow a municipality the ability to issue, suspend, or revoke a license if the board fails to adopt regulations or accept applications, subject to the requirements of the Administrative Procedure Act.

Section 15: AS 17.38.110(e) is amended to read that a municipality may establish a schedule for annual licensing, renewal, and application fees to marijuana establishments. Fees shall not exceed \$5,000 (subject to annual adjustments for inflation) and may not exceed the actual costs of processing the application to the point of issuance or denial.

Section 16: AS 17.38.110(f) is amended to read that an applicant may resubmit their application for license to a local regulatory authority if the board does not issue a license after May 24, 2016, and does not provide reason/notice of denial. Subsequently, the local regulatory authority may issue an annual license to the applicant. If an applicant is required to resubmit to a local authority, then the board shall refund to the local regulatory authority the application fee paid, upon request.

Section 17: AS 17.38.110(g) is amended to read that if the board does not adopt regulations on time, an applicant may submit an application directly to a local regulatory authority after February 24, 2016. The local regulatory authority may issue an annual license.

Section 18: AS 17.38.110(h) is amended to read that a local regulatory authority shall issue a license within 90 days after they receive an application, unless the application is not in compliance with relevant ordinance. The municipality shall notify the board if the annual license has been issued to the applicant.

Section 19: AS 17.38.110(i) is amended to read that a license issued by a municipality shall have the same force and effect as the license issued by the board. The holder of the license is not subject to regulation or enforcement by the board during the term of the license.

Section 20: AS 17.38.110(j) focuses on circumstances where the board has not issued regulations and the municipality has. This may or may not be the case in the first year. In the event the board does not issue regulations, AS 17.38.110(j) is amended to read that a renewed license, issued by a municipality, may be issued on an annual basis upon resubmission to the municipality. The application shall also go to the board.

Section 21: AS 17.38.110(k) is amended to read that a renewed license may be issued by a local regulatory authority on an annual basis if the board has not adopted regulations at least 90 days before the renewed license would be effective or if the board has adopted regulations but has not, at least 90 days after the adoption of the regulations, issued licenses.

Section 22: AS 17.38.200 lists the types of licenses: (1) producer license; (2) processor license; (3) retailer license; (4) boutique producer license; (5) broker license; and (6) home-grower license.

Noteworthy: The campaign to legalize marijuana insisted upon being regulated like alcohol. There are multiple licenses in the alcohol industry, including: beverage dispensary licenses, brewery licenses, package store licenses, distillery licenses, pub licenses, etc.

PRODUCER LICENSE

AS 17.38.210 focuses on the producer license. A producer license authorizes the holder to grow marijuana in-state. Additionally, the producer may sell marijuana grown on the premises to a holder of a marijuana processor or retailer license.

Accumulative producer license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

PROCESSOR LICENSE

AS 17.38.220 focuses on the processor license. A processor license authorizes the holder to purchase marijuana from a person holding a marijuana producer or processor license.

The processor may refine, process, cook, manufacture, develop, label, and package marijuana/marijuana products. The processor may perform solvent-based extractions on marijuana. Sales of marijuana may occur to people with a processor license or a retailer license.

Accumulative processor license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

RETAILER LICENSE

AS 17.38.230 focuses on the retailer license. A retailer license holder may sell up to one ounce of marijuana a day to an individual on a licensed premises for consumption off premises. A license holder may only buy marijuana from a producer licensee or a processor licensee.

One cannot have an alcohol license and a marijuana license at the same time.

A marijuana retailer licensee may not sell/give/furnish marijuana on the premises between 12 midnight and 8:00AM each day. No consumption of marijuana may occur on licensed premises.

No free marijuana can be distributed.

No sales to other retailer license holders.

Accumulative retailer license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

MARIJUANA TESTING FACILITIES

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AS 17.38.240 states that marijuana testing facilities may not test, analyze or certify marijuana without being certified by the Department of Environmental Conservation.

MARIJUANA BOUTIQUE PRODUCER LICENSE

AS 17.38.250 focuses on the boutique producer license. The boutique producer license allows the holder to grow no more than 50 marijuana plants on licensed premises. Additionally the boutique producer may sell to a marijuana broker.

Accumulative boutique producer license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

MARIJUANA BROKER LICENSE

AS 17.38.260 focuses on the marijuana broker license. The broker license allows the holder to purchase marijuana and products from a processor, boutique producer, and home grower. The broker license allows sales to retailers and processors.

Accumulative broker license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

MARIJUANA HOME GROWER LICENSE

AS 17.38.270 focuses on the marijuana home grower license. A home grower's license allows the holder to sell to a broker any amount of plants owned by the holder.

Accumulative home grower license fees will not exceed \$5,000 (adjusted annually for inflation), unless the board needs higher fees to carry out its responsibilities.

INTEGRATED LICENSES

AS 17.38.280 focuses on integrated licenses. Integrated licenses are also called vertical licenses. With integrated licenses one person may be a producer, processor, and retailer.

The board may issue a producer and processor license to one person. A person issued an integrated producer and processor license may not grow or process marijuana on more than one licensed premises.

The board may charge a higher annual fee for an integrated license.

LICENSES

AS 17.38.290 focuses on new license applications. Applications should be made to the director on an approved form, sworn to by the applicant.

If the applicant is a corporation, the application shall be executed by the authorized officers of the corporation. If a partnership, including a limited partnership, it shall be executed by the general partner.

The application must include: (1) name and address; (2) type of license desired; (3) description of premises, including street number; (4) application fee; (5) other information required by the board by regulation.

A corporation applying for a license shall provide the names and addresses of the president, vice-president, secretary, managing officer, all stockholders who own 10% stock or more, together with any other information required by the board.

An applicant must include proof of notice (the applicant must post a copy of the application, for 10 days, at the proposed desired location, and either provide a copy of the application to newspapers/radio/television or provide paid notice of the application once each week in newspaper or radio).

A partnership, including a limited partnership, shall provide information on the names and addresses of general partners or all partners with a 10% interest or more.

A limited liability organization that applies for a license shall provide information required by the board, including the names and addresses of all members with 10% ownership interest or more. All managers must disclose their names and addresses.

AS 17.38.300 focuses on license renewal applications. Applications for renewal must include: (1) name and address; (2) type of license desired; (3) description of premises, including street number; (4) application fee; (5) other information required by the board by regulation. Proof of notice is not required for renewals.

A list of all convictions for violations of this chapter or similar regulations that occurred in the previous two calendar years.

The timelines for license renewals are as follows: (1) on or before November 1, the renewal applications shall be mailed to the applicable address; (2) the completed renewal application shall be submitted before January 1; (3) a renewal application filed after December 31 is delinquent and will be assessed a \$500 penalty fee; (4) if December 31 falls on a weekend or holiday, the deadline will be extended to the first business day after December 31.

AS 17.38.310 focuses on transfer of licenses to another person. An application for transfer must include the same information about the transferee required in AS 17.38.250. In other words: (1) name and address; (2) type of license desired; (3) description of premises, including street number; (4) application fee; (5) other information required by the board by regulation.

In addition, the transferor, under oath, must list all debts and taxes due. The board shall inform each listed creditor of the application and the amount owed.

A person may not charge another person more than the cost of the license for the transfer.

AS 17.38.320 focuses on applications for license location transfers. The transfer must contain the information required by the board and proof of notice.

For notice: the applicant must post a copy of the application (for 10 days) at the proposed desired location, and either provide a copy of the application to newspapers/radio/television or provide paid notice of the application once each week in newspaper or radio.

AS 17.38.330 focuses on criminal justice information and records. An applicant must submit fingerprints and the fees required by the Department of Public Safety (for the criminal justice information and national criminal history record check). This process may also occur for license renewals.

The board shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Information obtained may be used when assessing issuance, transfer, or renewal of a license.

“Applicant” means individuals whose names and addresses are required on the license application.

“Criminal justice information” includes criminal history, non-conviction information, and correctional treatment information.

NOTICE

AS 17.38.340 focuses on the notice of application. The applicant must post a copy of the application (for 10 days) at the proposed desired location, and either provide a copy of the application to newspapers/radio/television or provide paid notice of the application once each week in newspaper or radio.

Upon receiving the application, the board shall provide written notice of the application to the community council and any nonprofit community organization that has requested notification. Additionally (at least 10 days before the date in which the board will take action on the application) written notice must be provided to the community council or nonprofit organization to alert them of the time and place for the hearing.

DENYING LICENSES

AS 17.38.350 focuses on denying new licenses. The board shall deny licenses if: (1) the issuance of the license is not in the public’s best interest; (2) it is too near a church, school, or correctional

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facility; (3) the application was not completed as required; (4) issuance of the license would violate the restrictions pertaining to that license; (5) the requirements related to zoning, ownership, location, and identity of financing have not been met; (6) the applications contains false statements.

AS 17.38.360 focuses on denying license renewals. The board shall deny license renewals if: (1) the issuance of the license is not in the public's best interest; (2) the license has been revoked for any cause; (3) non-operation of the premises for at least 30 8-hour days during the two preceding calendar years (unless construction was occurring); (4) the requirements related to zoning, ownership, location, identity and financing of licensee have not been meet; (5) renewal of the license would violate the restrictions pertaining to that license; (6) application has not been completed. (7) renewal application contains false statements.

Additionally, the board may deny renewal if the applicant is delinquent on taxes owed from the business.

AS 17.38.370 focuses on denials for relocation requests. The board shall deny the relocation applications if: (1) relocation is not in the public's best interest; (2) the relocation is outside the established village, incorporated city, or unified municipality within which the license is located; (3) transfer of ownership is concurrent to relocation and grounds for denial of the transfer of ownership are presented; (4) the application has not been completed; (5) relocation would result in a zoning violation; (6) relocation of the license would violate restrictions pertaining to that license.

AS 17.38.380 focuses on denying a transfer of license to another person. The application for transfer approval will be denied if the board finds: (1) the transfer of the license would not be in the public's best interests; (2) the application was not completed; (3) the application contains false statements; (4) the transferor has not paid debts or taxes arising from the business, unless there is satisfactory security or collateral; (5) transfer of the license would result in a violation of the provisions of this chapter relating to the identity of licenses and financing of licensees; (6) transfer of license to another person that would violate restrictions pertaining to that license; (7) the prospective transferee does not have the qualifications.

AS 17.38.390 focuses on suspension and revocation of licenses. The board shall suspend or revoke a license if: (1) a misrepresentation occurs on the application; (2) continuation of manufacture or sale of marijuana would not be in the public's best interests; (3) the licensee fails to correct a defect because of regulation or other applicable law; (4) the licensee is convicted under the controlled substances statutes; (5) conviction of agent or employee under the controlled substances statutes; (6) the licensee fails to comply with public health, fire, or safety laws; (7) the licensee uses the premises for narcotics trafficking or prostitution; (8) the licensee conducts illegal gambling on the premises; (9) the licensee allowed a public offense of moral turpitude to occur on the premises;

(10) the licensee has a violation of a board-imposed condition or restriction occurs; (11) an agent or employee has a violation of a board-imposed condition or restriction.

AS 17.38.400 allows the board, in the best interests of the public, to impose additional conditions or restrictions on a license.

AS 17.38.410 focuses on retail restrictions near churches, schools, and correctional facilities. Retailers shall not be within 200 feet of a church, school, or correctional facility.

AS 17.38.420 focuses on zoning limitations. No licenses shall be issued that conflict with zoning regulations that restrict marijuana sales.

AS 17.38.430 focuses on “persons” and “locations.” Licenses are encouraged for state residents for at least one year. Corporate licensees need to be incorporated in this state. Sole proprietors need to be residents of this state. Limited liability companies need to have all members as residents of the state. Partnerships must have all partners as residents of this state.

The specific location shall be indicated on the license. The board should be notified of changes. The board should maintain the current address of the board.

AS 17.38.440 focuses on prohibited financial interests. A person other than the licensee may not have a direct or indirect financial interest in the business.

The license may not be leased to another person.

Graduated lease-rent agreements under this title do not hold a financial interest in the business.

“Direct or indirect financial interest” means holding a legal or equitable interest. Consulting fees are not included.

AS 17.38.450 focuses on the procedure for action on license application, suspensions, and revocations.

Under most circumstances, the board shall grant or deny the license within 90 days after receipt of the application. The board is not required to give a hearing, except:

- (1) If the application is denied. Written notice of the denial must inform the applicant that he is entitled to an informal conference. If not satisfied by the informal conference, the applicant is entitled to a formal hearing by the office of administrative hearings under the Administrative Procedure Act. The hearing shall occur at the area the application is requested.
- (2) The board may hold its own hearing to ascertain public reaction. Notice for the hearing shall occur 20 days in advance of the hearing.

For suspensions or revocations, unless under AS 17.38.390(4) shall be done under the Administrative Procedure Act, except that a licensee is entitled to an opportunity to be heard informally within 10 days of the accusation being served. If still not satisfied, the licensee can request a formal hearing on the merits, unless under AS 17.38.390(4).

AS 17.38.460 focuses on suspension and revocation based on acts of employees. If an employee is the violator and the sentencing report has been sent to the board, the licensee has the burden of proof to show that the licensee did not knowingly allow the violation.

AS 17.38.470 focuses on application of precedent. The board does not need to conform or distinguish its action from past applications presenting similar facts, but, instead, may base its decision on the facts before it.

AS 17.38.480 focuses on license renewal and expiration. Licenses shall be issued for one calendar year ending on December 31 and submitted until the next February 28. If an incomplete application has been filed, or if no application is filed by February 28, then the license expires at midnight on February 28. Except if good cause is shown, the license must be returned to the board.

AS 17.38.490 focuses on the notice for expiration. On or before February 15, notice of expiration shall be sent out to those who have not applied for a renewed license or have not notified the director of the intent to do so. Failure of the director to mail this notice of expiration does not waive the requirement that the application for renewal be filed by February 28.

AS 17.38.500 focuses on appeals. Actions by board agents can be appealed to the board by the aggrieved party. Appeals from the board are heard by the Alaska Superior Court.

AS 17.38.510 focuses on refunds and forfeiture of fees. If an application is denied, the license fee less the application fee will be refunded. License fee will not be refunded unless the board determines it erred in the issuance through no fault of the applicant. If there is a revocation of license because of untrue statements, the license fee is forfeited to the state.

AS 17.38.520 focuses on civil fines. The board may impose civil fines. The board may adopt a schedule of fines. A fine may not exceed \$75,000 or an amount three times the monetary gain realized. There shall be no excessive fines.

AS 17.38.530 focuses on the surrender or destruction of a license. If the board directs, the license must be surrendered to a peace officer or agent of the board. That surrender shall occur within 10 days after loss of the premises. If the license is destroyed, the board should be notified.

AS 17.38.540 focuses on the disposition of money. Funds collected by the board should be transferred to the Department of Commerce, Community, and Economic Development

“DCCED”) and placed in their general fund. An annual balance must be maintained by DCCED to carry out the purposes of this chapter.

AS 17.38.550 focuses on accessibility of license and licensed premises to inspection. The premises must be open for inspection by agents of the board. The license must be clearly displayed.

AS 17.38.560 clarifies that the license is a privilege, not a right.

AS 17.38.570 clarifies that the license is not subject to foreclosure, and may not be used as collateral to secure debts.

AS 17.38.580 clarifies that the license shall be issued for one year.

Section 23: AS 17.38.900(6) amends the definition of “marijuana.” “Marijuana” includes all parts of the plant whether growing or not, including the seeds, resin, and every compound, derivative, mixture, included in marijuana concentrate. “Marijuana” does not include fiber from the stalks, oil, seed that is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

Section 24: AS 17.38.900(9) is amended to mean that a “marijuana establishment” is a producer, testing facility, processor, retailer, boutique producer, broker, or home grower.

Section 25: AS 17.38.900(11) is amended to read that “marijuana products” include concentrated marijuana products including, but not limited to, edible products, ointments, and tinctures.

Section 26: AS 17.38.900(12) is amended to read that a “marijuana testing facility” means a certified entity that analyzes safety and potency of marijuana.

Section 27: AS 17.38.900 provides definitions. “Correctional facility” has the meaning given in AS 33.30.901.

“Director” is the executive director of the Alcohol Beverage Control Board.

“Marijuana boutique” is a licensee that may grow no more than 50 marijuana plants on licensed premises. Additionally, the boutique producer may sell to a marijuana broker.

“Marijuana broker” is a licensee that may purchase marijuana and products from a processor, boutique producer, and home grower. Additionally, the broker license allows sales to retailers and processors.

“Marijuana home grower” is a licensee that may sell to a broker any amount of plants owned by the holder, subject to personal use provisions.

“Marijuana processor” is a licensee that may purchase marijuana and prepare marijuana products. A marijuana processor may then sell to retailers or other processors, but not consumers.

“Marijuana producer” is a licensee that may cultivate marijuana and sell to retailers, processors, or other producers.

“Marijuana retailer” is a licensee that may buy from producers, processors, and sell marijuana to consumers.

“Municipality” has the meaning given to it from AS 29.71.800.

“School grounds” has the meaning given to it in AS 11.71.900.

Section 28: AS 29.35 is amended to state that marijuana can be regulated by local “home rule” municipalities. There is a similar statute (AS 29.35.080) for alcohol.

Section 29: AS 43.61.010(a) is amended to focus on the excise tax. The tax is imposed on the transfer from producer or broker to retailer or processor. Every producer and broker shall pay a \$50 tax per ounce (or proportionate part of an ounce) on marijuana sold by producer or broker to a retailer or processor.

Section 30: AS 43.61.020 is amended and focuses on monthly statements and payments. The producer and broker licensees shall send a statement by mail or electronically on or before the last day of each calendar month. The statement must contain the amount of marijuana sold or transferred to other licensees. The statement shall include: (1) the total number of ounces, including fractional ounces, sold or transferred; (2) names and addresses of each buyer and transferee.

The producer and broker licensee shall pay all monthly taxes to the department. The tax shall be paid the last day of each month (to cover the preceding month).

Section 31: AS 43.61.030 focuses on administration and enforcement of the tax. Penalties for tax deficiencies will be subject to civil penalties (may include 5% added, not to exceed 25% in the aggregate). If the producer or broker fails to pay the tax, the producer or broker’s license may be revoked.

Section 32: AS 43.61 adds a new section. “Marijuana processor,” “marijuana producer,” and “marijuana retailer,” and “marijuana broker,” have the meaning found in Section 27.

Section 33: states that AS 17.38.070, AS 17.38.900(8), AS 17.38.900(10), and AS 17.38.900(13) are repealed.

Section 34: states that the act takes effect immediately under AS 01.10.070(c) (date the governor signs or the veto is overridden, or the expiration date of gubernatorial action).

SENATE BILL 62 (“SB62”) – COMMERCIAL MARIJUANA PRESENTATION

“An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date.”
(29-LS0405\E)

Senate Judiciary Committee Bill

Prepared by the Offices of Senator McGuire and Senator Coghill

Jesse Logan (jesse.logan@akleg.gov)

Chad Hutchison (chad.hutchison@akleg.gov)

STARTS WITH BALLOT MEASURE 2

BALLOT MEASURE 2: AS 17 WAS AMENDED TO ADD CHAPTER 38

1. From a commercial perspective, what changed?
 - A. Legitimate taxpaying business people can conduct sales of marijuana.
 - B. Marijuana sold by businesses will be labelled to ensure that consumers are informed and protected.
2. Of interest: AS 17.38.020, 17.38.030, 17.38.040, 17.38.060
3. Persons 21 years of age or older may legally:
 - Possess, use, display, purchase, transport: 1 ounce or less
 - Possess, grow, process, transport:
 - 6 plants, 3 or less may be mature/flowering
 - Transfer to a person 21 years of age or older:
 - 1 ounce or less AND up to 6 immature plants
 - Manufacture, possess, purchase: Marijuana accessories.



NOTEWORTHY: No Public Consumption

MARIJUANA-RELATED FACILITIES

1. AS 17.38.070, 17.38.900
2. Marijuana Establishments:
 - Marijuana Cultivation Facility
 - Marijuana Product Manufacturing Facility
 - Marijuana Testing Facility
 - Marijuana Retail Store

All must have current, valid registration.

STATE RULEMAKING DEADLINES

1. AS 17.38.080, 17.38.090, 17.38.100
2. 9 months – regulations to implement chapter 38:
 - Issue, renew, suspend, revoke a registration
 - Schedule of fees for application, registration, renewal
 - Qualifications for registration
 - Security requirements
 - Prevention of sale/diversion of those not 21 years of age
 - Labelling requirements
 - Health and safety regulations
 - Restrictions on advertising and display
 - Civil penalties for failure to comply

STATE RULEMAKING DEADLINES...CONTINUED

3. 1 year (from Feb. 24, 2015):

- Board must begin accepting and processing applications for registration.

4. 45 to 90 days after receiving an application:

- Board must issue annual registration or notification of denial.

LOCAL PARTICIPATION AND CONTROL



1. Relevant Statutes: AS 17.38.100, 17.38.110
2. Local government may:
 - Prohibit establishments
 - Enact ordinances regulating time, place, manner, and number of establishments
 - Ⓞ Establish annual operating fees
 - Establish civil penalties for ordinance violation
 - Create "local regulatory authority"
 - Will receive half of state application fees
 - Provide input on applications to Board
 - Issue registrations if state fails to meet chapter 38 deadlines
 - Must notify Board
 - Locally-issued registration will not be subject to Board regulations for duration of registration

ANYTHING ELSE?

1. AS 17.38.010, 17.38.120, 17.38.130
2. *Ravin* unaffected.
3. Marijuana DUI laws unaffected
4. Medical marijuana laws unaffected
5. Employers may still restrict marijuana use in workplace
6. Private property owners/occupiers and schools, hospitals, corrections facilities, etc. may prohibit or regulate marijuana on their property

WHAT ABOUT TAXES?

1. AS 43.61.010, 43.61.020, 43.61.030,
2. Department of Revenue (DOR) will:
 - Collect an excise tax of \$50 per ounce
 - When sold or transferred from cultivation facility to retail store or produce manufacturing facility
 - Certain parts of the marijuana plant may be exempted or taxed at a lower rate as determined by DOR
 - Be sent records from cultivation facilities monthly
 - Total number of ounces sold the previous month
 - Breakdown of the weight sold to each buyer/transferee and their Alaska address
 - Be sent payment from cultivation facilities monthly
 - Delinquent payments are subject to civil penalties
 - Registration may be revoked for failure to pay taxes



WHAT CAN THE STATE DO?

1. The initiative could be amended. The Legislature has broad power to amend. However, it cannot amend to the point of an effective repeal.
2. May amend implied consent, DUI, open container laws.
3. Fill gaps.
4. Promulgate regulations.

BALLOT MEASURE 2 SPAWNED A NUMBER OF BILLS:

- ▶ HB59 – Marijuana Concentrates
- ▶ SB30 – Criminal Bill; Defenses
- ▶ HB79 – Marijuana Regs; Controlled Substances; Defenses
- ▶ HB75 –Reg. Marijuana by Municipality
- ▶ SB60 – Marijuana Control Board
- ▶ HB123 – Marijuana Control Board
- ▶ **SB62 – Commercial Marijuana; Regulation of Marijuana.**

HB 133 - sister to SB62



SENATE BILL 62 (“SB62”)

- ▶ **Section 1:** Inspection and certification of marijuana testing facilities.
- ▶ **Section 2:** Marijuana accessories.
- ▶ **Section 3:** Limitations on advertising.
- ▶ **Section 4:** The board is required to adopt regulations for commercial licenses.

SB62 CONTINUED

- ▶ **Section 5:** Regulations for packaging and labeling of marijuana for persons that have a marijuana retailer license.
- ▶ **Section 6:** Applications or renewals.
- ▶ **Section 7:** The board, upon receiving an application or renewal shall immediately forward a copy to the local regulatory authority for the municipality in which the applicant desires to operate the marijuana establishment.
- ▶ **Section 8:** The board has 90 days to issue an annual license.

SB62 CONTINUED

- ▶ **Section 9:** Board shall consider local municipality numerical limits.
- ▶ **Section 10:** Marijuana establishment shall disclose where they will operate.
- ▶ **Section 11:** A municipality may prohibit a marijuana establishment through enactment of an ordinance or voter initiative.
- ▶ **Section 12:** Municipality may enact ordinances that govern the time, place, manner, and number of marijuana establishment operations.

SB62 CONTINUED

- ▶ **Section 13:** A municipality may process applications within the boundaries of the municipality if the board fails to adopt regulations.
- ▶ **Section 14:** Allow a municipality the ability to issue, suspend, or revoke a license.
- ▶ **Section 15:** A municipality may establish a schedule for annual licensing, renewal, and application fees to marijuana establishments.
- ▶ **Section 16:** Applicant may resubmit their application for license to a local regulatory authority if the board does not issue a license after May 24, 2016, and does not provide reason/notice of denial.

SB62 CONTINUED

- ▶ **Section 17:** If the board does not adopt regulations on time, the local regulatory authority may issue an annual license.
- ▶ **Section 18:** A local regulatory authority shall issue a license within 90 days after they receive an application.
- ▶ **Section 19:** A license issued by a municipality shall have the same force and effect as the license issued by the board.
- ▶ **Section 20:** AS 17.38.110(j) is amended to read that a renewed license, issued by a municipality, may be issued on an annual basis upon resubmission to the municipality.

SB62 CONTINUED

- ▶ **Section 21:** A renewed license may be issued by a local regulatory authority.
- ▶ **Section 22:** Types of licenses: (1) producer license; (2) processor license; (3) retailer license; (4) boutique *(under 50 plants)* producer license; (5) broker license; and *(middle man)* (6) home-grower license, testing, notice provisions, license procedures.

MARIJUANA LICENSING STRUCTURE

Basic Licenses

- ▶ Producer License (cultivator)
- ▶ Processor License (Infuser)
- ▶ Retailer License (store)
- ▶ Boutique Producer License (small cultivator)
- ▶ Home Grower (personal use overstock)
- ▶ Broker License (middle-person)

Vertical Licenses

- Producer/Processor/Retailer
- Producer/Processor

WHY SO MANY LICENSES?

- ▶ **Remember the Alcohol Industry...**

- ▶ **AS 04.11.080. Types of Licenses and Permits.**

- ▶ Licenses and permits issued under this title are as follows:

- ▶ beverage dispensary license;
- ▶ duplicate beverage dispensary license for additional rooms;
- ▶ restaurant or eating place license;
- ▶ club license;
- ▶ bottling works license;
- ▶ brewery license;
- ▶ package store license;
- ▶ general wholesale license;
- ▶ wholesale malt beverage and wine license;

- distillery license;
- common carrier dispensary license;
- retail stock sale license;
- recreational site license;
- pub license;
- winery license;
- brewpub license;
- golf course_license.



MARIJUANA PRODUCER LICENSE (CULTIVATION)

- ▶ These facilities are the **only** premises on which the licensee may grow **more than 50 plants**.
- ▶ The licensee can grow, harvest, and process raw Marijuana product to sell to:
 - ▶ Licensed Marijuana Retailers, or
 - ▶ Licensed Marijuana Processors (for use in infused products)
- ▶ This licensee has the **state tax obligation of \$50 per ounce** sold.

MARIJUANA PROCESSOR LICENSE (INFUSER)

- ▶ This facility would **produce marijuana infused** products such as:
 - ▶ Edibles
 - ▶ Concentrates (hash)
 - ▶ Tinctures
 - ▶ Beverages
- ▶ These facilities are only authorized to wholesale products to licensed marijuana **retailers** or licensed marijuana **brokers**.
- ▶ This licensee **does not have a state tax burden**.

MARIJUANA RETAILER LICENSE (STORE)

- ▶ Facility from which any individual **21 years or older** may purchase marijuana
- ▶ Retail marijuana **may not be cultivated or processed** under this stand-alone license type
- ▶ This licensee **does not have a state tax burden**
 - ▶ But
- ▶ Could be responsible for **any additional municipal taxes** applied at the retail point of sale

MARIJUANA BOUTIQUE PRODUCER LICENSE (SMALL PRODUCER)

- ▶ A licensee is permitted to grow **not more than 50 plants** at one time on the premises
- ▶ May sell marijuana grown on the premises **only to a licensed marijuana broker**
- ▶ This licensee **does not have a state tax burden**
- ▶ The **tax burden is absorbed by the broker**
- ▶ This license type was conceived to offer a path to legitimate and regulated growing operations for current illegal grows.

HOME GROWER

- ▶ AS 17.38.020 (b)
 - ▶ Allows an individual to possess, grow, process and transport **not more than 6 marijuana plants**, AND
 - ▶ To **possess the marijuana produced by the plants** on the premises where they were grown.
- ▶ An individual can **sell to a broker any surplus** of their personal use allowance as to avoid it ending up on the black market.
- ▶ Individual will obtain a **unique ID# that verifies the growers age and AK residency**
 - ▶ This ID# assures that not more than a "reasonable amount" of surplus is being sold
 - ▶ The Broker would enter the **ID# into the Seed-to-Sale database** when paying taxes
- ▶ This licensee **does not have a state tax burden**
 - ▶ **Tax burden is absorbed by the Broker**

MARIJUANA BROKER LICENSE

- ▶ Licensee is authorized to **purchase any amount** of Marijuana and Marijuana products from
 - ▶ **Licensed Marijuana Processor**
 - ▶ **Licensed Marijuana Boutique Producer**
 - ▶ **Home Grower**
- ▶ Licensee is authorized **to sell any amount** of Marijuana and Marijuana Products to:
 - ▶ **Licensed Marijuana Processor**
 - ▶ **Licensed Marijuana Retailer**
- ▶ This Licensee is **responsible for testing** all Marijuana before it is sold to a retailer
- ▶ This Licensee **acts as the wholesale state tax obligator**
 - ▶ **Responsible for the same tax as a Marijuana Producer Licensee**

PRODUCER/PROCESSOR/RETAIL LICENSE (TRUE VERTICAL INTEGRATION)

- ▶ The same licensee can obtain a marijuana Producer, Processor, and Retail License
- ▶ This allows the retailer to **exclusively sell their own product**
- ▶ The **application fee should increase** to process the integrated functions
- ▶ These functions should be allowed on the **same property, but not required**
- ▶ This Licensee has a **state tax burden of \$50 per ounce**
- ▶ **This Licensee may also have any municipal tax burdens**

PRODUCER/PROCESSOR (PARTIAL INTEGRATION)

- ▶ The same licensee can obtain a **marijuana Producer and Processor license**
- ▶ Marijuana and Marijuana **products could only be sold to a licensed Retailer or licensed Broker**
- ▶ The **application fee should increase** to process the integrated functions.
- ▶ The functions of producer and processor should be **allowed on one property, but not required.**
- ▶ This license has the **state tax burden of \$50 per ounce**

SB62 CONTINUED

- ▶ **Section 23:** “Marijuana” includes all parts of the plant whether growing or not, including the seeds, resin, and every compound, derivative, mixture, included in marijuana concentrate.
- ▶ **Section 24:** A “marijuana establishment” is a producer, testing facility, processor, retailer, boutique producer, broker, or home grower.
- ▶ **Section 25:** “Marijuana products” include concentrated marijuana products including, but not limited to, edible products, ointments, and tinctures.
- ▶ **Section 26:** “Marijuana testing facility” means a certified entity that analyzes safety and potency of marijuana.

SB62 CONTINUED

- ▶ **Section 27:** "Correctional facility" has the meaning given in AS 33.30.901. "Director" is the executive director of the Alcohol Beverage Control Board. "Marijuana boutique" is a licensee that may grow no more than 50 marijuana plants on licensed premises. "Marijuana broker" is a licensee that may purchase marijuana and products from a processor, boutique producer, and home grower. "Marijuana home grower" is a licensee that may sell to a broker any amount of plants owned by the holder, subject to personal use provisions. "Marijuana processor" is a licensee that may purchase marijuana and prepare marijuana products. "Marijuana producer" is a licensee that may cultivate marijuana and sell to retailers, processors, or other producers. "Marijuana retailer" is a licensee that may buy from producers, processors, and sell marijuana to consumers. "Municipality" has the meaning given to it from AS 29.71.800. "School grounds" has the meaning given to it in AS 11.71.900.

SB62 CONTINUED

- ▶ **Section 28:** Marijuana can be regulated by local “home rule” municipalities.
- ▶ **Section 29:** Every producer and broker shall pay a \$50 tax per ounce (or proportionate part of an ounce) on marijuana sold by producer or broker to a retailer or processor.
- ▶ **Section 30:** The producer and broker licensees shall send a statement by mail or electronically on or before the last day of each calendar month. The producer and broker licensee shall pay all monthly taxes to the department.

SB62 CONTINUED

- ▶ **Section 31:** Penalties for tax deficiencies will be subject to civil penalties.
- ▶ **Section 32:** “Marijuana processor,” “marijuana producer,” and “marijuana retailer,” and “marijuana broker,” have the meaning found in Section 27.
- ▶ **Section 33:** AS 17.38.070, AS 17.38.900(8), AS 17.38.900(10), and AS 17.38.900(13) are repealed.
- ▶ **Section 34:** states that the act takes effect immediately.

QUESTIONS?

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SUPPLEMENTAL SLIDES

CORE ELEMENTS OF BALLOT MEASURE 2

1. Marijuana use is legal for persons 21 years of age and older.
2. Allows a person to possess, use, show, buy, transport, or grow set amounts of marijuana, subject to certain restrictions.
3. Public use of marijuana is banned.
4. Those under 21 years of age are prohibited from using false identification to buy or attempt to buy marijuana or marijuana accessories.

CORE ELEMENTS OF BALLOT MEASURE 2 - CONTINUED

5. Owners/employees (21 years age and older) of validly registered entities, may:
 - possess, make, buy, distribute, sell, show, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products, subject to certain restrictions.
6. The Legislature may create a Marijuana Control Board. If the Marijuana Control Board is not created than the Alcoholic Beverage Control (ABC) Board may adopt regulations governing marijuana-related entities. The regulations shall cover certain marijuana related topics and are subject to certain restrictions.
7. Procedures will need to be created for registering a marijuana-related entity. The procedures would be managed by either the Marijuana Control Board (if created) or the ABC board (if no Marijuana Control Board is created) and local governments.

CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

8. Local governments may prohibit the operation of marijuana-related entities. A local government could do that by enacting an ordinance or through voter initiative. The ordinances may cover the time, place, manner, and registration of a marijuana entity's operations.
9. A person 21 years of age or older may possess, use, show, buy, or transport marijuana accessories. Marijuana accessories are products individuals use to grow or consume marijuana. A person 21 years or older may make marijuana accessories and distribute or sell them to persons 21 years and older.

CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

10. Employers may prohibit marijuana use, transportation, possession, sale, growth, or transfer.

11. Driving under the influence of marijuana is prohibited.

12. Schools, correctional facilities, hospitals, or private persons or entities may restrict marijuana on their property.

CORE ELEMENTS OF BALLOT MEASURE 2 – CONTINUED...

13. Existing medical marijuana laws are not limited.

14. There shall be a \$50 per ounce (or proportionate) excise tax on the sale or transfer of marijuana from a cultivation facility to a retail store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax and send monthly tax statements to the Department of Revenue. The Department of Revenue may exempt certain parts of the marijuana plant from the tax. It could also establish a lower tax rate for certain parts of the plant.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 62
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB062-DCCED-ABC-02-27-15
Title: REGULATION OF MARIJUANA BUSINESSES;
BOARD
Sponsor: JUDICIARY
Requester: SENATE STATE AFFAIRS

Department: Department of Commerce, Community and
Economic Development
Appropriation: Alcoholic Beverage Control Board
Allocation: Alcoholic Beverage Control Board
OMB Component Number: 2690

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services		610.5						
Travel		73.0						
Services		756.4						
Commodities		134.5						
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	1,574.4	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1004 Gen Fund		1,574.4						
Total	0.0	1,574.4	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time		6.0						
Part-time								
Temporary								

Change in Revenues			***	***	***	***	***
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Estimated SUPPLEMENTAL (FY2015) cost: 785.7 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 11/24/16

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Cindy Franklin, Director	Phone:	(907)269-0351
Division:	Alcoholic Beverage Control Board	Date:	02/13/2015 09:00 AM
Approved By:	Catherine Reardon, Director	Date:	02/27/2015
Agency:	Division of Administrative Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB062

Analysis

SB62 sets out guidelines for marketing, licensing, enforcement, and certification of marijuana businesses in Alaska. It creates six separate license categories and defines the scope and requirements for each. Marijuana retailers are restricted from operating businesses within 200 feet of schools, churches, or correctional facilities. This bill also limits the sale of marijuana to one ounce per person, per day and requires that marijuana producers and brokers pay a \$50/ounce excise fee for sale or transfer of marijuana to a retailer.

SB62 also amends AS 17.38 to refer to municipalities instead of local governments, and adds requirements for municipalities who have not already taken action related to the regulation of marijuana to establish advisory boards. It also requires municipalities to designate a local regulatory authority that is responsible for processing applications submitted for registration to operate a marijuana establishment.

Receipts related to marijuana activities are expected to be received as activities increase; however, the timing and amount of receipts is indeterminate at this time.

There is a fiscal impact associated with regulating marijuana in the state, including implementing the provisions of SB62. Funding for marijuana-related activities in the Alcoholic Beverage Control board is included in FY2016 Governor's budget, and as a supplemental budget request for FY2015 in the amount of \$785.7. If either funding request is removed from an appropriation bill, the fiscal note for this bill will need to be increased accordingly.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 62
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB062--DEC-EHL-02-27-15
Title: REGULATION OF MARIJUANA BUSINESSES;
BOARD
Sponsor: JUDICIARY
Requester: State Affairs Committee

Department: Department of Environmental Conservation
Appropriation: Environmental Health
Allocation: Laboratory Services
OMB Component Number: 2065

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services	175.2		210.2	210.2	210.2	210.2	210.2	210.2
Travel	13.0		13.0	13.0	13.0	13.0	13.0	13.0
Services	30.5		12.6	12.6	12.6	12.6	12.6	12.6
Commodities	15.0		1.0	1.0	1.0	1.0	1.0	1.0
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	233.7	0.0	236.8	236.8	236.8	236.8	236.8	236.8

Fund Source (Operating Only)

1004 Gen Fund	233.7		236.8	118.4	118.4	118.4	118.4
1005 GF/Prgm				118.4	118.4	118.4	118.4
Total	233.7	0.0	236.8	236.8	236.8	236.8	236.8

Positions

Full-time	2.0		2.0	2.0	2.0	2.0	2.0
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Elaine Busse Floyd, Director
Division: Environmental Health
Approved By: Lynn Kent, Deputy Commissioner
Agency: Department of Environmental Conservation

Phone: (907)269-7644
Date: 02/27/2015 12:50 PM
Date: 02/27/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB62

Analysis

This bill outlines the regulation of marijuana businesses. As written, most of the regulatory responsibility falls to the Department of Commerce.

At a minimum, the Environmental Health Lab (EHL) will need to develop procedures for certifying private marijuana testing labs, since there are not any federal standards available to incorporate or adopt by reference. The EHL will require trained staff to perform the initial laboratory certifications and annual audits.

EHL anticipates fees will be included in the new regulations for certifying private laboratories. Revenues reflect a shift to being partially supported by general fund program receipts as the program is established and fees are able to be collected. Without knowing how many private laboratories will need certification, or what methods these laboratories will use, it will be difficult to anticipate how much in fees will be collected in the first several years of the program.

Personal Services:

SB 62 will require the addition of two new laboratory staff, a Microbiologist III and a Chemist IV. These new positions will be responsible for certifying third party laboratories according to the biological (mold, fungus, bacteria, etc.) and/or chemical (potency, pesticides, metals, etc.) methods these private laboratories will use in operations.

Travel:

Certification of private laboratories requires on-site inspections and audits each year. Travel costs are estimated under the assumption that private laboratories will be located on the road system, since marijuana is prohibited from being shipped commercially.

Contractual:

Contractual costs are estimated LAW RSA costs during the regulation development process. Although the EHL is not required to draft or amend existing regulations, we do expect to have significant involvement in the drafting and development of marijuana regulations by the Marijuana Control Board.

Supplies:

New employee start up costs and general office supplies are the only estimated supply costs.

Equipment:

SB 62 does not require the Environmental Health Laboratory to test marijuana or marijuana products, so no laboratory equipment is required with this fiscal note.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 62
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB062-DEC-FSS-02-27-15
Title: REGULATION OF MARIJUANA BUSINESSES;
BOARD
Sponsor: JUDICIARY
Requester: State Affairs Committee

Department: Department of Environmental Conservation
Appropriation: Environmental Health
Allocation: Food Safety & Sanitation
OMB Component Number: 2343

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services	220.6		264.7	264.7	264.7	264.7	264.7	264.7
Travel	10.0		10.0	10.0	10.0	10.0	10.0	10.0
Services	38.2		15.9	15.9	15.9	15.9	15.9	15.9
Commodities	22.5		1.5	1.5	1.5	1.5	1.5	1.5
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	291.3	0.0	292.1	292.1	292.1	292.1	292.1	292.1

Fund Source (Operating Only)

1004 Gen Fund	291.3		175.3	175.3	175.3	175.3	175.3
1005 GF/Prgm			116.8	116.8	116.8	116.8	116.8
Total	291.3	0.0	292.1	292.1	292.1	292.1	292.1

Positions

Full-time	3.0		3.0	3.0	3.0	3.0	3.0
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Elaine Busse Floyd, Director
Division: Environmental Health
Approved By: Lynn Kent, Deputy Commissioner
Agency: Department of Environmental Conservation

Phone: (907)269-7644
Date: 02/27/2015 12:50 PM
Date: 02/27/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB62

Analysis

This bill outlines the regulation of marijuana businesses. As written, most of the regulatory responsibility falls to the Department of Commerce.

To ensure the safety of edible marijuana products, the Food Safety and Sanitation (FSS) program would be involved with both marijuana processors and marijuana retailers as they are currently described in SB 62. The FSS program staff would be responsible for ensuring sanitary practices at each processing location and ensuring that foods held in a retail facility were being stored properly (eg. refrigerated products are kept at an appropriate temperature). New processing and retail facilities will be subject to existing FSS regulations and fees.

Existing fees cover approximately 40% of the cost of permitting and inspections for processing and retail food facilities. Revenues reflect a proportional shift to general fund program receipts in FY2017 as new operators start paying fees. In FY2016, there will be an increased need to provide technical assistance to facilities preparing to open, which will not be fee supported.

Personal Services:

SB 62 will require the addition of three new Food Safety & Sanitation staff members. An Environmental Health Officer III, located in Anchorage, will be responsible for performing high risk retail and food processor inspections for marijuana processors. An Environmental Health Officer II, located in Fairbanks, will also perform high risk inspections. An Environmental Health Technician, located in Anchorage, will be needed for the anticipated increase in retail and processing permitting activities, and technical assistance.

Travel:

Limited air travel to Western Alaska will be required to inspect new retail facilities. Staff inspecting marijuana food processing facilities will require training on extraction processes. Training is only available out of state at this time.

Contractual:

Contractual costs are estimated LAW RSA costs during the regulation development process. Although FSS is not required to draft or amend existing regulations, we do expect to have significant involvement in the drafting and development of marijuana regulations by the Marijuana Control Board.

Supplies:

New employee start up costs and general office supplies are the only estimated supply costs.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 62
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB062-DOA-OAH-03-02-15
Title: REGULATION OF MARIJUANA BUSINESSES;
BOARD
Sponsor: JUDICIARY
Requester: Senate State Affairs

Department: Department of Administration
Appropriation: Centralized Administrative Services
Allocation: Office of Administrative Hearings
OMB Component Number: 2771

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	10.0		20.0	20.0	20.0	20.0	20.0	20.0
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	10.0	0.0	20.0	20.0	20.0	20.0	20.0	20.0

Fund Source (Operating Only)

1007 I/A Rcpts	10.0		20.0	20.0	20.0	20.0	20.0	20.0
Total	10.0	0.0	20.0	20.0	20.0	20.0	20.0	20.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Christopher Kennedy, Deputy Chief Administrative Law Judge	Phone:	(907)269-8170
Division:	Office of Administrative Hearings	Date:	03/01/2015 07:30 PM
Approved By:	Sheldon Fisher, Commissioner	Date:	03/02/15
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB 62

Analysis

This bill would a regulatory and licensing process for marijuana overseen by the Alcoholic Beverage Control Board. Licensing categories are created for marijuana producers, processors, retailers, boutique producers, brokers, and home growers. The Board is given authority to issue, deny, condition, restrict, suspend, or revoke these licenses, and to rule upon transfers of licenses between persons and relocations of licensed premises.

Section 22 of the bill provides that if an application is denied, the applicant has the right to an administrative hearing before the Office of Administrative Hearings (OAH). A right to a similar hearing is also granted in the case of suspensions and revocations, although the bill does not expressly require that these hearings be conducted by OAH. In keeping with current practice of the Alcoholic Beverage Control Board and most other regulatory boards, OAH assumes that these hearings would likewise be referred to OAH.

OAH estimates that the cost of conducting the above hearings would be approximately equivalent to the present cost of conducting the hearings relating to alcoholic beverage licenses as directed in AS 44.64.030(a)(1). In FY 2016, that cost has been \$5.0 per quarter.

OAH is presently operating at or beyond capacity. The additional hearing load of this work alone would not support the creation of a new full-time administrative law judge position. In the absence of a new PCN, OAH will instead contract out hearing responsibilities to contractors as appropriate.

Sections 29-32 of the bill modify but do not appear to expand the excise tax imposed by Ballot Measure 2. Under AS 43.05.405, OAH would hear and decide appeals relating to this tax. However, SB 62 does not appear to modify the tax in a way that would increase that hearing load beyond the increase in tax hearings already inherent in Ballot Measure 2. Accordingly, no portion of this fiscal note relates to tax hearings.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: SB 62
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB062-DOR-TAX-2-26-15
Title: REGULATION OF MARIJUANA BUSINESSES;
BOARD
Sponsor: JUDICIARY
Requester: Governor

Department: Department of Revenue
Appropriation: Taxation and Treasury
Allocation: Tax Division
OMB Component Number: 2476

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues			12,000.0	12,600.0	13,200.0	13,900.0	14,600.0
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 11/24/15

Why this fiscal note differs from previous version:

Prepared By: Ken Alper, Director
Division: Tax
Approved By: Jerry Burnett, Deputy Commissioner
Agency: Department of Revenue

Phone: (907)465-8221
Date: 02/25/2015 03:00 PM
Date: 02/26/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. SB62

Analysis

With the passage of Ballot Measure 2, "Production, Sales, and Use of Marijuana," a tax of \$50 per ounce is created. Per AS 43.61.010(a), The tax will be collected on the first sale of marijuana "from a marijuana cultivation facility to a retail marijuana store or a marijuana product manufacturing facility."

The Department of Revenue has conducted preliminary modeling based on Alaska Department of Labor population estimates and the 2009-2010 National Survey on Drug Use and Health. Based on these statistics, we were able to estimate the approximate number of adult marijuana consumers in Alaska and the average annual consumption of those individuals. Other than the inherent inexactness of survey data (due to some people being reluctant to admit taking part in an illegal activity), the most significant variable is the proportion of current consumers who will transition from the current market to the licensed and taxed market being created in Alaska.

Based on this data, we estimated annual volume of taxed consumption between roughly 100,000 and 380,000 ounces in the first full year. At the tax rate of \$50 per ounce, this led to an estimate between \$5 and \$19 million per year. For the purposes of this fiscal note, we have chosen the midpoint number of \$12 million, with expected growth of 5% per year.

According to the expected timeline, the first commercial marijuana licenses will be offered in May of 2016. If the first commercial operations therefore begin in June, it would mean that the first monthly tax payments to the state will be filed in July, 2016. Based on this information, we expect zero revenue in FY16 and consider FY17 to be the "year 1" in the above referenced analysis.

Currently the Tax Division is not estimating additional operating expenditures to collect, administer, and audit marijuana tax filings. A separate taxpayer module is already funded within the Division's "Gentax" Tax Revenue Management System and will be ready in time for the expected first tax payments in July 2017. In the short term, we will absorb this new tax within the existing authorized staff within our Excise Tax group. Likewise, the writing of necessary regulations to implement the tax will also be handled with existing staff resources. Depending on the eventual number of taxpayers and the complexity of the eventual returns, we may need to revisit this decision in a future budget year.



Coalition for Responsible Cannabis Legislation

To: Senator Lesil McGuire

Attn.: Jesse Logan

From: Bruce Schulte, CRCL

Date: March 4, 2015

Re: SB 62 – Draft E

Dear Senator McGuire;

Thank you for the opportunity to comment on this draft of SB62.

Overall, we agree with many components of this bill. However, we also see the opportunity for either immediate refinement or deferment of some issues to a Marijuana Control Board. We feel that these items would benefit from being developed in greater detail and with more cooperative input than can be allowed for at this time.

We wish to offer the following additional suggestions:

- 1) *Sec 3 – 17.38.075 Limitations on Advertising. A person or business may not advertise or market marijuana, a marijuana product, or a marijuana accessory in a manner that is intentionally attractive [ENTICING] to minors [CHILDREN].*

We agree that marijuana products should not be intentionally marketed to minors however, the language in this section is very broad and open to interpretation. This slight variation on language narrows, slightly, the scope of the prohibition while preserving the intent.



- 2) Sec 5 – 17.38.090 (c)(1) – *“Marijuana and marijuana products, including edible marijuana products, may not leave the licensed premises of a marijuana retail store unless contained in **child-resistant** [CHILD-PROOF] containers or packages;”*

We agree with the intent of this section however, the term “child-proof” implies an absolute degree of protection which is virtually impossible to achieve. We recommend changing to “child-resistant” in keeping with similar terminology that one might encounter in the pharmaceutical industry for similar packaging.

- 3) Sec 5 – 17.38.090 (c)(3) – *“The potency and certification of safety”*

We agree that basic labelling is appropriate and desirable however, there is currently no definition for a “Certification of Safety” associated with marijuana nor is there any analogous requirement for alcohol products.

Suggested alternative text: *“the potency [AND CERTIFICATION OF SAFETY] of each retail marijuana product, including **the number of servings for** edible products, are on the container or package.”*

- 4) Sec 5 – 17.38.090 (d) – *“The board shall require...”*

We agree with the intent of this section however, as worded, it seems slightly cumbersome.

Suggested alternative text: *“The board shall establish a serving potency of no more than 10 milligrams of THC per individual serving. The board may allow the sale of edible marijuana products with multiple servings when the division of servings is clear.”*



5) Sec 5 – 17.38.090 (e) – *“The board shall adopt...”*

To include a requirement for “safety” we suggest replacing with the word “purity” as a more appropriate consumer protection.

6) Sec 7 – 17.38.100(c) – *Omission of revenue-sharing*

The voter initiative specifically required that registration fees be capped at \$5,000 with one-half of that fee forwarded to the local government. Removing this revenue-sharing language is a direct violation of the intent of the initiative and will almost certainly result in total fees in excess of the \$5,000 stated in the initiative. This could very well have the unintended consequence of keeping smaller operators out of the legitimate industry and perpetuating the marijuana black-market.

We recommend leaving intact the language that requires 50% of collected fees to be forwarded to the local government.



7) Sec 15 – 17.38.110 (e) – “A municipality shall establish a schedule of ...”

We cannot support the changes proposed to this section for three reasons:

- 1) Some smaller communities may not have the time or resources to establish their own regulations for this new industry and should not be required to. We believe that if the statewide rules are done properly, some of those communities will simply be able to adopt those rules and not have to create any of their own.
- 2) Since a fifty-percent revenue sharing component was specifically defined in the voter initiative (17.38.100(c)), local governments should be able to use that to offset local administrative costs without necessarily adding additional taxes or fees.
- 3) By eliminating the 50-percent revenue-sharing and requiring an additional layer of fees, there is a very real possibility that legitimate businesses will be unable to compete with the black-market. This would violate the intent of the initiative and, even worse, could ensure the long-term viability of black-market operators.

8) Sec 22 – 17.38.200 – “Types of Licenses”

We see tremendous potential in the additional license types defined in this section. However, we respectfully suggest that this level of detail might best be left to a regulatory board. It is worth noting that Article 4 identifies twenty-two different types of liquor license and we would envision some additional categories for marijuana businesses.

Suggested Change: ***“The Board may create new registration-types for regulating the cultivation, processing, testing, transportation, or sale of marijuana.”***



9) Sec 22 – 17.38.230 (a) – “..holder may sell up to one ounce a day ”

While we understand the intent behind this section, as written, it is impossible to enforce. Under the text of the initiative retail stores may not be required to record an individual’s identity beyond checking for proof of age. Given that one important fact, it becomes virtually impossible to enforce such a requirement

Suggested change: *“A Marijuana retailer license authorizes the holder to sell up to one ounce of marijuana **per transaction** [A DAY] to an individual on the licensed premises for consumption off-premises. A marijuana retailer may only purchase marijuana from a registered marijuana producer, marijuana processor, **or marijuana broker.**”*

10) Sec 22 – 17.38.230 (c) (1) – “Hours of operation”

We suggest that hours of operation should match those for similar alcohol-establishments or be left to the discretion of the local government or regulatory board.

11) Sec 22 – 17.38.230 (c) (3) – “A marijuana retailer may not ... offer or deliver, as a marketing device to the general public, free marijuana or marijuana products to a patron.”

This seems an unreasonable and unnecessary restriction on legitimate commerce. It is now lawful for an individual to gift up to one ounce of marijuana to an adult 21 or older without remuneration so, to ban such a transaction merely because it is done on the premises of a business is unreasonable.

We recommend that this section be removed or that it be re-phrased to limit such samples to a specific amount (perhaps 1-2 grams of marijuana). Few retailers are likely to offer more because of the associated cost.



12) Sec 22 – 17.38.230 (c) (4) – *“A marijuana retailer may not ...sell marijuana to a person licensed under this chapter”*

We suggest removing this section. We see no particular need for such a restriction and it is quite possible that retailers may choose to sell products amongst themselves when market / supply conditions warrant it.

We suggest that this would best be left to a regulatory board to refine and to local government to determine if there would be any tax implications to such a sale.

13) Sec 22 – 17.38.250 / 260 / 270 – *“Marijuana boutique / home producer / brokers”*

We welcome these additional business categories as a positive addition, and we envision this change will encourage maximum participation in a legitimate industry. However, given that there are currently twenty-two distinct business types defined for alcohol businesses, we expect that this list may grow during the regulatory process. We also think that the specifics of the registrations shouldn't be rushed as these are the foundation of the industry. Therefore, we suggest that articulation of additional business types be delegated to the Marijuana Control Board.

14) Sec 22 – 17.38.280 – *“Integrated licenses”*

We support the concept of integrated licenses however, we suggest that there may be other opportunities to integrate businesses such that this may best be deferred to a regulatory board with a general stipulation as follows:

***“The board may issue integrated licenses to an individual or business entity allowing for multiple business types at a single location. A person issued an integrated license may not conduct business at more than one location without first obtaining a separate license.*”**



15) Sec 22 – 17.38.340 – *“Notice of application”*

While we agree that the public should have input on the review / approval process, we are concerned that these specific requirements could result in excessive cost to potential businesses.

We respectfully suggest that section 17.38.340 be removed entirely and that the specifics of public notification and input be addressed by a regulatory board and the local communities.

- 16) Sec 22 – 17.38.350 - *“Denial of new license”*
17.38.360 - *“Denial of license renewal”*
17.38.370 - *“Denial of request for relocation”*
17.38.380 - *“Denial of transfer of license to another person”*

Each of these sections is similarly problematic in two respects:

- 1) Each section states that the board “Shall deny” an application under the specified circumstances. We believe it would be more appropriate to say the board **“May deny ...”** and leave open the option for other sanctions (ie: fines, or suspensions) to be further articulated by the regulatory board.
- 2) Each one stipulates that the board “Shall deny” an application when issuance of a license “would not be in the best interests of the public”.

The condition “not in the best interests of the public” is overly broad and open to subjective interpretation. We submit that it would be more appropriate to rephrase each section as follows:

“The board may deny an application ... when the applicant is found to be in violation of or in non-compliance with one or more requirements of this section.”



17)Sec 22 – 17.38.440 – *“Prohibited Financial Interest”*

This section is problematic as it could make it difficult to raise investment capital from individuals or groups who are not directly involved with the business. It could be beneficial to have experienced advisors with a financial stake in the business to ensure greatest success in the industry. The biggest problem with this section is that it allows for smaller operations, but it doesn't allow them to raise money. It essentially ensures that only “Big Marijuana” could afford to get into the industry.

While we support, in principal, an Alaska-centric industry it is also important that Alaskan business owners be able to raise capital from individuals and investment groups outside the state.

We respectfully suggest that this section be revised to reflect Alaskan-control but with an option for outside investment.

18)Sec 22 – 17.38.580 – *“Duration of License”*

This section stipulates that a license for a marijuana business is valid only for one year while licenses for alcohol businesses are valid for two years. We suggest that the two should be equivalent and that license duration should be set at two years (except for temporary or seasonal licenses).

19)Sec 22 – 17.38.900(9)(17)(18)(19) – *“Definitions”*

In keeping with previous recommendations that license types be defined by a regulatory board, we suggest that these definitions not be made overly specific as to business types. It should be sufficient to describe general categories of businesses in a manner that covers all license type defined under regulations.



Thank you for considering our input on this draft bill, we appreciate the opportunity to contribute to this effort and look forward to working with you and your committee further.

Regards,

Bruce Schulte, CRCL

Bruce.Schulte@gmail.com



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CRIMINAL DIVISION
Criminal Division Central Office

P.O. Box 110300
Juneau, Alaska 99811-0300
Main: 907.465.3600
Fax: 907.465.4043

March 18, 2015

The Honorable Bill Stoltze
Senate State Affairs Chair
State Capitol, Rm. 125
Juneau, Alaska 99801

Re: Marijuana Establishment Public Notice

Dear Senator Stoltze:

At the March 10, 2015 hearing on SB 62, you asked for the administration's thoughts on public notice requirements for marijuana establishments. SB 62 contemplates allowing persons to commercially grow and operate marijuana establishments out of their homes. If a person chooses to operate a licensed commercial business in their home, they waive the expectation of privacy that is normally found in the home.

The expectation of privacy that a person has in their home is protected, but it is not impenetrable. A person's actions may invite government regulation and inspection. For instance, a person who wants to remodel their home is subject to local zoning restrictions and building codes. Additionally, a person who runs a child day care facility out of their home must allow for regular inspections. These requirements are in place for the general welfare of the entire community. It follows, that a person who wishes to conduct a regulated business out of their home, must also comply with the requirements of that license which may include inspections and public notice requirements.

Current laws governing the operation of alcohol establishments contain public notice requirements before a license may be issued or renewed. The public's involvement is a crucial piece of the licensing requirements. This gives the Alcohol Beverage Control Board an opportunity to hear concerns from the public and assess whether a particular establishment is complying with licensing requirements or becoming a hub for potential criminal activity. There is nothing preventing the legislature from implementing public notice requirements for any of the marijuana establishment licenses contemplated in SB 62 or otherwise.

Please let me know if I can be of any further assistance.

Sincerely,

CRAIG W. RICHARDS
ATTORNEY GENERAL

By:

A handwritten signature in black ink, appearing to read "Richard Svobodny".
Richard Svobodny
Deputy Attorney General



March 17, 2015

Senator Bill Stoltze
State of Alaska Legislature
Room 125
Juneau, AK 99801

Dear Senator Stoltze:

Thank you for contacting the Valley Board of REALTORS® last week with a question about licensee's position on the confidentiality of grow locations. Suellen Appellof, Valley Board of REALTORS® President, asked the Alaska Association of REALTORS® Industry Issues committee to also respond to your question.

We believe that potential property owners have a right to know as much information as possible before they commit to purchasing property. Furthermore, it is our policy and commitment to all real estate clients to disclose all relevant facts and issues known by, or revealed by, owners at the time of listing. In addition to the law, REALTORS® make commitments to a full disclosure of all facts and issues that are part of our National Association of REALTORS® Code of Ethics.

The Alaska Association of REALTORS® supports the legislative efforts to require the disclosure of all commercial marijuana grow locations in Alaska. We do not believe that the public benefits from lack of disclosing the growing of any particular crop.

Sincerely,

A handwritten signature in blue ink that reads 'Errol D. Champion'.

Errol D Champion
Chairman
Legislative Issues Committee
Alaska Association of REALTORS®



Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

March 16, 2015

Honorable Bill Stoltze
Alaska State Senate
State Capitol Room 125
Juneau, AK 99801

RE: Senate Bill 62 Version N

Dear Senator Stoltze:

The Alaska State Medical Association (ASMA) represents physicians statewide and is primarily concerned with the health of all Alaskans.

The Alaska State Medical Association (ASMA) appreciates your past efforts and willingness to work with us and values our relationship with you. With the recent enactment of citizen's initiative Proposition 2 legalizing marijuana possession, use and commercialization we are very concerned with the consequences and therefore appreciate the numerous hearings the Senate State Affairs Committee has held to educate Alaskans on the issues surrounding legalization, and in particular the personal attention and leadership you have shown.

From a public health perspective ASMA is very concerned with the legalization of retail and personal use of marijuana in Alaska for a number of reasons. As the Senate State Affairs Committee and the Legislature deliberate the many issues surrounding the recent legalization, ASMA would like to express our concerns, particularly with the regulation of commercial or retail marijuana edible products.

ASMA believes that at a minimum the broad policy objectives involved with regulation of commercial edible marijuana products should be deliberated by, and established through the legislative process. It's important that the legislature prescribe in statute clear guidelines helping to ensure the utmost public health and safety protections. Specific attention should be aimed at assuring that both adults and children are protected from the

unintended consumption and overdose of edible marijuana and marijuana infused products.

The Legislature should define edible marijuana as any and all retail marijuana products intended to be consumed orally, including but not limited to, any type of food, drink, pill, or ointment. (“Liquid Edible Retail Marijuana Product” means an edible marijuana product that is a liquid beverage or food-based product and intended to be consumed orally, such as a soft drink or cooking sauce.”)

Marketing: The Legislature should set statutory guidelines for the marketing of marijuana products to ensure products are not advertised directly, or indirectly, to those under age 21. This should include, but not be limited to: in-store advertising, or otherwise publicly visible, web-based ads, or online ads reasonably interpreted to target or appeal to those under age 21.

Packaging and Product: The Legislature should set guidelines to ensure that marijuana products not be packaged or marketed to entice or attract children to those products. In addition, products containing any marijuana, or any amount of marijuana derivatives, should be prohibited from being packaged to appear, intentionally or unintentionally, like a familiar marijuana-free or child-safe product. To this end, the Legislature should require that any food or edible product containing marijuana be stamped or shaped in a distinct, easily recognizable way, both inside and outside of packaging (i.e. a certain color, shape, or stamped with a unique symbol).

The legislature should ensure that the regulatory Board responsible for enforcement has clear direction that all statutory and regulatory rules be strictly enforced.

Serving Size and Packaging: The Legislature should statutorily establish a standard “serving size” consistent with THC potency levels for consumers purchasing or consuming edible products. Additionally, each “serving size” should be individually packaged to reduce the incidence of overdosing. As other states have experienced, this has proven both necessary and effective for consumer protection, health, and safety especially with edibles. Packaging should be child resistant.

Labeling: The Legislature should statutorily establish guidelines for labeling requirements to include: (1) THC content; (2) number of servings contained in a product; (3) a warning that the contents contain marijuana or marijuana derivatives, and at what potency. Additionally products and premises should comply with the same requirements as tobacco for displaying warnings against use of marijuana when pregnant.

Testing: The Legislature should establish clear statutory authority and responsibility for testing of THC levels and a process for such testing to be conducted, and or certified by the Department of Environmental Conservation Food Safety Program.

Regulatory Board: The Initiative grants rulemaking and oversight authority to either the ABC Board or a separate Marijuana Regulatory Board (yet to be established and seated).

ASMA believes the Legislature should ensure that at a minimum a licensed Alaska physician is seated on whichever board is responsible for such rulemaking and oversight.

Strict Product Liability: The Legislature should statutorily require that any individual licensed to sell, distribute, or manufacture edible marijuana products be held strictly liable should the edible marijuana product cause injury or harm to an individual consuming the product.

Insurance Requirements: Insurance should be required by licensees distributing edible marijuana products to provide coverage for bodily injury, negligence.

Additionally, although the legislature cannot repeal an initiative for two years it may make amendments. Currently the initiative, AS 17.38.110 Local Control, only allows for local option in the most basic manner, namely, they can regulate whether there are retail sales or not. ASMA suggests that the legislature could amend the initiative to allow greater flexibility for local control by allowing local communities to further define by ordinance what types of products can be sold. In other words a community should be allowed to make independent decisions with regard to the commercial sale of (1) cannabis in its natural state, (2) marijuana concentrates or (3) edibles. The Alaska Constitution specifically allowed for immediate amendments to an initiative and we believe this change is consistent with that authority and the purpose of the initiative.

Thank you again for your efforts. Please contact me if I can provide any further assistance.

Sincerely,



Michael Haugen
Executive Director
Alaska State Medical Association



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

5848 East Tudor Road
Anchorage, Alaska 99507
Main: 907.269.0350
Fax: 907.272.9412

March 16, 2015

The Honorable Bill Stoltze
Senate State Affairs Chair
State Capitol, Rm. 125
Juneau, Alaska 99801

Re: Marijuana Establishment Public Notice

Dear Senator Stoltze,

At the March 10, 2015 hearing on SB 62, you asked for the administration's thoughts on publically noticing where marijuana establishments were operating. There is no provision in Ballot Measure #2, An Act to Tax and Regulate the Production, Sale, and Use of Marijuana which speaks directly to this issue. However, it is anticipated that marijuana establishments, which are provided for in SB 62, would be subject to licensing requirements that are similar to those required for alcohol establishments.

The Alcoholic Beverage Control Board takes public involvement in license applications very seriously and the statutes relating to alcohol provide for rigorous public notice requirements before an alcohol establishment license can be issued. These requirements may include posting the license application at the proposed licensed premises, publication in newspapers, and notice to community council's and nonprofit organizations. The statutory citation for public notice for alcohol businesses is AS 04.11.310.

Sincerely,

A handwritten signature in blue ink that reads "Cynthia Franklin".

Cynthia Franklin
Director

cc: The Honorable Chris Hladick, Commissioner, Department of Commerce,
Community, and Economic Development
Darwin Peterson, Legislative Director, Office of the Governor



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

March 6, 2015

Senate State Affairs Committee
Senator Bill Stoltze, Chair
Room 125
Alaska State Capitol Building
Juneau, Alaska 99801

RE: SB 62 – An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date.

Dear Committee Members,

The Alaska Municipal League and its 164 municipal members have put much time and effort into how we can safely and effectively operate with regards to the passage of the marijuana initiative. We must find a way to allow the will of the people and protect our residents on both sides of the issue.

As you may know, the cost of implementation of new laws and regulations dealing with marijuana will be added to our already strained budgets. We are concerned that the latest version of SB 62 deletes the language that was present in the initiative that directs the state to share one-half of the capped application fee with the municipality from which the application was received.

Most of the direct impacts from marijuana businesses will be felt at the local level. We respectfully request that your committee consider re-inserting the language that allow the affected municipality to receive a copy of the application and "half of the registration application fee."

Sincerely,

Kathie Wasserman

Kathie Wasserman
Executive Director
Alaska Municipal League



4048 Laurel Street, Suite 203
Anchorage, AK 99508
Phone: 563-3723
Fax: 561-0720
Web: www.asaa.org

February 23, 2015

Senator Bill Stoltze
State Capital Room 125
Juneau, AK 99801

Dear Senator Stoltze:

The Alaska School Activities Association (ASAA) serves the high school students in Alaska by providing athletic and activity events on a statewide basis. So far this school year, 37,884 students have participated in an ASAA event. One of the goals of ASAA is to promote healthy choices through the Sportsmanship and Citizenship policy. In 2007 the ASAA Board of Directors passed a policy commonly referred to as the TAD policy that stipulates consequences for violations of the tobacco, alcohol and drug policy. In addition to policy orientation and consequences for students, educational components have been developed. According to the Youth Behavior Risk Survey of 2013, student reported less participation in all three substance abuse areas. ASAA has worked hard, in co-operation with other public health agencies, to encourage young people to be TAD free. The ASAA data indicates that 217 violations have occurred this year amounting to .57% of the total student population participating in activities. The policy is having a positive impact.

ASAA is concerned with the Alaska vote to legalize Marijuana and the potential risk to our students. As the lawmakers consider regulation and implementation procedures, it is important to insulate the students and limit access to the students. Some things to consider are the location of points of sale near schools or neighborhoods, packaging as "sweet treats" and distribution of the drug to minors. ASAA is hopeful that the lawmakers will be equally concerned about the potential of increased student use and provide clear policy that protects the Alaskan youth.

Sincerely,

A handwritten signature in black ink, appearing to read 'Billy Strickland', is written over a horizontal line.

Billy Strickland, Executive Director
Alaska School Activities Association



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue

TAX DIVISION
Anchorage Office
550 W 7th Avenue, Ste 500
Anchorage, Alaska 99501-3555
Main: 907.269.6620
www.tax.alaska.gov

March 11, 2015

The Honorable Lesil McGuire
Alaska State Senator
State Capitol Room 121
Juneau AK 99801

The Honorable John Coghill
Alaska State Senator
State Capitol Room 119
Juneau, AK 99801

Dear Senators:

I am writing you in your capacity as the Judiciary Committee leadership who are carrying SB 62, the Regulation of Marijuana. I recognize that there are several marijuana bills working through the legislative process in this session, but this is the one that currently contains language in the Title 43 tax statutes. For this reason, we feel it is the most appropriate vehicle for the language changes we are suggesting.

Appropriately, the legislature is looking at a broad range of marijuana issues. Our specific interest at the Department of Revenue is that the tax regime created by the initiative and refined in the legislation be consistent, enforceable, and effective. In doing so, we are seeking many of the tools we currently have in the administration of similar wholesale excise taxes, most notably the tax on alcoholic beverages.

Where we make specific reference to SB 62, we are looking at the "E" version currently before the Senate State Affairs Committee.

#1 Administration and enforcement of tax (parallel language to AS 43.60.040)

The Department is seeking several key authorities in this section:

1. Requirement of a surety bond for licensed taxpayers (producers plus, as envisioned in SB 62, marijuana brokers), which would be a requirement for awarding a license under Title 17. Should taxes not be paid, the bond could be forfeited to the State;
2. Requirement that a processor or retailer would be "secondarily liable" for the tax. This is important in the event that marijuana product was discovered in the possession of a processor or retailer which was obtained from an unlicensed, non-taxpaying entity. In addition to any law enforcement remedies, we believe it would be good policy and a strong deterrent to make the purchaser / seller of unlicensed marijuana liable for all taxes that would have been paid had that product originated from a legitimate source;

3. Requirement that all licensees maintain their business records for three years, and empower the Department of Revenue to inspect these records for the purpose of tax enforcement;
4. In addition, the suggested language would make personal possession in excess of any statutory limits subject to the tax.

Our suggested language for this section is enclosed as **Attachment #1**. Please note that if this is accepted, additional language will also be needed in AS 17.38.100(d) (sec. 8 of SB 62) stating that the Board needs to be notified by the Tax Division that it has approved a bond prior to the Board issuing a license. Also, language will be needed in AS 17.38.360 (part of sec. 22 of SB 62) stating that a license won't be renewed if the requirements under this section aren't met.

#2 Online reporting and tax filing

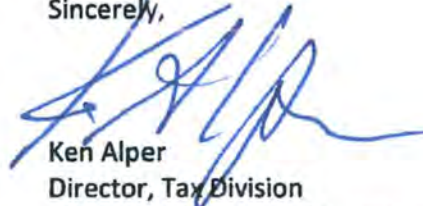
In addition to these new sections, we suggest a partial rewrite to AS 43.61.020(a), currently part of Sec. 30 in SB 62. The change would mandate online tax filing. With the implementation of the Tax Revenue Management System (TRMS), the Department of Revenue will be gradually implementing an online filing requirement across our various tax types. As this is the first "new" tax, which will be collected and administered via TRMS from day 1, we feel that it would be a good precedent to set.

Also, we are suggesting that the non-taxpaying growers (the boutique and home growers) file a monthly statement to the department. We consider this an essential component of the "chain of custody" record keeping that will maximize compliance and enable effective tax admiration.

Our suggested language for this section is attached as **Attachment #2**. Please note that our structuring this requirement as a "return" rather than a "payment" reflects the current uncertainty regarding the banking status of licensed marijuana businesses. While we would certainly prefer electronic payment, we feel it would be premature to press this requirement before the banking issues are resolved.

Thank you for your consideration. Please let us know if we can provide any additional information or assistance with this important legislation.

Sincerely,



Ken Alper
Director, Tax Division
Alaska Department of Revenue

cc: The Honorable Bill Stoltze, Alaska State Senator
Commissioner Randall Hoffbeck, Department of Revenue
Cynthia Franklin, Alcoholic Beverage Control Board
Lacy Wilcox, Office of the Governor

Attachment #1: Suggested Language for Administration and Enforcement of Tax
(Largely parallels AS 43.60.040)

* **Sec. XX.** AS 43.61 is amended by adding a new section to read:

Sec. 43.61.XXX. Administration and enforcement of tax. (a) Each marijuana producer or marijuana broker is primarily liable for the payment of the excise taxes on marijuana sold, and shall furnish a cash bond payable to the department and approved by the Department of Law in an amount equal to twice the estimated average monthly tax or \$5,000, whichever is greater. If a marijuana producer or marijuana broker fails to pay the tax to the state the producer or broker forfeits the bond and their license shall be revoked.

(b) Upon receipt of the bond and its subsequent approval, the department shall notify the Alcoholic Beverage Control Board that the applicant has met the department's bond requirement. A license shall not be issued under AS 17.38 until a bond has been received and approved by the department.

(c) The marijuana processor, retailer, or buyer is secondarily liable for the taxes on marijuana sold by or to them. The marijuana processor or marijuana retailer must provide the department upon request with proof that the tax has been paid on the marijuana inventory in possession. The state has a lien upon the marijuana, and may seize, confiscate, and sell them to satisfy the payment of the taxes and the costs of the proceedings, without regard to where or in whose possession the marijuana is found. If the marijuana is not found or not identifiable, the state may seize, confiscate, and sell an equal quantity of marijuana found in the possession of the retailer or other buyer to whom the marijuana on which the taxes were not paid were sold.

(d) The department may examine the books, papers, records, or memoranda of any person growing, selling, receiving, storing, refining, or processing marijuana. All books, papers, records, or memoranda shall be preserved for three years and shall be offered for inspection upon demand by the department.

(e) Any unlicensed producer, boutique producer, processor, retailer, broker, or home grower as defined in AS 17.38.200 – AS 17.38.280 shall be taxed according to this chapter. Notwithstanding any other provision of law, quantities possessed, grown, processed, transported, or transferred exceeding the personal use limits under AS 17.38.020 shall be treated as an unlicensed home grower under AS 17.38.270.

Attachment #2: Suggested Language for Online Tax Filing and Reporting

* Sec. 30. AS 43.61.020 is amended to read:

Sec. 43.61.020. Monthly return [STATEMENT] and payments. (a) Each marijuana **producer and marijuana broker** [CULTIVATION FACILITY] shall **file an electronic return with the department on or before the last day of each calendar month. The electronic return shall be filed in a manner prescribed by the department.** [SEND A STATEMENT BY MAIL OR ELECTRONICALLY TO THE DEPARTMENT ON OR BEFORE THE LAST DAY OF EACH CALENDAR MONTH.] The **return** [STATEMENT] must contain an account of the amount of marijuana sold or transferred to [RETAIL] marijuana **retailers**, [STORES] and marijuana **processors** [PRODUCT MANUFACTURING FACILITIES] in the state during the preceding month, setting out

- (1) the total number of ounces, including fractional ounces, sold or transferred;
- (2) the names and Alaska address of each buyer and transferee; and
- (3) the weight of marijuana sold or transferred to the respective buyers or transferees.

((b) has no suggested changes)

(c) Each marijuana boutique producer and marijuana home grower shall file an electronic statement with the department on or before the last day of each calendar month. The electronic statement shall be filed in a manner prescribed by the department. The statement shall contain the amount of marijuana sold to a marijuana broker in the state during the preceding month, setting out

- (1) The total number of ounces, including fractional ounces, sold or transferred; and**
- (2) The names and Alaska addresses of each buyer.**



Coalition for Responsible Cannabis Legislation

March 29, 2015

Esteemed members of the Alaska Senate;

In the months leading up to the election last fall, my colleagues and I engaged in numerous debates, panel-discussions, and interviews. In the course of the current legislative session I have offered testimony to multiple committees on several bills and authored a considerable body of analysis and commentary.

In all cases and at all times I have endeavored to be forthright, honest, and reasonable. At no time have I ever attempted to sway anyone's opinion with misinformation or by stating something was true when I knew it not to be. In many cases I have readily conceded the validity of concerns raised and we have offered legislative and regulatory solutions intended to address those legitimate concerns.

Therefore, I hope you can appreciate my profound dismay at recent efforts to derail an otherwise honest dialog with misinformation, half-truths, and fear-based propaganda – all designed to undermine a voter initiative and ensure that it can never be fully successful. On the accompanying pages I have highlighted a few examples.

The rulemaking process has barely even begun and I believe that most of the legitimate issues raised will be adequately addressed by the rules that a legalized industry must abide by. I see no legitimate reason that the scope or schedule of Ballot Measure 2 should be changed at this time – before the rulemaking process is complete.

I urge the members of the Senate to reject the scare-tactics and make every reasonable effort to allow a legitimate marijuana industry to develop in Alaska, undiluted and in accordance with the letter and intent of this voter initiative – with no expiration date. The voters deserve that consideration.

In turn, I can promise that I, and other advocates and responsible entrepreneurs will make every effort to ensure that a legitimate industry adheres to reasonable guidelines and practices so there will never be a need for such a repeal.

Sincerely,

Bruce Schulte

Coalition for Responsible Cannabis Legislation



Coalition for Responsible Cannabis Legislation

Issues and Myths promoted by Marijuana Prohibitionists – and some related facts.

Exploding hashoil devastates homes in states with legal marijuana

Myth: A recently distributed picture of a burning house with the caption “Hash oil explosions in states where marijuana is legal”. The clear implication is that Alaska must ban hashoil lest our homes burst into flames.



Figure 1 - Exhibit distributed on Senate floor - March 27 2015

Fact: Hashoil is not explosive or volatile. Neither is Hash.

Fact: The use of butane as a solvent to extract hashoil – without the use of appropriate equipment, can be very hazardous and has led to fires or explosions. That is exactly why CRCL suggested statutory language making it unlawful to use a volatile or explosive gas in the home in this manner.

Fact: The use of closed-loop extraction equipment, operated by trained personnel, in suitable facilities is a common industrial process used around the country to produce extracts of Vanilla, Lavender, Peppermint, and even Hashoil - all without spontaneous fires or explosions.

Let us be clear on this: People are encouraged to produce their own hashoil at home because they can't just go buy it at a store. Home production of hashoil is likely to persist in markets where hashoil is not available in retail stores – in states where hashoil and other extracts are illegal to sell.

If we really want to discourage the hazardous practice of “open-blast” butane hashoil extraction then we should do everything possible to remove the incentive to do so by ensuring that regulated businesses are able to produce and sell a higher-quality product at lower cost in licensed retail stores.



Coalition for Responsible Cannabis Legislation

Alaska is about to be deluged with marijuana-infused Gummi Bears [sic]

Myth: Recently distributed photographs show THC-infused edible products, some of which were intentionally produced or packaged to resemble child-friendly products. The implication was that Alaska will be inundated with THC-infused Gummi Bears unless we ban all edible products.



Figure 2 - Infused edible products (many of which will likely not be allowed in Alaska)

Fact: CRCL is already on-record (House Judiciary March 12) as supporting a prohibition on intentionally child-friendly marijuana products and “Adulterated Edibles” (familiar products, infused with THC and repackaged for sale). The director of the ABC board has also stated this as a likely position of a future marijuana control board.

Fact: This was one of the Prohibitionists favorite scare-tactics prior to the election and in every debate CRCL and other industry advocates agreed that reasonable guidelines should be developed so as to avoid any marijuana products that were intentionally enticing to children.



Coalition for Responsible Cannabis Legislation

Single-serving cookies with 350mg of THC

Myth: Some would have you believe (in statements to Senate Finance on March 13) that a single cookie with 350mg of THC could have all manner of dire consequences for an unsuspecting consumer.

Fact: CRCL and the ABC Director are already on record as supporting a maximum single-serving potency of **10mg** of THC – a fraction of what some have suggested would be the norm.

Fact: Colorado has recently established a maximum single single-serving concentration of 10mg THC as well.

Packaging

It has been suggested that marijuana and related products will be overly accessible to young children.

Fact: CRCL has already proposed child-resistant packing and “Exit Packaging” for retail stores. Other states have implemented similar requirements.

It is worth noting that national standards for child-resistant packaging of pharmaceuticals stop at a child-resistant cap on a plastic bottle. This has become the accepted standard of protection for powerful prescription drugs that can, in some cases, be fatal if taken in even modest quantity.

Voter Intent

It has been suggested that the voters didn’t know what they were voting for last November. I challenge that assertion. Every registered voter received a voter pamphlet containing the full text of Ballot Measure 2. If one assumes that voters made their choice without benefit of the information in that pamphlet, or without regard to public dialog – then are we to conclude that they had no idea what they were doing when voting for any candidate or issue? The exact same parameters apply.

The Lieutenant Governor hosted multiple hearings around the state, and there were multiple debates that were well-attended and broadcast all over the state. The details of marijuana in it’s various forms and extracts were discussed in extraordinary detail.

So, to suggest that over 150,000 Alaskans simply had no idea what they were voting for is somewhere between disingenuous and remarkably arrogant. Some estimates place marijuana usage amongst Alaskans at between 15%-18% (roughly 120,000-130,000 people). I suspect a lot of them voted Yes on ballot measure 2 and that they understood fully the differences between marijuana leaf, flower, hash, and hashoil.



Coalition for Responsible Cannabis Legislation

Summary

It is my considered opinion that any legislative effort to sunset portions of this voter initiative at this time would be premature.

At present we have little more information to work from than the voters did last November. No regulatory board has had a chance yet to define the rules under which a legitimate marijuana industry will operate – even though many of us have agreed, in principle, on what some of those rules should look like.

Why, then, would we even consider making fundamental changes to this voter initiative, timed to take effect at the earliest possible date (February 2017)?

Such measures can only be viewed, by reasonable people, as a preemptive repeal of Ballot Measure 2.

-CRCL is an Alaska-based non-profit dedicated to the development of sensible marijuana regulations in Alaska-



Alaska Association of Chiefs of Police

Marijuana Position Paper

February 23, 2015

Philosophy and Position:

The Alaska Association of Chiefs of Police (AACOP) recognizes that Ballot Measure 2 was passed by voters in 2014 and codified in Alaska Statute 17.38. This legislation legalized the cultivation, distribution, possession and non-public consumption of small amounts of recreational marijuana. Now in 2015, the Alaska Legislature is crafting legislation to align related statutes affected by AS 17.38. Soon the Alaska Legislature will be developing legislation to regulate the commercial cultivation, manufacturing and sale of marijuana and marijuana-based products.

The AACOP recognizes that society's views and norms are evolving on the use of marijuana, yet we also believe that public safety is also of paramount concern to our residents, businesses and visitors.

- The primary mission and focus of Alaska law enforcement officers represented by the AACOP is the prevention and reduction of crime and disorder. Marijuana legalization will negatively impact driver and public safety in Alaska communities. The AACOP is committed to research and the implementation of practices and strategies that will maintain safety in our communities.
- It is recognized that Alaska peace officers have a duty and responsibility to uphold the Alaska Constitution as well as local, state and federal laws.
- The conflict between Federal law and State law with regard to marijuana remains a major obstacle and needs to be resolved.
- It is the position of the AACOP that clear direction and guidance is essential for our officers, prosecutors and communities. The AACOP supports legislation, training and education which provide clear direction and guidance to our officers and the communities we serve. This includes developing statutory definitions of the legal meaning of terms such as public, manufacturing, marijuana, cannabinoids, etc.
- The AACOP supports community education to reduce the use of marijuana by our youth and to highlight the risks of marijuana use to our communities and

individuals. The AACOP requests that adequate funding be provided for the development and delivery of community and youth education.

- The AACOP supports an effective and robust regulatory system, which can regulate the retail, commercial distribution of medical and recreational marijuana.
 - AACOP supports the idea of a separate Marijuana Control Board, and desires that a seat on that board might be designated for an AACOP member to insure that the interests and expertise provided by executive level law enforcement leaders are considered in the regulation of legalized marijuana in Alaska.
- The AACOP is concerned for the safety of the motoring public and passengers as it pertains to driving under the influence of drugs.
 - The legislature should adopt a presumptive inference standard of impairment for cannabinoids at 0 nanograms/millileter THC or higher, as per se evidence of impairment.
 - The AACOP strongly supports the adoption of breath, blood, urine or saliva as authorized sampling methods during the investigation of impaired driving when the officer establishes probable cause that impairment due to the presence of alcohol and/or drugs, including cannabinoids, exists.
 - The AACOP strongly advocates that Alaska peace officers be trained in Advanced Roadside Impaired Driving Enforcement (ARIDE) and as Drug Recognition Experts (DRE) and requests that adequate funding be provided to increase training for peace officers statewide.
 - The AACOP requests that funding be provided for the purchase of oral fluid testing equipment for local agencies to explore the effectiveness of this technology in determining if drivers are under the influence of marijuana or other legal and illegal drugs. Training on use of such equipment should also be funded.
 - It has been recognized by experts in the field that being under the influence of both alcohol and marijuana is more dangerous than being under the influence of just alcohol or just marijuana. The AACOP supports additional legislation or changes in current law to enhance the seriousness of offenses when drivers are found to be impaired by alcohol and marijuana and/or other drugs.

- The AACOP have identified a gap in the establishment of statutory charging authority and penalties concerning possession and use of marijuana by minors, as prohibited under AS 17.38, and recommends that appropriate language be added to existing statutes or new statutes created.
- The AACOP requests that the legislature develop clear and understandable guidance to law enforcement in establishing the authority and procedures for the storage and disposition of lawfully seized marijuana that will not conflict with current federal law.
- The AACOP acknowledges great concern for the diversion of marijuana outside the state of Alaska and for the availability of marijuana to minors.
- The AACOP support development and analysis of accurate data to determine the impact to the communities we serve. The AACOP will partner with all stakeholders, including all local, state and federal law enforcement partners to ensure safety in the communities we serve and will assist in the collection of data to determine the impact of marijuana legalization in Alaska.

The Alaska Association of Chiefs of Police is committed to working with all stakeholders to ensure that all Alaska communities remain safe and the legalization of marijuana does not adversely impact the communities in which we live and work.



Coalition for Responsible Cannabis Legislation

Marijuana Products, Extracts, Derivatives, and Regulations (Overview and recommendations)

Prepared by: CRCL Board Members

January 28 2015



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Preface

The purpose of this document is to clarify some of the terms, products, and processes related to the Marijuana Industry. Included are some suggested solutions to some of the more controversial issues that have been raised during public dialogue on these matters. These recommendations are not intended to be comprehensive but, rather, to serve as a reference for further discussion through the regulatory process. Some of the topics included may appear esoteric or insignificant but have been included to serve as background or reference for specific issues.

Introduction

The Coalition for Responsible Cannabis Legislation (CRCL) was founded in 2013 for the express purpose of promoting a legal, regulated Marijuana industry in Alaska and to assist in the development of rules and guidelines that will allow that industry to thrive as a responsible Alaska-based industry. With over 1,000 members statewide, CRCL brings to the table a comprehensive industry-perspective on Marijuana Business, products, and the regulatory process.

Throughout this document, it is assumed that one of the major goals to be realized with implementation of 13PSUM is to allow and encourage existing black-market operators to grow, process, and sell marijuana in a regulated, legitimate market. We believe that success in this one area will yield multiple benefits including: Reduced availability to youth, reduced work/cost for law-enforcement, new jobs statewide, and tax income sufficient to administer a marijuana control board with associated infrastructure and to fund informational programs to educate segments of the population on the responsible consumption of marijuana products. Another goal, is to make retail stores available to medicinal marijuana consumers who currently have no legal way of purchasing those products.

State of the (Black Market) Industry

Exact numbers are difficult to estimate but, by some accounts, roughly 100,000-120,000 Alaskans currently consume Marijuana on a semi-regular basis. If we assume (conservatively) an average, annual consumption of 2 ounces per consumer, then the current market may entail roughly 200,000-240,000 ounces annually (approximately 12,500-15,000 pounds. These numbers are estimates only, the current market may easily be 20-30% greater than suggested.

Due to logistics of transportation, most of the Marijuana consumed in Alaska is produced here as well. Black-market growers may produce only a few dozen plants at a time or may be as large as 1,000-2,000 plants. This range of producers is significant to the regulatory process because, in order to encourage those operators to adopt a legitimate business model, it is imperative to provide an entry-point into the industry for businesses of various sizes.



The Cannabis Plant

Chemical Properties

Cannabis plants produce two chemical compounds of significance: Tetrahydrocannabinol (THC) is the psychoactive component that may produce feelings of euphoria, relaxation, or increased appetite. The other cannabinoid of note is Cannabidiol (CBD) which is often sought for pain management or the control of seizures.

Different strains of the plant contain varying proportions of THC and CBD and some strains have been developed for greater production of one or the other. A notable example of such breeding is a strain called "Charlottes Web" which was bred to have relatively low levels of THC but much higher levels of CBD. This strain was specifically developed for its medicinal properties and has been used to control seizures in patients for whom other, powerful narcotics have been problematic. This strain was named in honor of a young girl named Charlotte whose seizures have been successfully controlled through the use of high-CBD cannabis extracts and tinctures.

Components of the Cannabis plant

Flowers: The tops of plant stalks containing the most potent concentrations of THC and CBD. Typically dried, cured and sold for consumption or processed to extract concentrates.

Trichomes: Small (75-150 micron) mushroom-shaped glands on the surface of the flower and upper leaves that contain the highest concentration of THC and CBD. Often extracted through different processes to produce concentrates largely free of organic (leaf) material. Trichomes, in various concentrations, form the most sought-after parts of flowers, hash, and hashoil, as well as other derivative products.

Fan Leaves: Larger leaves - typically on the lower portion of the plant. They were once sold as a consumable product but are now either discarded in favor of the flowers, or processed in closed-loop extractors to distill resins within for use in creating edible products.

Sugar Leaves: Smaller leaves, typically found at the ends of branches and stalks (nearest the flowers). So named for the accumulation of trichomes on the leaves which gives them a sugar-frosted appearance.

Trim: A general term applied to leftover flower and leaf material that is typically processed to produce kief, hash, hashoil, or infusions.

Stalks: Stalks and stems are of little value to the Medicinal or Recreational Marijuana market but may be sold to a secondary hemp industry for further processing.



Strains of Cannabis

There are three major species of the Cannabis genus:

- 1) Cannabis Sativa
- 2) Cannabis Indica
- 3) Cannabis Ruderalis

There are differences between the Sativa and Indica species that result in slightly different effects when consumed, however those differences are not considered pertinent to a regulatory discussion. Most contemporary strains are some hybrid mix of the two species.

Cannabis Ruderalis is notable because it flowers after a given period of time – not in response to the length of the day. This is significant because, considering Alaska's peak daylight hours, relative to the typical rainy season, this species may be best for outdoor growing during our fairly short growing season.

Cannabis Flowers

Most cannabis products are derived, directly or indirectly, from the flower of the female plant. The male plants produce few desirable compounds and, except in breeding and research programs, are typically destroyed as soon as they are identified as being male. The female plants continue to develop but are never fertilized by the males. The unfertilized female flowers grow larger, develop more trichomes and are more potent. These unfertilized plants are known as "Sinsemilla" plants (from the Spanish "Sin semilla" – meaning "without seeds").

Potency of contemporary strains and derivative products

Much has been made of the potency of certain strains as compared to those available 20-30 years ago. It is true that the average marijuana product available today is relatively higher in THC content but one could argue that this is more a function of the market than anything else. Discriminating consumers have become accustomed to a better product, to the point that portions of the plant are now thrown away or processed for use in edibles simply because no one is willing to buy them anymore when higher-quality flowers and concentrates are available.

It is tempting to treat concentrated forms of marijuana differently than the raw flowers or leaves, but to do so assumes a difference in the products that does not exist.

To make an analogy to alcohol, some consumers prefer beer, others prefer whiskey but they adjust their consumption accordingly to reflect the different potency of the products. Likewise, in the marijuana industry, some consumers prefer the flowers, others prefer more concentrated products (hash, hashoil, etc.) and they adjust their consumption accordingly.

This simple fact is, perhaps, one of the least understood aspects of the current discussion.



Derivative Products

Flower

The mature flower of the female cannabis plant (sometimes referred to as “Buds”). Traditionally, both the leaves and flowers of the cannabis plant were commonly consumed, most often by smoking. Though still fairly popular, flowers have given way to concentrates and edibles, and even the smoking of flowers and oils has evolved markedly over the past 20 years.

Concentrates

This section is intended to bring some clarity to the discussion on marijuana extracts/concentrates and to offer some suggestions on how they may be properly managed / regulated. It is important to note that concentrates – of one form or another – along, with edibles, now comprise as much as 50% of the market in some areas. Therefore, while simply banning such derivative products may seem desirable, doing so would virtually guarantee the perpetuation of a significant black-market industry for the foreseeable future.

Keif

Keif (or Kif) refers to the resin-filled trichomes from the flower separated from the rest of the plant using various mechanical or thermal processes (freezing the material allows the trichomes to be shaken loose and gathered). In agricultural terms, it is similar to separating wheat from chaff. The collected trichomes resemble coarse sand with a light tan or greenish tint.

Chemically, it is very similar to the flowers of the plant, lacking only the organic leaf and reproductive elements of the flower.

The resulting concentrate may be smoked or eaten by itself, added to a small amount of flower, or used in other processes to create oils or edible products. Current processes do not involve high-pressure equipment or volatile compounds of any kind – relying instead on the use of dry-ice or ice-baths to freeze the trichomes so they can be sifted from the rest of the plant material and collected.

Hash

Hash, or Hashish is merely Keif (the collected trichomes from the cannabis flower) pressed into a small block of solid material. Like Keif, Hash is chemically similar to the flowers of the plant but having had most of the organic material removed by sifting.



Hashoil

Hashoil is a liquid concentrate derived from the trichomes and other plant material. This oil extract is what remains when the cellular trichomes are stripped of the resins within. Still considered a raw product of the plant, the oil is typically extracted by exposing the plant material to pressurized CO₂ or another solvent to rinse out the resin, and then evaporating the solvent. What remains is a dark, lightly viscous oil. Done properly, the final product has little to no residual solvent and resembles a concentrated oil with a relatively high ratio of THC / CBD by weight.

Hashoil has grown in popularity over the past 30 years and is now the preferred product for many recreational and medicinal consumers – representing a significant portion of the market in some areas. Hashoil can be consumed directly using pipes or vaporizers, or used to create edible products or tinctures (the last being very common amongst medical consumers).

In commercial settings, hashoil is typically derived using closed-loop extraction systems employing pressurized CO₂ or other gases as a solvent. This process is very similar to that used to extract Lavender oils, Vanilla extract, and other familiar oils and extracts. In a controlled environment, with trained personnel and suitable equipment, this is a safe and very common industrial process. The International Building Codes (IBC) already provides design guidelines for facilities using such equipment and processes.

Tinctures

Tinctures are a diluted form of hashoil mixed with alcohol or glycerin and are a preferred method of consumption for some medical consumers.

Infusions

The leaves or concentrates (hashoil or hash) may be used to infuse THC in a solvent - this can include cocoa butter, dairy butter, cooking oil, glycerin, and skin moisturizers – which are then used in cannabis foods (edibles) or applied topically.



Methods of Consumption

Smoking

The most recognized and stereotypical method of marijuana consumption is smoking, with a pipe or paper-wrapped "joint". While this does produce some residual (second-hand) smoke it is typically not in the volumes associated with cigarette smoke because the amount of material burned is relatively small compared to that burned by a cigarette smoker. This method of consumption is also on the decline.

Vaporizer

Vaporizers are a growing method of marijuana consumption. Some devices function similarly to e-cigarettes where a small amount of oil or flower is vaporized within the device with a heating element – and only when triggered by the consumer. The result is a more concentrated vapor with very little residual smoke or vapor.

Cannabis Tea

Produced by adding a saturated fat (cream or milk) to hot water with a small amount of infused THC.

Edibles

This covers a broad range of products including chocolates and other confections, beverages, and baked goods (ie: cookies, bread, or the ubiquitous brownie). Many consumers prefer edible products above all other forms of consumption. Many medical consumers can only consume marijuana in edible form.

It is important to note, for regulatory purposes, that the total weight of an edible product is made up by the confection or product itself – not the concentrate used to introduce THC into the recipe,



Regulatory considerations / recommendations

Concentrates

Hash

Hash is similar in chemistry and effect to the raw flowers of the plant. Consumers often prefer hash because it lacks the organic material (leaf) of the flower. Hash production does not typically involve the use of solvents or other volatile compounds. Therefore, there is little value or need to regulate hash differently than the flowers themselves.

Hashoil

The regulatory challenge with hashoil is that, in the absence of retail stores selling a quality, tested product at a reasonable price, some consumers have taken to home-extraction using butane – and sometimes in less-than-ideal settings. Butane, like any volatile gas, can be ignited by an open flame or electrical ignition source. This has given rise to home fires and some explosions.

The concern with “butane-hashoil” is a valid one but it’s important to make the distinction between the product (hashoil) which is not volatile, and the home-process of extraction using butane (which can be hazardous). To be clear hashoil, itself, is not volatile although the solvent used to extract hashoil can be in an uncontrolled environment.

Home-extraction is time-consuming, expensive, potentially hazardous, and often yields an inferior extract. The solution, in our view, is to ensure that a viable, regulated industry exists to produce this extract in a safe and economical manner so that consumers no longer have an incentive to attempt their own extraction.

We believe that such an approach would do far more to discourage the dangerous process of Butane-Hashoil production than any form of legislation could hope to.



Marketing

We agree that reasonable guidelines for marketing of marijuana products are appropriate.

However, we believe that such guidelines should not be so onerous as to make all marketing impossible. We agree that advertising that targets, or is openly visible to, underage individuals is undesirable. However, we believe that in-store advertising, web-based ads, and demographic-targeted online ads (21 and over through Facebook, for example) are a reasonable balance between public welfare and First Amendment rights.

Packaging

We agree that marijuana products should not be packaged or marketed to be enticing or attractive to children and that they should not be packaged to look, intentionally, like a familiar child-safe product.

Child-resistant packaging

It's useful to point out that, for decades, prescription drugs – including powerful opiates, barbiturates, and others – have been sold to consumers and packaged in child-resistant bottles with lids that require a modest degree of strength or dexterity to open. Many of these compounds can be immediately fatal or damaging if ingested by a child – yet the standard of protection (at least in the packaging) is clearly established.

Although marijuana products are not potentially lethal, we propose that a similar child-resistant packaging be required at the point of sale. Where a product cannot readily fit into available safety-lid bottles, an acceptable alternative might be a re-sealable pouch with a special zipper. Several such products are manufactured and are being used in Colorado. Consumers might elect to purchase one at the time of sale or re-use one from a previous transaction.

Serving Size

We agree that a standard “serving size” should be established as a guide for consumers buying edible products. Such a measure has proven both necessary and effective in other states as an appropriate consumer protection.

A likely concentration would be in the range of 5-20mg THC per serving with a recommended maximum of 4-6 servings per package (depending on the nature of the product). Products that cannot be readily re-sealed (such as a single cookie or beverage) might best be limited to a single “serving”.



Labeling

We agree that marijuana and its' derivative products should have some basic labeling requirements to include:

- 1) THC content (by percentage)
- 2) Number of servings (when appropriate – typically for edibles)
- 3) A warning that the contents contain marijuana or marijuana derivatives

Public / Private Space (definition)

Some local lawmakers have expressed concern over the distinction between Public versus Private consumption of marijuana. We recognize that Public consumption is unlawful under the provisions of 13PSUM, however there remains the definition of what is Public Space.

There are two specific examples that can be drawn from the consumption of alcohol and tobacco:

- 1) Bar and restaurant owners currently have the option of allowing their patrons to smoke cigarettes in designated areas (sometimes outdoor decks or patios). Since those properties are owned by or under the legal control of the business, it is effectively Private property and we believe they should be allowed to determine for themselves if marijuana may be consumed on the premises.

Note: In light of the proposed statewide ban on smoking we suggest that the use of e-cigarettes and vaporizers for marijuana be exempted from such a ban.

- 2) Special events such as the Beer and Barleywine Festival in Anchorage (and other such events around the state) are able to serve or allow the consumption of alcohol within designated areas during the event. We propose that similar events – specific to the marijuana industry – should also be allowed to designate areas for consumption / sampling on the premises and during the specific hours of the event assuming that the activity is consistent with other state or local laws pertaining to smoking of cigarettes or the use of e-cigarettes or vaporizers.

Some businesses may develop around the model of a coffee shop that serves marijuana products. Some of these may even provide designated areas for consumption. We suggest that the statewide rules should allow for such businesses – pending local approval.



Licensing of Businesses

We recognize that Public Health and Welfare are the primary goals of the licensing process, however we believe that market forces of supply and demand should ultimately be allowed to determine the success or failure of individual businesses. That said, we believe that an effective licensing process can address both of these goals.

Types of Licenses and Associated fees

Ballot Measure 2 articulated four general categories of license (Grower / Processor / Lab / Retailer).

We recommend that the License for Grower / Producer be expanded into a tiered system as follows:

- Tier 1 - Fewer than 100 plants
- Tier 2 - Over 100 but fewer than 2,500 plants
- Tier 3 - Over 2,500 plants

We further recommend that the initial application and license fees be kept as low as possible for Tiers 1 & 2 in order to encourage existing black-market growers to transition. We believe the lower fees would be justified since these smaller operators should require less administrative time to evaluate and process. We propose that the Tier 1&2 licenses be made available earliest with the Tier 3 permits made available 4-6 months later.

This approach would give smaller operators time to become established before opening the market to larger groups that might otherwise dominate the market. This could effectively dull the effect of "Big Marijuana" taking over the Alaska market as some have suggested.

Qualifications for Licensure

We believe that the most effective way of evaluating applications would be a weighted, merit-based system whereby applicants can be evaluated on their likely ability to meet the regulatory requirements and operate a viable business. A weighted system would also allow applicants weak in one area but stronger in others to compete for available licenses.

Residency Requirements

We recommend that qualifications for those with controlling interest in a marijuana business be predicated on the same criteria as those used for the Permanent Fund Dividend – Alaska resident with a prior period of residency.



Background Checks

We agree that background checks should be conducted for individuals who would have controlling interest in a marijuana business. However, we would suggest that prior convictions for non-violent or marijuana-related offenses not be the sole grounds for license denial. The rationale here is that individuals with a felony conviction for growing marijuana may have served their time and / or parole but could still have a difficult time getting a high-paying job. That same individual might well find a high-paying career as a master-grower with a marijuana business and that could help them to get re-established in society and to provide for their families in a productive manner.

Application Process

We are adamantly opposed to a "Lottery-Style" system of licensing. Such a system could have the effect of granting licenses to individuals or groups who may not be committed or prepared to engage in this industry while denying licenses to others who are prepared to operate effectively in a regulated environment.

Rulemaking Board

It remains the position of CRCL that a dedicated Marijuana Control Board is the ideal body for working out the details of Marijuana Regulations. While we agree that Marijuana can be regulated "like" alcohol, the two products – and their associated industries – are sufficiently different that a separate board should be assigned the task of working out the regulatory details. In particular, we believe that such a board should include representatives of the Marijuana Industry and should not include members of the alcohol industry as that could result in a conflict of interest on the board.

That said, we recognize the current constraints of both time and budget and we believe that a suitable compromise would be a hybrid-board, housed within the ABC, guided by the current director (Cynthia Franklin) and utilizing existing resources of staff and office space but composed of individuals whose sole focus is Marijuana Regulations.



CRCL

Rulemaking process

CRCL is aware that some individuals or groups opposed to this initiative may be attempting to delay the process indefinitely, or at least until the Legislature can repeal the law in February of 2017. Naturally, we are opposed to such a strategy.

We believe that given time to develop properly, this new industry can operate in a responsible manner and offer the Legislature every reason to *not* repeal this law in 2017. In order to do that, it is imperative that the rulemaking schedule be adhered to so that there will sufficient data available to the public and the Legislature during the 2017 session to support the continuation of a legal, regulated marijuana industry.

The rulemaking schedule defined in 13PSUM is aggressive but we believe it is achievable provided that the following conditions exist:

- 1) A rulemaking body is identified quickly and granted the authority to proceed with the rulemaking process.
- 2) The individuals assigned to the rulemaking board and any associated sub-committees are committed to the successful execution of this voter initiative.
- 3) No extraneous actions are taken that would intentionally or unnecessarily delay implementation or negate key aspects of the new law.



March 5, 2015

Dear Chairman Stoltze:

We appreciate legislators' and staffs' diligent work to craft a regulatory bill to supplement Ballot Measure 2, and were pleased to see that SB 62 already incorporated some of our previous input. We also support the new inclusion of registrations for home growers, boutique producers, and marijuana brokers.

SB 62 represents a substantial improvement upon the previous draft. However, we continue to have several concerns, which are detailed below. The most serious of the concerns are:

- The deletion of 17.38.070's comprehensive legal protections;
- Limiting the amount that can be sold per day, thus illegally requiring intrusive recordkeeping;
- Increasing the total maximum application fees to beyond \$5,000; and
- The breadth of the circumstances when the board would be required to revoke or suspend a registration.

Sincerely,

Dr. Tim Hinterberger
Chair, Campaign to Regulate Marijuana Like Alcohol

Concerning Provisions of SB 62

- Deletes the “notwithstanding” phrase in the paraphernalia protections provisions. (Sec. 2, AS 17.38.060)
- Uses broad language on banning advertising and packaging that may be enticing to minors. (Sec 3, AS 17.38.075, AS 17.38.090 (c)(2))

The bill would prohibit advertising or marketing “marijuana, a marijuana product, or a marijuana accessory in a manner enticing to minors.” We enthusiastically support reasonable restrictions on advertising and efforts to prevent advertising from *targeting* minors, but we are concerned this may be vague and overbroad. Any advertising — even a yellow pages listing — could arguably be considered enticing to a minor who wants to use marijuana. More precise guidance and prohibitions would be more appropriate.

- Changes “registration” to “license.” (throughout)

The word “registration” was carefully chosen in light of court decisions on federal preemption (i.e.. *Emerald Steel v. BOLI*, Oregon Supreme Court). “License” suggests affirmative authorization rather than a designation that one is exempt from state penalties. While we believe that even laws using “license” are not preempted, the language should be left as-is to keep the law on the strongest possible footing.

- Increases the total application fees beyond the \$5,000 cap. (Sec. 4, 17.38.090(a)(2), Sec. 15, 17.38.110(e))

As enacted, Ballot Measure 2’s AS 17.38.090 caps application fees at \$5,000 — half of which goes to the municipality and half of which goes to the state. In contrast, Sec. 4 would allow the state alone to charge up to \$5,000, in addition to a registration fee that covers the locality’s costs. This conflicts with the voter-enacted law and could make it very difficult for small farmers and other mom and pop-type businesses to qualify.

- Requires, rather than allows, a municipality to establish local licensing fees. (Sec. 15, 17.38.110(e))

Establishing licensing fees should be optional for municipalities. Some localities may prefer all licensing be handled at the state level.

- Limits the amount that retailers can sell per day to adults, thus illegally requiring intrusive recordkeeping. (Sec. 22, 17.38.230(a))

To protect personal privacy, a right enshrined in the Alaska Constitution, Measure 2 prohibits regulations from requiring retailers to collect and record personal information about their consumers. (17.38.090. (b)) This requirement entails a violation of that important protection by requiring retailers to sell only one ounce of marijuana to an adult. This could only be done by keeping track of how much which consumer buys. This is illegal and especially worrisome

in a day in age when so many records have been hacked. This is also unnecessary: It would be a crime for the person to possess more than an ounce of marijuana the individual did not produce him or herself.

- Requires retailers to be closed from midnight until 8:00 a.m. (Sec. 22, 17.38.230(c)(1))

In a state where bars don't have to close until 5:00 a.m. under state law, it's puzzling why adults would have a midnight curfew on buying marijuana from a regulated business. Hours of operations are best left to regulators and/or localities.

- Forbids retailers from selling to other licensees. (Sec. 22, 17.38.230(c)(4))

Retailers may go out of business or find that a certain product doesn't sell in their market. They shouldn't be prohibited from selling their excess inventory to other retailers.

- A marijuana processor cannot sell to a marijuana broker, but a broker may buy marijuana from a processor. (Sec. 22, 17.38.220, 17.38.260)

Marijuana processors may only sell marijuana to a marijuana retailer or another processor. Yet a marijuana broker may purchase from a processor. This contradiction is presumably a typo.

- The community notice requirements are excessive for growers, particularly home growers. (Sec. 22, 17.38.340)

Each application and transfer would have to be posted at the proposed location. This is unnecessary and could put small-scale growers at risk of theft. In addition, a hearing would have to be held for each application within a half mile of a community council, with notice given to the council and any nonprofit community organization. This seems excessive, especially for home growers and boutique growers.

- The board may require three weeks of paid notices in newspapers of applications. (Sec. 22, 17.38.340)

This could be extremely costly and could make it impossible for small growers to participate. It also may not be desirable to have the locations that public, especially for growers and producers.

- The board "shall suspend or revoke" a license if it finds the continued sale or manufacture of marijuana by the licensee would be contrary to "the best interests of the public." (Sec. 22, 17.38.390(2))

This vague and overbroad language could allow a board that simply disagrees with voters' decision to make marijuana cultivation legal to revoke licenses. Licensees need notice of the rules and what is not permitted, and should not be subject to the personal judgment of the board, which may vary based on personality. This sentence should be stricken.

- The board "shall suspend or revoke" a license if it finds the licensee has failed to correct a defect that is a violation of an "other applicable law." (Sec. 22, 17.38.390(3))

Given that marijuana cultivation and sales violate federal law, this should be revised to clearly only apply to state law.

- In several cases, a suspension or revocation of a registration should be allowed — not required — by the board. (Sec. 22, 17.38.390)

The bill provides that the board **must** suspend or revoke a license for a number of reasons, including if the licensees fail to abide by public health, fire, and safety regulations or if anyone illegally gambles on site. In some cases, such as for minor or inadvertent violations by a single employee, a civil fine may be more appropriate. The board should have the discretion to impose a reasonable penalty, rather than a suspension or revocation.

- Grants the board the overbroad authority to “impose conditions or restrictions on a license.” (Sec. 22, 17.38.400)
- Only a licensee may have a direct or indirect financial interest in a licensee. (Sec. 22, 17.38.440)

This would likely create unnecessary obstacles to raising capital.

- Repeals comprehensive legal protections for marijuana establishments and their staff and replaces them with problematic language. (Sec. 33 repeals 17.38.070)

As was mentioned above, one court that heard a marijuana-related preemption case found that a state could not affirmatively “authorize” conduct violating federal law (i.e., *Emerald Steel v. BOLI*, Oregon Supreme Court). Ballot Measure 2 was carefully crafted to clearly make marijuana establishments and their staffs’ conduct lawful and exempt from criminal penalties under state law. This proposal would delete those comprehensive legal protections and replace them with sections “authorizing” conduct. This would make the law more susceptible to a preemption challenge. (Sec. 22, 17.38. 200-17.38.)

Adding protections for boutique growers and home growers would be welcome, but deleting this crucial language from the initiative would be extremely concerning.

Daniel George

From: Suellen Appellof <suellen@jackwhite.com>
Sent: Tuesday, March 10, 2015 9:20 AM
To: Sen. Bill Stoltze
Subject: 2015 Alaska Association of REALTORS Issues Recap

Dear Senator Stoltze,

The Alaska Association of Realtors® will be meeting later in the week to discuss this and other issues regarding the marijuana referendum. At this time, the state organization has not taken a position on this issue.

I personally am opposed to keeping these location confidential for environmental and health reasons. Other agricultural properties have strict guidelines on their operations, and to my knowledge, no farm location is secret. Dangerous chemicals, including; fertilizers, insecticides, and fungicides will be stored and used on the property. Spills, or even proper use may affect neighboring properties or water supplies.

I understand the security issues that they face, but other owners (i.e. gun shops, liquor stores, etc.) have to put in security systems in order to protect their business. I do not believe that the public should be put at risk to save them the security hassle.

Suellen Appellof, GRI, ABR, ePro, SFR, MRP

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Daniel George

From: debra kirk <debrar@gci.net>
Sent: Thursday, March 05, 2015 12:39 PM
To: Sen. Bill Stoltze
Subject: marijuana

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Bill in Committee

mr stolze-please hold the initiative backers to responsibility for what they are advocating....mr shulte is asking for confidentiality so that neighbors don't know what their (marijuana retailers) business is up to? that is hard to believe that that is what they expect. surrounding homes and businesses have every right to know when and where a marijuana business is in their neighborhood.

respectfully-debra lathrop-kirk

January 22, 2015

Senator Sili Stoltze
Alaska State Legislature
State Capitol Room 125
Juneau AK, 99801

Dear Senator Stoltze

My name is Mike Svenson and I live in Sitka. I was watching on Gavel to Gavel, the senate affairs and the subject was marijuana. A sponsor of the initiative was listing who the co-sponsors were and he mentioned a guy who is an airplane pilot. I could not get past that. I think you guys **need to make a law that protects the public from people who have the public in their hands. Such as pilots, doctors, police, heavy equipment operators, etc. Not everybody works for a company that does drug testing. Many of these people work for themselves such as a small planes charter pilot that has no employees. I really don't worry about a pot smoker becoming violent, but what is more likely to happen is they lose their attention for a few seconds and somebody gets hurt. All you have to do is watch that State Trooper show when they pull over a driver with a turn light that stays on, or not using a turn signal when turning. It always turns out that they were smoking pot and they just "forgot." We don't need people who have the public in their hands to all of a sudden forget or lose their attention to something. It's called "spacing out." Again, we the public deserve to know if we are putting our lives in the hands of somebody who could "space out" and accidently clip a tree or cut something. It is not fair to learn after a person is killed that the person they trusted was smoking pot before something happened. Alaska legislators need to protect the citizens.**

Daniel George

From: Alaska Wilderness Outfitters-Dennis <horsebackalaska@hotmail.com>
Sent: Wednesday, March 04, 2015 9:58 PM
To: Sen. Bill Stoltze
Subject: SB 62

To the Honorable Senator Bill Stoltze, Chairman, State Affairs Committee

Concerning SB 62 **REGULATION OF MARIJUANA BUSINESSES.**

I was glad to see such an amenable bill to the hopes of Alaska's prospective commercial growers. The three tiered levels of Home Grower, Boutique Grower and large scale grower appear to meet the needs.

I do have a problem with the broker. This proposed licensed is one that several prospective growers and I have talked about. We do not think this is reasonable for several reasons. First I am disturbed by a middle man (broker) making money off the grower.

Marijuana is not easy as growing kale. To husband a quality strain of cannabis is not easy and to have, what I call a, Pot Pimp make money off growers hard work, irritates me.

I foresee the potential for price fixing, bribes and exploitation with brokers.

What I believe would fit in that position would be brokerage house (web site), administered by the State of Alaska or someone licensed by the state to do this. A grower would send their tested marijuana data, strain and growing information, (natural/ organic, hydroponic) amount available to the clearing house. Licensed vendors and growers would be the only parties to access this information. The seller and buyer would negotiate a price and transport. When transaction was complete both parties would report the action to the state sponsored cite.

This would also address the problem of growers off the road system, that a mobile vender would have trouble accessing.

I had a web conversation with an Alaskan who envisioned being a house hold grower who wondered, under the proposed broker condition, how they would be able market only a few ounces. Ounces above their consumption level.

An idea I think could work would be that every licensed grower would be able to market up to, let's say ten ounces, per every growing cycle. If a grower is up to normal growing standards, being four cycles per year. This could only be possible if they had a business license, reported and sent the \$50.00 per oz. to the state. They would also be need to be holding a resale tax number for their borough and remit the sales taxes to the borough.

Respectfully, Dennis Wade, East of Homer 99603



MEMORANDUM
Department of Natural Resources

STATE OF ALASKA
Division of Agriculture

TO: The Honorable Bill Stoltze
Alaska State Senate

DATE: March 31, 2015

THRU: TELEPHONE:

FROM: Franci Havemeister
Director

SUBJECT: Agriculture and
Marijuana

The Division of Agriculture's involvement in the industry will depend on the final regulatory language and the determination of marijuana as an agriculture crop or a controlled substance.

The Division of Agriculture responds to the following questions:

1. Will the marijuana industry be allowed to use the Alaska Grown Logo?

The use of the logo is permitted through an application process on agriculture products produced in the state. At this time it is unclear if marijuana will be considered an agriculture product and meets that requirement. If marijuana is determined to be an agriculture crop, the AAG has recommended that as a condition of approval, all applicants provide a copy of their commercial marijuana license. Although, the logo is federally trademarked, the federal government does not directly control how a trademark is used once it is issued.

I anticipate some current registered users of the Alaska Grown Logo may be resistant to the logo being used to market marijuana.

2. Will the Agriculture Revolving Loan Fund be available to the marijuana industry?

If marijuana is determined to be an agriculture product, the ARLF's current statutes and regulations would allow the Board of Agriculture and Conservation (BAC) to approve loans for marijuana production and processing. The challenges in approving a loan may include the board's difficulty in determining if an entity had a viable business plan since there is no production/cost history for this type of business in Alaska. Supply, demand, crop yield, etc. would be pure speculation until some kind of track record or production information was established. The speculative nature of any business plan would be a serious hurdle for anyone applying for an agricultural loan.

However, after a few years it should be fairly easy to determine the value and production levels of a marijuana producer and create a realistic business plan since production and marketing history would be established. It is unlikely that the board would accept the crop, marijuana as collateral for the loan. In the event of a default, the BAC may not be able to seize, possess, and sell the crop because a non-licensee cannot possess or sell marijuana under the most recent draft of SB62. This would render a marijuana crop unsuitable as collateral unless there was a process

The Honorable Bill Stoltze
March 31, 2015

available for repossessing and selling a marijuana crop either directly or through another government agency or third party.

Although it may be unlikely, the risk remains that the federal government could change their "wait and see approach" with a new administration and seize property related to a marijuana operation. The mandate of the BAC is to assist agriculture by means of long term low interest loans (AS 03.10.010), but that doesn't mean the BAC is required to take unnecessary lending risks. Until the interplay between state and federal law is more settled it may be a risky endeavor to loan funds supporting the marijuana industry.

If marijuana is determined an agriculture product, the Plant Materials Center will be available to provide technical expertise to this new industry.

SB 62

Regulation of Marijuana Businesses

Senate State Affairs Committee

April 7, 2015

Senate Judiciary Committee

Prepared by the offices of Senator McGuire and Senator Coghill

Jesse Logan (jesse.logan@akleg.gov)

Chad Hutchison (chad.Hutchison@akleg.gov)

1

Regulatory Aspects of SB 62

- Marketing and Advertising
- Packaging of Product
- Labeling
- Serving Size and Packaging of Edible Marijuana

- SB 62
- Recommendations from the Alaska State Medical Association
- Recommendations from the Colorado Task Force Report on Implementation of Amendment 64

2

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories



3

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories

- SB 62: Sec 3 17.38.075 (Page 2, Lines 4-6)
 - may not advertise or market in a manner enticing to minors.
- Alaska State Medical Association recommendation:
 - Ensure that products are not advertised directly, or indirectly, to those under the age of 21.
 - This should include: in-store advertising, publicly visible advertising, web-based ads, or online ads
 - Awaiting a legal opinion on how far the legislature can restrict advertising.



4

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Legislation should provide certain guidelines on the state level, and also allow for further limitations at the local level



5

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Prohibit mass marketing campaigns that have a high likelihood of reaching minors (television, radio, direct mail etc). Advertising in adult-oriented newspapers would be allowed
- Prohibit health or physical benefit claims in advertising, merchandising, and packaging
- Allow opt-in marketing programs such as email clubs (as long as there is an opt-out feature)



6

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Allow only marijuana products and marijuana-related accessories to be offered in retail marijuana stores.
 - Prohibit the sale of traditional (non-marijuana) food, beverage, personal care items (lotions, limb balms) so there is no confusion that all products sold in a marijuana establishment do include marijuana.



7

Marketing and Advertising of Marijuana, Marijuana Products, and Marijuana Accessories

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Allow opt-in marketing on the web and location-based devices (mobile) as long as there is an easy and permanent opt-out feature.
- No unsolicited pop-up advertising is allowed.
- Banner ads would only be allowed on adult-oriented sites (not Facebook)
- Marijuana retailers will be allowed to host their own websites.



8

Packaging Requirements for Marijuana and Marijuana Products



9

Packaging Requirements for Marijuana and Marijuana Products

- SB 62 17.38.090 (Page 3, Lines 12-17)
 - Board shall adopt regulations regarding the packaging and labeling of marijuana in retail stores.
 - May only exit retail establishments in a child-proof container
- Alaska State Medical Association recommendation:
 - Set guidelines to ensure that marijuana products not be packaged or marketed to entice or attract children.
 - Should be prohibited from packaging that appears like a familiar marijuana-free or child-safe product



10

Packaging Requirements for Marijuana and Marijuana Products

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Recommended that 1 of 3 should take place:
 - 1) packaged by the manufacturer in a packaging that meets the Standards (set by the Board)
 - 2) packaged by the operator of the retail establishment prior to the point-of-sale in a package or container that meets the Standards
 - 3) placed in an "exit package/container" that meets the Standards, with compliance and burden placed on the retail establishment



11

Packaging Requirements for Marijuana and Marijuana Products

- "Exit packages/Containers"
i.e.—"exit bags"
- SB 62 Sec 5 17.38.090 (c) (1)
 - Attempted to delineate "exit bags"
 - Result: confusing language



Child resistant



Packaging Requirements for Marijuana and Marijuana Products

- “Exit packages/Containers” i.e.—“exit bags”
- Recommendation:
- all products purchased from retail marijuana establishment may only exit the premises when contained within one or more state approved “exit bags”
- Definition of exit bag: “child resistant packaging that meets all of the requirements of the definition of child-resistant ASTM standards”
- If the package is intended for more than a single use, it must be re-closeable and once reclosed must meet the ASTM standard for ‘child resistant’
- This should not apply to products already packaged by the manufacturer in a sealed, non-transparent, or opaque package, container or other receptacle that meets the Standards
- The board shall require that all exit packaging be opaque so that the product cannot be seen from the outside.



Child resistant

Labeling of Marijuana, Marijuana Products, and Marijuana Accessories



* The intoxicating effects of this product may be delayed by two or more hours. Learn more at Distro@airs.com

Ingredients:
Powdered sugar, corn syrup (light corn syrup, high fructose corn syrup), skim milk powder, semi-sweet chocolate (chocolate liquor, sugar, cocoa butter), soy lecithin, pure vanilla, vanilla, butter, cocoa (processed with potassium carbonate), vanilla extract (alcohol, sugar), salt, THC (Tetrahydrocannabinol), CO₂ oil

The standardized serving size for this product is 10 milligrams of active THC. This container includes 10 servings.

Warning: There may be health risks associated with the consumption of this product. This product is untested outside the State of Colorado. This product is infused with marijuana. This product was produced without regulatory oversight to health, safety or efficacy. There may be additional health risks associated with the consumption of this product by women who are pregnant, breastfeeding, or planning on becoming pregnant. Do not drive a motor vehicle or operate heavy machinery while using marijuana. This product was tested for mold, mildew, pH, microbials, herbicides, pesticides, fungicides and termiticides. KEEP OUT OF REACH OF CHILDREN. This package is a duff

Nutrition Facts

Serving Size: 0.125 oz (4 grams)
Servings Per Container: 10

Amount Per Serving		% Daily Value*	
Calories: 15		Calories from Fat: 0	
Total Fat	0g		0%
Saturated Fat	0g		0%
Trans Fat	0g		0%
Cholesterol	0mg		0%
Sodium	5mg		0%
Total Carbohydrate	3g		1%
Dietary Fiber	0g		0%
Sugars	2g		
Protein	0g		
Vitamin A	0%	Vitamin C	0%
Calcium	0%	Iron	0%

*Percent Daily Values are based on a 2,000 calorie diet.

This item is perishable. Keep refrigerated. Please recycle.

Labeling of Marijuana, Marijuana Products, and Marijuana Accessories

- SB 62 17.38.090(c)(2)

(Page 3, Lines 18-20)

- The container or package must be clearly labeled with the contents of the container or package
- A label may not be marked in a manner or include pictures or other representations that might be enticing to minors
- Must be labeled for potency and certification of safety



Colorado Retail Marijuana

There may be health risks associated with the consumption of this product. This product is intended for use by adults 21 years and older. Keep out of the reach of children. This product is unlawful outside the State of Colorado. There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant. Do not drive a motor vehicle or operate heavy machinery while using marijuana. This product is infused with marijuana. This product was produced without regulatory oversight for health, safety, or efficacy. The intoxicating effects of this product may be delayed by two or more hours. This product contains marijuana.



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Labeling Requirements for Marijuana and Marijuana Products

- Alaska State Medical Association recommendation:
 - The legislature should establish guidelines for labeling requirements to include:
 - 1) THC content
 - 2) Number of servings contained in a product
 - 3) Warning that the product contains marijuana and at what potency
 - 4) Same requirements for tobacco regarding usage while pregnant



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Labeling Requirements for Marijuana and Marijuana Products

- From the Colorado Task Force Report on the Implementation of Amendment 64
- All products be labeled to indicate:
 - Total THC content as % by weight; or
 - Total mg does for activated THC or TOTAL THC
- Labeling of all products shall include a list of all pesticides, herbicides, fungicides, and solvents that were used in cultivation or processing.
- SB 62 references “certification of safety” shall be done by a registered/licensed testing facility certified by DEC.
 - 17.38.240 (Page 9, Lines 7-12)



17

Serving Size and Packaging of Edible Marijuana Products



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Serving Size and Packaging of Edible Marijuana Products

- SB 62 17.38.090 (C)(d) (Page 3, Lines 23-26)
- Individual doses of edible marijuana contain no more than 10 milligrams of THC
- Each dose wrapped individually
- Board shall allow for retail sales of edible marijuana packages that contain multiple doses



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Serving Size and Packaging of Edible Marijuana Products

- Alaska State Medical Association recommendations
- Require that food or edible marijuana products be stamped or shaped in a distinct, easily recognizable way, both inside and outside of the packaging
- Labeled for
 - THC content
 - Number of servings contained in a product
 - Warning that the product contains marijuana



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Serving Size and Packaging of Edible Marijuana Products

- From the Colorado Task Force Report on the Implementation of Amendment 64
- The Department shall create regulations on appropriate limitations on the total THC content that can be contained in a single package
- A “serving” or “dose” of edible marijuana product shall have no more than 10mg of THC
- The product labels shall clearly provide the total number of servings in any single package and identify the “serving size” for items packaged together



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Serving Size and Packaging of Edible Marijuana Products

- From the Colorado Task Force Report on the Implementation of Amendment 64
- Create labeling guidelines concerning the total content of active THC per package.
- These regulations should only apply to non-medical food-type products that are infused with activated THC that are also packaged in smaller serving sizes and therefore have a reasonable possibility of being over-consumed accidentally.



22

Questions?

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Task Force Report on the Implementation of Amendment 64

Regulation of Marijuana in Colorado

Task Force Co-Chairs:

Jack Finlaw
Chief Legal Counsel
Office of the Governor

Barbara Brohl
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Colorado Department of Revenue

March 13, 2013

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March 13, 2013

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Honorable Leaders of the State of Colorado:

We hereby deliver to you the final report of the Amendment 64 Implementation Task Force. The Task Force, created by the Governor on December 10, 2012 in Executive Order B2012-004, was asked to identify the legal, policy and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative, regulatory and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64 - the constitutional amendment authorizing the use and regulation of marijuana in the State of Colorado. The executive order directed the Task Force to complete its work by February 28, 2013 and to then report its recommendations and findings to you. Thanks to the dedication and thoughtful work of task force members, we are pleased to report that we have accomplished much in a very short time.

The Task Force was charged with finding practical and pragmatic solutions to the challenges of implementing Amendment 64. The enclosed report offers up our recommendations, most of which now need to be enacted into law by the Colorado General Assembly or developed into administrative rules by various state departments. We fully appreciate that these recommendations will now need to be perfected through the legislative and rulemaking processes and we offer to you the support and expertise of task force members as you need them in the weeks and months ahead.

The Task Force included members of the Colorado General Assembly and representatives of the Attorney General's office, state agencies, law enforcement, the defense bar, district attorneys, the medical profession, the marijuana industry, the Amendment 64 campaign, marijuana consumers, academia, local governments and Colorado's employers and employees. Five working groups, comprised of task force members and additional subject matter experts from around the state, met weekly during January and February. The working groups heard testimony from stakeholders and members of the public and then developed and drafted implementation recommendations, which were further vetted, revised, adopted or rejected in the meetings of the Task Force. All meetings of the Task Force and its working groups were open to the public, and there was time set aside at each of the meetings for public input and comment.

Although the Task Force included many diverse perspectives, each member remained faithful to the Governor's charge to respect the will of the voters of Colorado and not to engage in a debate of the merits of marijuana legalization or Amendment 64. All of the recommendations in this report were approved by at least a majority vote and many represent a consensus view. Members of the Task Force concluded their work with the understanding that, for good or ill, they had played an historic role in the evolution of marijuana policy in the United States.

Respectfully submitted,



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Acknowledgements

The work of the Task Force would not have been possible without the support of a talented and hard-working administrative staff led by Lindsay Cox, Mia Tsuchimoto, Brandon Friede, Ro Silva, and Laura Jane Weimer. They scheduled and noticed all Task Force meetings, kept the Working Groups informed and moving forward, and led our multilayered communications efforts. Thank you team!

The Task Force is also indebted to the counsel and advice of our consulting team from Rebound Solutions, led by William Browning with the able assistance of Michael Niyompong, Lorii Rabinowitz, and Hilary Gustave. They oversaw the design and execution of the Task Force's process and agendas, developed the recommendation template, kept track of the recommendations, and designed the final report. We are especially grateful for the diligence and skills of Lisa McCann, also a member of the Rebound Solutions team, who organized and wrote this final report.

Executive Summary

The Task Force recommendations seek to establish a robust regulatory scheme with adequate funding for industry oversight and enforcement, consumer protection, and prevention and treatment programs for youth. The Task Force Report contains a plethora of suggestions for safely growing and processing marijuana, as well as packaging and labeling it. The Task Force proposals also are designed to limit the distribution and consumption of marijuana to persons over 21 years of age within the State of Colorado. The recommendations strike an appropriate balance between state and local regulation and contain suggestions about updates to Colorado's criminal law statutes. The Task Force endorsed the Driving Under Influence of Drugs (DUID) bill that is already making its way through the Colorado General Assembly and a bill to authorize the cultivation of industrial hemp.

All of the Task Force recommendations stem from one or more of these Guiding Principles:

- a. **Promote the health, safety, and well-being of Colorado's youth**
- b. **Be responsive to consumer needs and issues**
- c. **Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome**
- d. **Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme**
- e. **Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities**
- f. **Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable**
- g. **Ensure that our streets, schools, and communities remain safe**
- h. **Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions**
- i. **Take action that is faithful to the text of Amendment 64**

The Task Force recommends that the adult-use marijuana industry be required to have common ownership from seed to sale. This "Vertical Integration" model means that cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The medical marijuana industry, law enforcement, and state and local regulators all advocated for the Vertical Integration model, to ease implementation and enforcement and to demonstrate to the federal government that Colorado is sticking with a regulatory model that has worked. In embracing the Vertical Integration model, the Task Force attempted to strike a balance between those urging state-owned and operated retail stores to sell marijuana and those endorsing a more entrepreneurial, free market model. The Task Force also recommends that for the first year of licensing, only entities with valid medical marijuana licenses, and those who applied for medical marijuana licenses before December 10,

2012 when Amendment 64 was proclaimed as law, should be able to obtain licenses to grow, process and sell adult-use marijuana. The Task Force further recommends that this regulatory framework be revisited after three years to determine if it is the appropriate model for the continued regulation of adult-use marijuana.

Tax and funding recommendations are faithful to the language of Amendment 64 by endorsing a TABOR-referred measure to approve a 15% excise tax, with the first \$40 million raised annually dedicated to the state's school capital construction fund. And yet the Task Force, cognizant of Washington State's 75% excise tax scheme and the need here in Colorado for an additional funding source to cover the costs of regulating this new industry, implementing consumer safeguards, and establishing youth prevention and treatment programs, also recommends that the Colorado General Assembly consider sending a marijuana sales tax to the ballot for voter approval. In endorsing these two taxes on adult-use marijuana, Task Force members acknowledge the need to keep taxes low enough so as not to encourage a persistent black market in marijuana.

Other recommendation highlights include:

- A new Marijuana Enforcement Division (MED) should be created in the Colorado Department of Revenue, funded by General Fund revenue for at least the next five years, to provide regulatory oversight of Colorado's marijuana industries
- Only Colorado residents should be allowed to hold licenses to grow, process, and sell adult-use marijuana, but sales to both residents and visitors should be permitted (with stricter quantity limits for out-of-state purchasers)
- There should be limits on the number of licenses that can be owned by one individual or group, the size of licensed premises, and the size of cultivation facilities
- All types of marijuana sold from adult-use marijuana retail facilities should be in child-proof packaging and have warning labels that disclose THC content and list all pesticides, herbicides, fungicides, and solvents used in cultivation and processing

The Task Force's recommendations now need to be perfected and implemented by the Colorado General Assembly and the Governor through legislation, by the Attorney General giving guidance to law enforcement and state departments, by the Colorado Department of Revenue (DOR), the Colorado Department of Public Health and Environment (CDPHE), and the Colorado Department of Agriculture through administrative rulemakings and by Colorado's local governments enacting time, place, and manner regulations and ordinances.

Amendment 64 and the Establishment of the Task Force

A amendment 64 was initiated by the people of the State of Colorado at the biennial regular election held on November 6, 2012. The proposed amendment to the Colorado Constitution sought to make the personal use, possession, and limited home-growing of marijuana legal under Colorado law for adults 21 years of age and older, provide for the regulation of marijuana like alcohol, and allow for the lawful operation of marijuana-related facilities (see Appendix A for the full text of Amendment 64). The voters of the State of Colorado approved the Amendment by a vote of approximately 55% of the voting electorate, resulting in its proclamation as an amendment to Article XVIII of the Colorado Constitution on December 10, 2012.

Amendment 64 presents issues of first impression in Colorado and in the United States, as no other state except Washington State has legalized marijuana for non-medical, adult use in the face of federal legal restrictions. It also establishes very short timelines for implementation, requiring that the Colorado Department of Revenue adopt all necessary regulations by July 1, 2013 and begin accepting and processing license applications on October 1, 2013. These short timeframes require the state and local governments to consider and resolve in short order numerous legal, policy, and procedural issues that necessarily involve multiple interests and stakeholders. Concomitant with his proclamation adding the Amendment to the State Constitution on December 10, 2012, and to assist the state and local governments in the process of implementing the new law, Governor Hickenlooper established the Amendment 64 Implementation Task Force to coordinate and propose a regulatory framework that promotes the health and safety of the people of Colorado (see Appendix B for the full text of the Executive Order).

The Governor directed the Task Force “to identify the legal, policy, and procedural issues that must be resolved, and to offer suggestions and proposals for legislative, regulatory, and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64”. The Task Force was asked to develop a comprehensive framework for the legislation and regulations needed to implement Amendment 64, and to report its recommendations and findings to the Governor, the Colorado General Assembly, and the Attorney General. It was charged with finding solutions to the challenges of implementing Amendment 64 while respecting the diverse perspectives that each member would bring. It was instructed to respect the will of the voters of Colorado and refrain from engaging in a debate of the merits of marijuana legalization or the Amendment itself.

The Task Force proceeded in these tasks with the awareness that their recommendations will be further debated and adapted by the Governor, the Colorado General Assembly, the Attorney General, various state agencies, local governments, and the general public as legislation is enacted and regulatory structures are formulated and put into place for the implementation of Amendment 64.

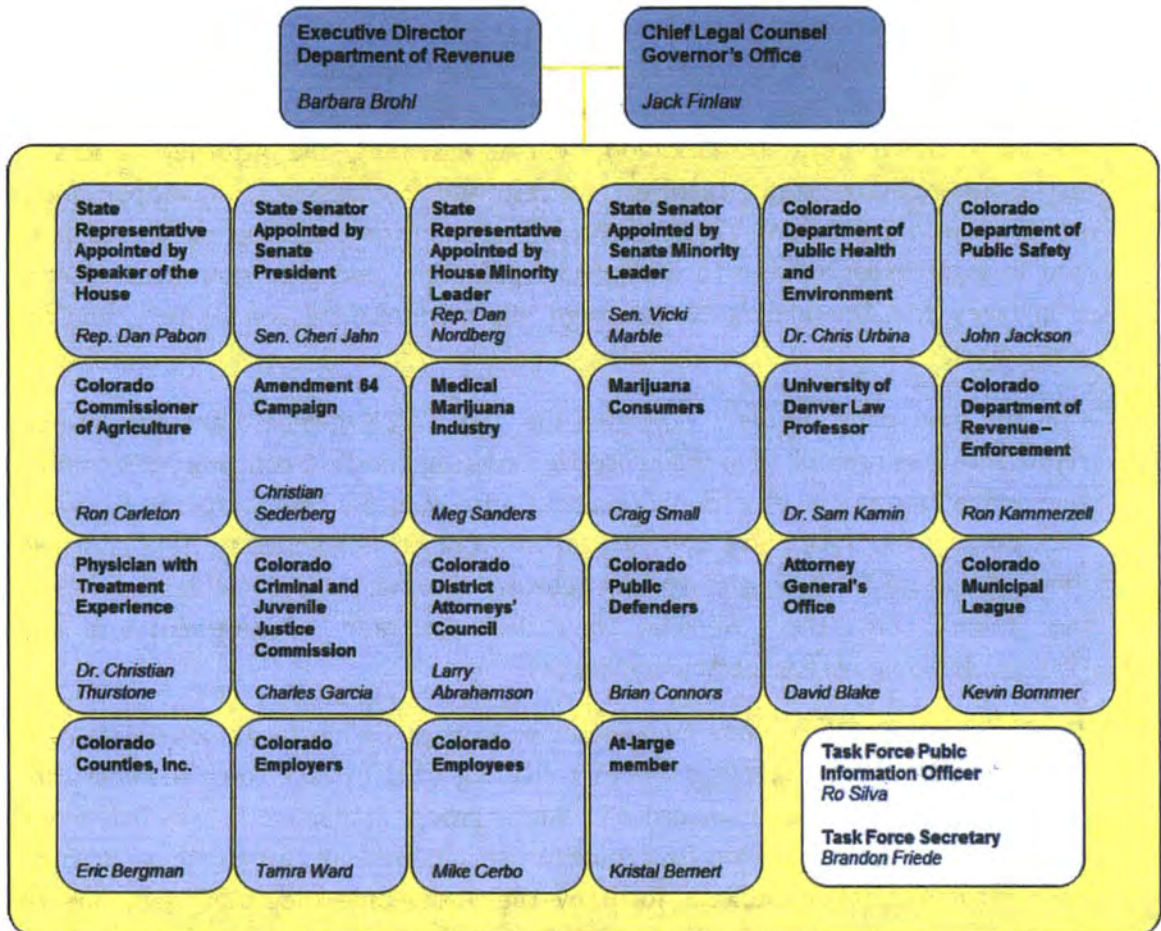
Task Force Structure, Guiding Principles, and Working Groups

The Amendment 64 Implementation Task Force, as per the Governor's instructions in the Executive Order, was chaired by the Governor's Chief Legal Counsel and the Executive Director of the Colorado Department of Revenue. It consisted of 24 members drawn from the Colorado General Assembly, the Attorney General's office, numerous relevant state agencies, offices, and commissions, municipal and county government organizations, persons with expertise in the treatment of marijuana addiction and in legal issues related to marijuana legalization, and representatives of employers, employees, the Amendment 64 campaign, the medical marijuana industry, and marijuana consumers.

On the next page, Figure 1 illustrates the Task Force members and the interests they represented, as prescribed in the Executive Order. Appendix C contains additionally a list of their affiliations as well as information about other valuable contributors to the work of the Task Force. The Task Force commenced its work on December 17, 2012 and held seven meetings before concluding its work on February 28, 2013. Full documentation of its work can be found on the website of the Colorado Department of Revenue (www.Colorado.gov/revenue/amendment64).

The Task Force Co-Chairs were empowered to issue guidelines for the operation of the Task Force, and to appoint Working Groups consisting of both Task Force members and other persons with subject matter expertise to aid the groups in their work. The following Guiding Principles were adopted by the Task Force to direct its work and formulate recommendations. Each recommendation brought forth by the Task Force meets at least one of these fundamental Guiding Principles, as indicated in the details following the specific recommendations below.

Figure 1 – Task Force Members



Guiding Principles for the Work of the Amendment 64 Implementation Task Force

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
- i. Take action that is faithful to the text of Amendment 64

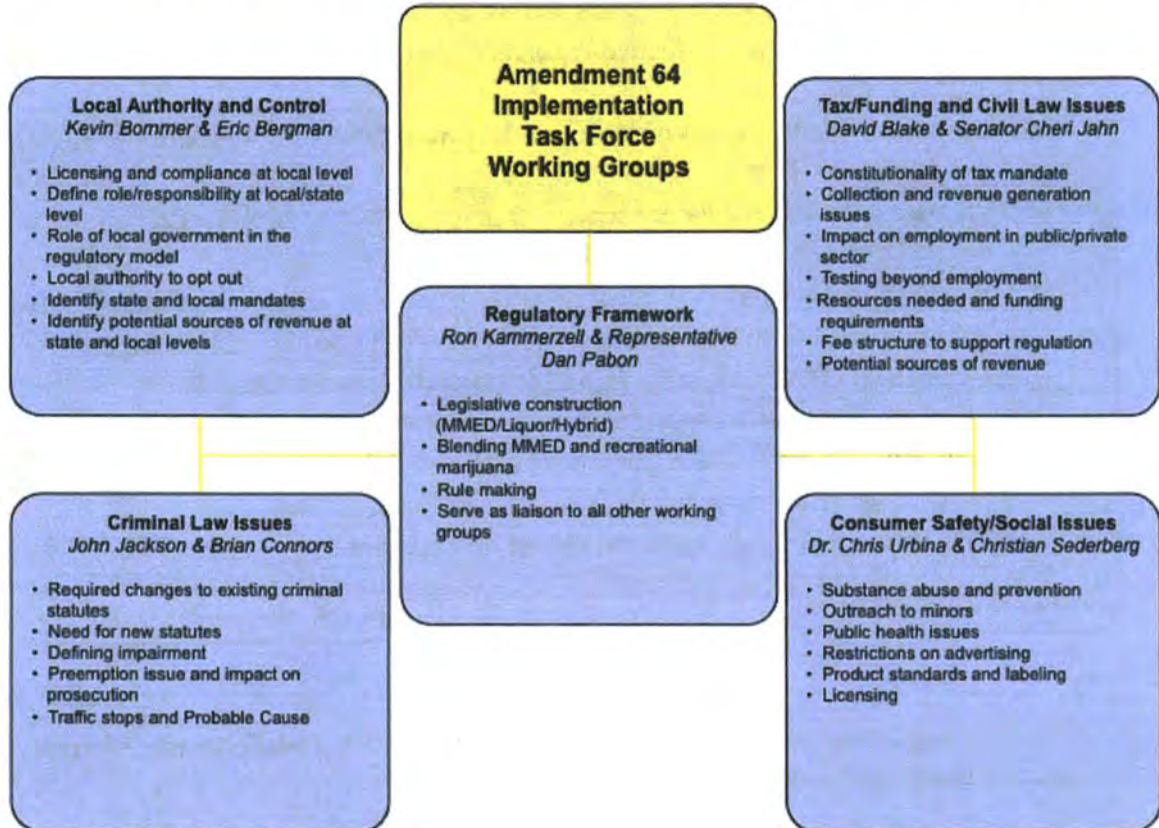
Five Working Groups of the Amendment 64 Implementation Task Force were formed to draft recommendations in the following issue areas:

Amendment 64 Task Force Working Groups

1. Regulatory Framework
2. Local Authority and Control
3. Tax, Funding, and Civil Law
4. Consumer Safety and Social Issues
5. Criminal Law

Each Working Group was chaired by two members of the Task Force and consisted of both Task Force members and additional persons with expertise in the various issue areas. Figure 2 lists the Working Group Co-Chairs and the initial set of issues assigned to each Group. Appendix D contains a list of the full membership of the Working Groups.

Figure 2 – Amendment 64 Working Groups and Issues



This initial set of issues was developed through interviews with the Task Force members and at the first Task Force meeting, then further refined by the Working Groups in the course of their work. Appendix E contains a list of issues and questions considered by the Working Groups in their discussions.

The Working Groups met separately from the Task Force to study these issues and develop recommendations in their respective issue areas. Upon reaching consensus or majority opinion, the Working Groups forwarded their recommendations to the Task Force for further discussion and final approval. When the Working Groups were occasionally split regarding a particular recommendation, they would prepare two recommendations for the consideration of the entire Task Force. The ultimate determination of which recommendation to accept in these cases was made by the Task Force itself. Given the intention of the Task Force to issue consensus recommendations whenever possible, several recommendations were sent back to the Working Groups for further refinement if they had not garnered a strong majority on the Working Group or subsequently on the Task Force itself. Full documentation of the work of

the Working Groups can be found on the website of the Colorado Department of Revenue (www.Colorado.gov/revenue/amendment64).

The Working Groups developed recommendations with the aid of a common template to ensure that the recommendations met a number of criteria, such as application to the provisions of Amendment 64 and support for at least one of the Guiding Principles of the Task Force. The templates also ensured that the Working Groups provided sufficient explanations of the recommendations and of any dissenting viewpoints. Further, the templates identified whom the recommendation would impact, who would own the implementation of the recommendation, and the expected timeframes and costs of implementation, if known. Appendix F contains a blank recommendation template. The templates produced by the Working Groups have been summarized in this report, in the detail following the specific recommendations below.

Summary of the Recommendations

The Task Force considered nearly 100 individual recommendations developed by its five Working Groups. It approved 73 of these, which have been consolidated into the 58 recommendations here presented for the consideration of the Governor, the Colorado General Assembly, and the Attorney General when proceeding with the implementation of Amendment 64. A summary table of the recommendations is contained in Appendix H.

The 58 recommendations are presented in 17 categories, for the ease of lawmakers and agency officials in locating recommendations related to different issue areas surrounding the use and regulation of marijuana. Recommendations are offered for the following activities:

- Creating and financing the new regulatory structure;
- Taxation of marijuana through both excise and sales taxes, to support regulatory and enforcement costs, as well as other state programs including several suggested by this Task Force related to marijuana education and studies;
- Transitioning to a system that regulates and enforces both medical and adult-use marijuana;
- Specifying requirements for licensees, operations, and interactions with consumers;
- Consumer safety issues such as signage, marketing, advertising, packaging, labeling, restricting THC content in infused products, restricting additives and adulterants in marijuana products, and encouraging good cultivation and laboratory practices in the industry;
- Educating citizens about the effects and risks involved in marijuana use and conducting studies on the effects of marijuana use on public health and safety;
- Amending statutes to reflect the legal status of limited, adult-use marijuana in Colorado and to indicate penalties for certain marijuana offenses, including the treatment of juveniles in possession and the transfer of marijuana to persons under 21 years of age;
- Specifying rules for home cultivation of marijuana;
- Requesting resolution of federal restrictions on banking and allowable tax deductions for legal marijuana businesses in Colorado;
- General guidance for employers and employees, property owners, the enforcement of contracts, and the legalization of industrial hemp in Colorado; and
- Forming a follow-up task force in three years, to review the recommendations of this Task Force in light of the actual implementation of Amendment 64.

Amendment 64 Implementation Task Force Recommendations

1 – Regulatory Structure

1.1 – Vertical Integration

The Task Force recommends that the General Assembly adopt the current 70/30 “vertical integration” model, as contained within the Medical Marijuana Code, for adult-use marijuana. Under this model, cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The Task Force recommends that the General Assembly enact the following additional requirements:

- **Add a requirement that all licensees file a monthly report with the state licensing authority, which documents all sales/transfers of marijuana during the month outside of the licensee’s common ownership structure pursuant to the 30% allowance. This monthly report shall detail all such transactions including the amount of product transferred, the licensee the product was transferred to, and the calculation of the percentage of on-hand inventory transferred outside of the common ownership structure expressed as a percentage of the total on-hand inventory for the month.**
- **Provide the ability for the state licensing authority to issue conditional licenses for a series of license applications submitted under a vertically integrated common ownership structure and to restrict the operation of any license contingent on local approval or other conditions that may be required.**
- **Add statewide restrictions on the number of licenses a vertically integrated common ownership structure can hold statewide. The General Assembly could obtain guidance from other industries for which a license is required, such as gaming and liquor. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number.**
- **Add statewide restrictions on the size of marijuana cultivation facilities. This restriction could be based on square footage of the facility, the number of plants cultivated, energy use, or any combination thereof. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number.**

Provide for a grace period of one (1) year that would limit new applications for adult-use marijuana licenses to medical marijuana license holders in good standing, or applicants that had an application pending with the Medical Marijuana Enforcement Division prior to December 10, 2012.

This proposed framework would be subject to a sunset review, to be conducted three (3) years after the enactment of the statute establishing the vertical integration model, at which time the General Assembly should consider de-coupling the manufacturing and retail licenses and proposing an “open integration” model.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

This recommendation makes use of and improves upon the 70/30 partial vertical integration model currently used for the medical marijuana industry, to regulate the adult-use marijuana industry and inhibit the diversion of legal marijuana, both within Colorado and to neighboring states. The current model requires that a licensed marijuana center cultivate at least 70% of the marijuana it sells, and that it have at least one Optional Premises Cultivation (OPC). Currently the business may sell up to 30% of its on-hand inventory to another licensee without informing the state licensing authority, which presents a risk of diversion out of the legal system. Requirement (1) improves upon this model by requiring businesses to document and report monthly all sales and transfers of marijuana pursuant to the 30% allowance.

Amendment 64 constrains the state licensing authority to issue licenses within ninety (90) days of receipt of the application or defer to the local government for licensing. Because numerous license applications, for both cultivation and retail facilities, may be received at one time for a vertically integrated common ownership business structure, some of which could moreover be for proposed facilities in multiple local jurisdictions, the state licensing authority faces difficulties in meeting the 90-day limit without denying all the licenses at once, or conversely approving them before local authority approval has been secured. Requirement (2) remedies this situation by allowing the state licensing authority to issue conditional licenses for a series of license applications. In this case, the licensee must meet certain conditions before it can be operational, such as obtaining local approval, or in the case of a cultivation facility, also obtaining local approval for a retail store.

Because a vertical integration model could lead to undue influence and control of the retail market by a limited number of licensees, Requirement (3) allows the state licensing authority to restrict the number of licenses permitted to be held by a single common ownership business.

Because marijuana continues to be illegal in surrounding states and under federal law, restricting the size of cultivation facilities through Requirement (4) will reduce the risk of overproduction and the incentive of diverting this excess product outside the regulated model and into neighboring states.

Amendment 64 favors existing medical marijuana licensees by allowing them a reduced licensing fee for adult-use marijuana facilities and giving them special consideration in a competitive application process for their prior experience and compliance history. Requirement (5), by restricting license applications for one (1) year to existing medical marijuana licensees and applicants, recognizes this advantage and builds on the experience of

existing medical marijuana licensees, who have operated within a similar regulatory model. Further, it allows the state licensing authority to manage the transition and expansion from medical to adult-use marijuana in a predictable, orderly, and controlled manner, reducing the likelihood of federal scrutiny of Colorado's new adult-use marijuana industry.

The vertical integration model is subject to a 3-year sunset review, to determine at that time whether it should be continued or whether an open model be introduced, in which cultivation and retail operations could be separately owned.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

1.2 – State Run Model (Not Recommended)

The Task Force was encouraged to recommend that adult-use marijuana be sold only through state-owned and operated stores. The Task Force rejected this model because it is not consistent with the text or the spirit of Amendment 64.

Guiding Principles:

- a. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 clearly envisions the state as a regulator of private commercial activity in the adult-use marijuana industry, rather than as a market participant itself.

Implementing Authorities:

Governor, Colorado General Assembly

1.3 – State and Local Licensing

The Task Force recommends that the General Assembly enact a statute that provides that a state license for an adult-use marijuana establishment shall be issued conditionally and shall not become operational unless and until local requirements have been met and local authorization to operate is granted, in those jurisdictions that have elected to enact local authorization requirements.

This statute should recognize the authority of local governments to require local authorization requirements for any adult-use marijuana establishment as a legitimate type of “time, place, manner, and number” regulation at the local level, by which a local county or municipality may:

- 1. Defer to state standards;**
- 2. Choose to adopt their own standards; or**
- 3. Ban adult-use marijuana establishments within their jurisdictions.**

The statute should further provide that if a local government authority chooses not to enact specific local authorization requirements, a state-issued conditional license shall not become operational unless and until the local government authority affirmatively authorizes the activity for which the state license was issued.

Local counties and municipalities should neither be required to adopt, nor be prohibited from adopting, additional local standards. Similarly, they should neither be required to conduct, nor be prohibited from conducting, hearings prior to allowing adult-use marijuana establishments to operate in their jurisdictions.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Local government approval authority is an effective means of monitoring and controlling the behavior of marijuana establishments and allows local governments to deploy resources to enforce state and local regulatory requirements. Allowing the state to issue licenses conditional on local government approval permits the state to meet its regulatory requirements without infringing on the rights of the local authority to regulate and control licensees within its jurisdiction.

In the implementation of medical marijuana, many local jurisdictions used zoning rather than licensing, along with compliance with state licensing standards, to allow for the sale of medical marijuana within their jurisdictions. Allowing a local entity to either defer to the state-adopted standards for adult-use marijuana, adopt its own standards in addition to those required by the state, or ban adult-use marijuana establishments in their jurisdictions provides flexibility to local jurisdictions and does not preclude smaller counties and municipalities without the resources to enact their own licensing regime from allowing these businesses to operate under state rules if they so wish.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

1.4 – Single Marijuana Enforcement Division

The Task Force recommends that the General Assembly convert the Medical Marijuana Enforcement Division into a new Marijuana Enforcement Division and enact legislation to provide this agency with statutory powers to regulate medical marijuana and adult-use marijuana as the principal state licensing and regulatory authority.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities

Justification:

A similar regulatory model has been proposed for adult-use marijuana as has been in place for medical marijuana, and the existing licensees have been recommended for prioritization in new adult-use licenses for the first year. As such, common businesses and business practices will be in place for both medical and adult-use marijuana. Expanding the role of the existing Medical Marijuana Enforcement Division (MMED) to regulate both medical and adult-use marijuana will take advantage of the existing infrastructure, resources, and staff expertise developed over the past few years in regulating medical marijuana, and will facilitate a quicker and smoother transition to adult-use marijuana than if a new division were created.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

2 – Regulatory Financing

2.1 – Financing Plan

The Task Force recommends using the General Fund to support the spending authority for a new Marijuana Enforcement Division for five years, through FY 2017-18, after which this arrangement should be reviewed by the General Assembly. The new division should be responsible for the enforcement and regulation of both adult-use and medical marijuana. Revenue from all sales taxes, application and license fees, and other fees generated from adult-use marijuana and medical marijuana should be deposited in the General Fund.

The fund balance from the Medical Marijuana Licensing Cash Fund should be used as a funding source for the Marijuana Enforcement Division in FY 2013-14.

The Colorado Department of Revenue should provide to the Joint Budget Committee, Senate Finance Committee, House Finance Committee, and the Governor, no later than September 30 of each year beginning with September 30, 2014, a report detailing the amount of revenue generated from adult-use marijuana and medical marijuana including excise taxes, sales taxes, application and license fees, and other fees.

The fund balance from the Medical Marijuana Licensing Cash Fund should also be used to fund a portion of the spending authority for the new Marijuana Enforcement Division, when created upon the Governor's signature of the enabling legislation, to finance costs incurred in FY 2012-13 for activities associated with Amendment 64.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- g. Ensure that our streets, schools, and communities remain safe

Justification:

The proposed financing plan is for five years through FY 2017-18, after which it will be reviewed by the Colorado General Assembly. The five-year time frame allows for the licensing cycle to stabilize so that revenues are predictable and sustainable, and provides time to right-size the organization to fulfill its statutory obligations based on the number of businesses licensed. The plan is expected to accomplish the following important goals:

1. Maximize the efficient use of staff and resources to enforce both adult-use and medical marijuana, by creating a single new Marijuana Enforcement Division (see Task Force Recommendation 1.3).
2. Provide a predictable and stable funding source by using the General Fund.
3. Provide a sustainable financing plan that will be effective for five years, through fiscal year 2017-18, after which it will be reviewed by the Colorado General Assembly.
4. Provide a simplified funding structure – the General Fund and the fund balance of the Medical Marijuana Licensing Cash Fund for fiscal year 2013-14, and the General Fund thereafter and through fiscal year 2017-18.
5. Provide sufficient funding to fully support the appropriation and full-time equivalent (FTE) staff needed to support the new Division.
6. Ensure sufficient revenue to consistently enforce and regulate the industry.

The financing plan is designed to resolve many issues that impacted the enforcement and regulation of medical marijuana, as well as new issues anticipated in the enforcement and regulation of adult-use marijuana. These issues include:

- A very immature and dynamic industry
- A lack of historical data and national trends
- The impact of local ordinances
- The impact of federal enforcement
- A significant funding gap until application and licensing fees are collected
- Tight time constraints on state license issuance
- The possible forfeiture of state licensing fees to local authorities
- A lack of data regarding customer pool

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue

2.2 – Application Fees

The Task Force recommends that the General Assembly adopt legislation that directs the Colorado Department of Revenue to confer with local jurisdictions when considering whether to raise the \$5,000 cap on application fees to reflect the actual costs of reviewing applications for local approval. The Task Force further requests that the General Assembly clarify how application fees greater than the initial \$5,000 amount are to be shared between the state and local jurisdictions.

Guiding Principles:

- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation helps ensure sufficient funding for the implementation of Amendment 64 by local authorities. Section 5(g)(II) of the Amendment requires the state to forward half of the license application fee to the local jurisdiction. Section 5(a)(II) specifies that the initial license application fee will be capped at \$5,000 for new businesses and \$500 for existing medical marijuana businesses. The state may raise the application fees if the Colorado Department of Revenue determines that a higher licensing fee is needed to carry out its responsibilities. Clarification is needed to determine (1) if the state may also raise the application fee on behalf of a local jurisdiction requiring a higher licensing fee to carry out its responsibilities, and (2) if the half-fee transferred to a local jurisdiction is based on the \$5,000 cap or on a higher fee determined necessary by the Colorado Department of Revenue.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

2.3 – Licensing Fees

The Task Force recommends that the General Assembly give statutory authority to the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, the Colorado Department of Law, the Colorado Department of Agriculture, and any other agency charged with responsibilities under Amendment 64, to promulgate rules to set application, licensing, and renewal fees and any other fees or costs directly related to fully funding the implementation of Amendment 64. All revenue generated by these fees should be sent to the General Fund for a period of at least five (5) years.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

This Task Force has recommended that in the transitional first year of adult-use marijuana, only current medical marijuana licensees and applicants will be eligible to apply for licenses for adult-use marijuana facilities (Recommendation 1.1). Amendment 64 has already specified that these applicants will pay no more than \$500 as an application fee, while renewal fees and the much higher, \$5,000 application fee for new applicants will not be forthcoming until after this first year. This situation could lead to state agencies lacking the funding they need to carry out their responsibilities under Amendment 64. As such, while adhering to the limits set in Amendment 64 regarding application fees for adult-use marijuana establishments, state agencies must be given the statutory authority to recover the costs of implementing and enforcing Amendment 64, through setting licensing, renewal, and other fees.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Colorado Department of Law, Colorado Department of Agriculture

2.4 – Operating Fees

The Task Force recommends that the General Assembly adopt legislation that defines “operating fees,” as referred to in Section 5(f) of Amendment 64, to mean “fees that may be charged by a local government for costs including but not limited to inspection, administration and enforcement of businesses authorized pursuant to this section.”

Guiding Principles:

- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- i. Take action which is faithful to the text of Amendment 64

Justification:

This recommendation helps ensure sufficient funding to local authorities for the ongoing costs of administration, inspection of facilities, and enforcement of the marijuana regulations. Under Amendment 64, licensing and application fees will not be collected directly by local authorities unless the state fails to adopt regulations or issue licenses in a timely manner. There is no such limitation on “operating fees,” nor are the fees defined in Section 5(f) of Amendment 64 to specify the services for which local jurisdictions may charge. The above definition of operating fees is therefore recommended, to connect the fees to actual administrative costs.

Implementing Authorities:

Colorado General Assembly, Local Governments

3 – Taxation

3.1 – Tax Clarification

The Task Force affirms that:

1. **Amendment 64 (5)(d) is facially constitutional;**
2. **The language of Amendment 64(5)(d) did not comply with TABOR;**
3. **Voter approval of Amendment 64(5)(d) was not a vote for a tax increase that can be implemented and collected with the simple enactment of a tax statute by the General Assembly; and**
4. **Another vote of the majority of the people of the State of Colorado is required, through a TABOR-compliant referendum or citizen initiative, to impose specific taxes on adult-use marijuana.**

Guiding Principles:

- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

There is a great deal of public confusion about the tax provision in Amendment 64, its interaction with TABOR, and how the excise tax can be implemented. This recommendation answers some of those questions and should assist the public in clearly understanding the new law.

Implementing Authorities:

N/A

3.2 – Sales Tax

The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with TABOR, asking the voters to amend Title 39 of the Colorado Revised Statutes to provide for a new Article entitled “Marijuana Products Sales Tax.” The General Assembly should make use of expertise and research available at the Office of State Planning and Budgeting, the Colorado Department of Revenue, the Colorado Legislative Council, and possibly a private firm with specific expertise in economic and/or dynamic modeling, to develop a reasonable sales tax rate and a robust new sales tax structure for marijuana products, to submit to Colorado voters for their consideration in the November 2013 state-wide election and to be effective on January 1, 2014 if approved by the voters.

Guiding Principles:

- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

An excise tax and application fees are expressly indicated in Amendment 64, but both are significantly restricted. The excise tax is capped at 15%, and the first \$40 million in annual excise tax revenue is earmarked for public school capital construction, while it has been estimated that it will take several years of major growth in this new industry for excise tax revenues to reach this level. Application fees are capped at \$500 for holders of existing medical marijuana licenses, who in the vertically-integrated regulatory framework recommended by this Task Force (see Recommendation 1.1) will have the exclusive right to apply for the adult-use licenses in the first year. These limitations on potential revenue could leave the new Marijuana Enforcement Division under-funded to handle its formidable new responsibilities.

The excise tax provision of Amendment 64 does not bar other taxing approaches, such as a special sales tax on marijuana, nor other types of fees, such as licensing fees. A special tax on marijuana would be consistent with the treatment of other commodities and activities, such as alcohol, tobacco, fuel, and gaming, which are used not only to fund industry-wide regulation and enforcement but also to raise revenue for other related state programs and services. A special sales tax on marijuana would allow the state to properly fund the

regulation and enforcement of the marijuana industry as well as other necessary and critical services and programs for Colorado citizens, including some of the proposals of this Task Force, for example to study the effects of marijuana legalization on public health and safety (see Recommendation 10.5) and to develop educational materials on marijuana use (see Recommendations 10.3 and 10.4).

The Task Force discussed a number of proposals for possible tax rates and different options regarding the optimal point in the production cycle at which to levy a special sales tax. One suggestion was to set the sales tax, by way of a vote of the people as per TABOR requirements, at no more than 25%, at the point of sale of marijuana products and paraphernalia, and to review the tax rate biennially with the possibility of ratcheting it down, which would not require another TABOR vote. This option would place the tax burden directly on the marijuana consumer and eliminate the incentive in a vertically integrated regulatory system, as has been proposed by the Task Force in Recommendation 1.1, to understate the price of marijuana or its products at the cultivation or production facility in order to reduce the tax. It would be more straightforward to calculate than if the tax were levied at an earlier point in the production cycle.

Some members of the Task Force believed that a 25% sales tax would be too high, encouraging the survival of the illegal market and increasing the incidence of home cultivation among private citizens. As such, the Task Force refrained from recommending a specific level and mode of tax, inviting the Colorado General Assembly to seek the needed information from state agencies and possibly also a private entity with expertise in economic modeling.

Implementing Authorities:

Colorado General Assembly, Office of State Planning and Budgeting, Colorado Department of Revenue, Colorado Legislative Council, private consulting firm with expertise in economic and/or dynamic modeling

3.3 – Excise Tax and Escalator

The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with Amendment 64 (5)(d) and TABOR that should be voted on during the November 2013 state-wide election and be effective on January 1, 2014 if passed. The referendum should give the voters the opportunity to approve a 15% excise tax, calculated at the transaction point that a marijuana cultivation facility transfers any product to a marijuana production facility or retail store. As per Amendment 64, the referendum should further direct the first \$40 million in revenue raised annually to the Building Excellent Schools Today (BEST) program for school capital construction. The excise tax should be measured by an average market rate to be determined by the Colorado Department of Revenue on a bi-annual basis.

The Task Force further recommends that any referendum considered and introduced by the General Assembly in 2013 for an excise tax on marijuana should include a reasonable escalation clause that would take effect after 2017.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 directs the Colorado General Assembly to pass an excise tax, a critical source of revenue for the state, on marijuana at the point of transfer from a cultivation facility to a product manufacturer or retail store. However, the first \$40 million of that revenue annually was earmarked in the Amendment for public school capital construction.

The tax should be measured by an average market rate when the marijuana is transferred from a cultivation facility to a production or retail facility, rather than by the stated value of the transaction or a flat rate by weight or volume, as for alcohol, in order to accurately account for its value and automatically adjust for inflation. These transfers will most often

take place between different marijuana facilities owned by a single owner or business under a vertically integrated regulatory system, as has been proposed by this Task Force in Recommendation 1.1. If the excise tax were valued based on the stated value of the transaction, these vertically-integrated businesses would be tempted to understate the price of the marijuana transferred, which would in turn inhibit the effectiveness of the tax and the amount of revenue that could be collected by the state. If it were priced by weight or volume, the effective tax rate would decline over time, as has been the case for excise taxes on alcohol, as the price of marijuana increases with inflation.

Amendment 64 caps the excise tax on adult-use marijuana at 15% until 2017. Adding an escalation clause is meant to avoid declining effective excise tax rates for marijuana over time, as has been the case with alcohol, for which excise taxes have not been raised in decades, nor even adjusted for inflation, due at least in part to the TABOR requirement that all tax increases be subject to a vote. An escalation clause builds in a mechanism for the excise tax on marijuana to increase after 2017 without having to engage in a second TABOR vote at that time.

Implementing Authorities:

Colorado General Assembly

4 – Licensee Requirements

4.1 – Residency Requirements for Owners and Employees

The Task Force recommends that the General Assembly adopt Colorado residency requirements for adult-use marijuana licensees similar to those contained in the Medical Marijuana Code.

Colorado law should require that an owner of a licensed, adult-use marijuana establishment shall have been a resident of Colorado for at least two years prior to the date of the owner's application (Section 12-43.3-710(1)(m), C.R.S.). All officers, managers, and employees of a licensed, adult-use marijuana establishment shall be residents of Colorado upon the date of their license application (Section 12-43.3-310 (6), C.R.S.).

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

The proposed residency requirements build on the existing medical marijuana regulations, which will facilitate the adoption of regulations and preparations for receiving applications for adult-use licenses within the short timeframes established in Amendment 64. The residency requirements will also position the new regulatory framework to better withstand federal scrutiny, given that they discourage out-of-state residents from moving to Colorado expressly to establish an adult-use marijuana business.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

4.2 – Review of Suitability Requirements for Licensees

The Task Force recommends that the General Assembly adopt laws identifying persons prohibited as licensees conforming to Section 12-43.3-307, C.R.S., and removing those prohibitions that are not directly and demonstrably related to the operation of an adult-use marijuana establishment.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Amendment 64 indicates that the Colorado Department of Revenue should adopt regulations establishing qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment. The Colorado Medical Marijuana Code has established suitability standards for persons holding a medical marijuana license (Section 12-43.3-307, C.R.S.) that can serve as a guide to formulating these regulations. However, the following amendments to Section 12-43.3-307, C.R.S. should be made for adult-use marijuana establishments to ensure that the standards are directly and demonstrably related to operating such establishments: Delete (1)(d); amend (1)(g) to read: “ (g) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed TO FILE REQUIRED COLORADO STATE TAX RETURNS OR PAY ANY TAXES, INTEREST, OR PENALTIES DUE TO ANY STATE OR LOCAL AUTHORITY”; delete (g) (I-VI); delete (k); delete (m)(I).

This recommendation does not suggest deletion from the Medical Marijuana Code the current prohibition on granting a license to individuals with a prior controlled substance felony conviction. This prohibition is related to the high level of public trust placed in licensees not to divert marijuana to the illegal market. A dissenting view, not supported by the Task Force as a whole, suggested that a permanent ban is excessive and contrary to the spirit of Amendment 64, and that an alternative approach would be to grant the license if sufficient time has elapsed from the conviction and the individual can demonstrate rehabilitation to the satisfaction of the Department of Revenue.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

4.3 – Responsible Retailers Program and Statewide Advisory Group

The Task Force recommends that the Colorado Department of Revenue be authorized to establish a voluntary Responsible Marijuana Retailers program for owners of adult-use marijuana retail businesses and their employees, similar to the voluntary Liquor Responsible Vendor program currently in place for alcohol retailers.

It further recommends that the Colorado Department of Revenue facilitate the formation of a statewide Advisory Group of adult-use marijuana retail owners and their employees. The advisory group should write bylaws, determine leadership, write a code of ethics, promote ongoing education, and support training efforts.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Since Colorado is breaking new ground with the legal sale of adult-use marijuana, it is difficult to discern what the public impact and social costs will be. Creating a Responsible Marijuana Retailers program and an Advisory Group of marijuana retail owners and their employees can help decrease the potential negative impacts by encouraging business owners and their employees to adhere to all aspects of Colorado law, including denying access to persons under 21 years of age. Comparable experience in the alcohol industry shows that voluntary responsible retailer programs, which often include safe server training to check identification, recognize signs of overconsumption, and deny service if necessary, have led to higher rates of legal compliance and discouraged underage drinking and over-consumption. Comparable training for all marijuana retailers and employees is encouraged.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

5 – Transition to the Amendment 64 Regulatory Environment

5.1 – Complete Transition from Medical to Adult-Use Marijuana

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to surrender their Medical Marijuana Center (MMC) license or Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation License(s) (OPC) simultaneously upon receiving their Retail Marijuana Store (RMS) license or Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s). To effectuate this transition, the Marijuana Enforcement Division shall, beginning October 1, 2013, accept applications from state licensed medical marijuana businesses for (1) RMS licenses, (2) MPMF licenses, and (3) corresponding MCF license(s), provided that the applicant:

- A. Is a medical marijuana licensee in good standing on the date of application for the RMS, MPMF, and corresponding MCF license(s) for each of the medical marijuana facilities that desire to surrender their MMC, MIP, and corresponding OPC licenses.
- B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs, MPMFs, or MCFs.

Upon application for an RMS license or an MPMF license and corresponding MCF license(s) and prior to the issuance of the RMS license or MPMF license and corresponding MCF license(s), the medical marijuana business shall continue operating under the privileges of its medical marijuana licenses. The Department of Revenue shall approve or deny the RMS, MPMF, and corresponding MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state RMS or MPMF license and simultaneous surrender of the MMC or MIP license, all medical marijuana inventory located at the facility shall become the marijuana inventory of the RMS or MPMF. Upon the approval and issuance of the state MCF license and simultaneous surrender of the OPC license, all medical marijuana plants and inventory located at the facility shall become the marijuana plants and inventory of the RMS or MPMF that owns and controls the MCF.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. The current recommendation presents an effective procedure for allowing the current licensees to transition their businesses completely from medical marijuana to adult-use marijuana if they so wish, while regulating the transfer of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.2 – Partial Transition for Cultivation and Manufacturing

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their medical Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation (OPC) license(s), if any, and apply for a Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MIP and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MIP and corresponding OPCs, if any) for (1) MPMF licenses, and (2) corresponding MCF license(s), provided that the applicant:

- A. Is a medical marijuana licensee in good standing on the date of application for the MPMF and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their MPMF and corresponding MCF licenses;**
- B. Is operating in a jurisdiction that has not prohibited the licensing of MPMF or MCF; and**
- C. The relevant local jurisdiction(s) permit(s) the operation of both an MIP and MPMF at the same location and the operation of an OPC and RMF at the same location in accordance with regulations relating to such operation.**

Upon application for the MPMF license and corresponding MCF license(s) and prior to the issuance of the MPMF and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the MPMF and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state MPMF, all medical marijuana plants located at the MCF facility that were identified as the plants for transfer shall become the marijuana plant inventory of the MPMF that owns and controls the MCF. Upon the approval and issuance of a state MPMF license, the company may produce and sell medical marijuana-infused products and marijuana products in accordance with applicable laws and regulations relating to the operation of such facilities.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. The current recommendation presents an effective procedure for allowing the current licensees to transition their businesses completely from medical marijuana to adult-use marijuana if they so wish, while regulating the transfer of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.3 – Partial Transition for Cultivation and Retail

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their Medical Marijuana Center (MMC) license and corresponding Optional Premises Cultivation (OPC) license(s) and apply for a Retail Marijuana Store (RMS) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MMC and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MMCs and corresponding OPCs) for (1) RMS licenses, and (2) corresponding MCF license(s), provided that the applicant:

- A. Is a medical marijuana licensee in good standing on the date of application for the RMS and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their RMS and corresponding MCF licenses;**
- B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs or MCFs; and**
- C. The relevant local jurisdiction(s) permit(s) the operation of both an MMC and RMS at the same location and the operation of an OPC and RMF at the same location.**

Upon application for the RMS license and corresponding MCF license(s) and prior to the issuance of the RMS and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF at the time of licensure. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the RMS and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state RMS license, all medical marijuana plant inventory located at the MCF facility that was identified as the plants for transfer shall become the marijuana plant inventory of the RMS that owns and controls the MCF.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. Related to Recommendation 4.5, which addresses the requirements to allow for the operation of a medical marijuana store (RMS) and a retail marijuana store (RMS) in one location, this recommendation creates a simple transition system for businesses licensed pursuant to the Colorado Medical Marijuana Code who wish to operate both medical and adult-use marijuana establishments, while regulating the transfer of a portion of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.4 – Separation of Inventories in Dual-Use Cultivation and Manufacturing

The Task Force recommends that the General Assembly enact legislation permitting the operation of an Optional Premises Cultivation Facility (OPC), licensed under the medical marijuana regulations, and a Marijuana Cultivation Facility (MCF), licensed pursuant to Amendment 64, on the same premises.

The General Assembly also enact legislation permitting the operation of a Marijuana-infused Products Facility (MIP), licensed under the medical marijuana regulations, and a Marijuana Manufacturing Facility (MMF), licensed pursuant to Amendment 64, on the same premises.

Either sort of dual use facility should be required to maintain a separation, either physical or virtual, between the two facilities being operated in the same location, to ensure that inventories are kept separate and distinct between the two license types.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 specifies that marijuana and its products cannot travel in either direction between the medical marijuana supply chain and the adult-use supply chain. That is, marijuana sold or produced under a medical marijuana license cannot be transferred to a facility selling or producing marijuana under an adult-use license, and vice versa. Rather, the inventories and supply chains of the two types of licensees must be kept separate from each other, from cultivation through sale.

The Task Force has also recommended (see Recommendation 4.5) that medical marijuana centers, licensed under the medical marijuana regulations, and retail marijuana stores, licensed pursuant to Amendment 64, be permitted to operate on the same premises, provided they maintain separate ingress and egress, inventory control, points of sale, and recordkeeping. Similarly, this recommendation allows that marijuana grow facilities (OPC, MCF) or product manufacturers (MIP, MMF) that are licensed under the medical marijuana regulations (OPC & MIP) and Amendment 64 (MCF & MMF) to also be permitted to operate on the same premises, provided sufficient measures are put in place to ensure that their two product lines, for medical and retail marijuana, are kept strictly separated from one another and that there is no comingling of inventories between the two.

There is a precedent for this separation of inventories in the current medical marijuana regulations, which allow for a cultivation facility (OPC) or a marijuana-infused products facility (MIP) to serve more than one medical marijuana center, in which case each must clearly label and track its inventories so that each plant or product can be tied to a particular medical marijuana center. This may be done either with physical separation of the inventory associated with each MMC or through a virtual separation maintained through electronic inventory control.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.5 – Complete Separation in Dual-Use Medical and Retail

The Task Force recommends that the General Assembly should enact legislation to define “licensed premises” and to establish regulations for the operation of a licensed Medical Marijuana Center (MMC) and a licensed Retail Marijuana Store (RMS) within one location. Such regulations should include appropriate restrictions such as separate and distinct ingress/egress, inventory control, point of sale, and recordkeeping, given that the products for medical and adult-use marijuana facilities cannot be co-mingled, as per Amendment 64.

This legislation should also clarify the ability of a local government authority to prohibit multiple licensed premises involving a medical and adult-use marijuana license within one location, based on its authority to regulate time, place, manner, and number.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- i. Take action that is faithful to the text of Amendment 64

Justification:

To facilitate a smooth transition from licensed medical marijuana to adult-use marijuana, it will be helpful for businesses to be able to use existing buildings and structures, altered to operate two separate and distinct licensed premises in one location for both medical and adult-use marijuana. However, proper standards and restrictions must be put in place to address the risks involved with this arrangement and ensure that the two licensed premises remain separate and distinct, both physically and functionally, given that Amendment 64 prohibits the co-mingling of medical and adult-use inventories.

Medical marijuana is permissible for properly registered patients under the age of 21, while adult-use marijuana cannot be purchased by persons under 21 years of age. As such, licensed premises must be structurally separated to reduce the risk of underage consumption by persons who are not properly registered as patients. Inventory control must be separately

maintained by each licensee, regardless of ownership structure and the configuration of the licensed premises, to avoid the co-mingling of on-hand inventory.

Medical and adult-use marijuana may be subject to different types of state and local taxes, such that point of sale transactions should not be comingled or fraudulently processed for the purpose of tax avoidance. Because co-location affects land use at the local level, legislation should recognize local government authority to prohibit multiple licensed premises in one building or structure.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

6 – Operational Requirements

6.1 – Commercial Transport of Marijuana

The Task Force recommends that the General Assembly enact a requirement that the Colorado Department of Revenue develop rules and regulations that ensure the safe transport of marijuana and marijuana products among and between licensed businesses and labs.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Rules and regulations are needed to ensure that licensees can safely and legally transport marijuana to other licensed premises, including labs, given that a person can lawfully transport only one (1) ounce of marijuana under Amendment 64. Delivery rights could be part of the license privileges, rather than requiring a separate permit. However, if a separate permit is required for transport, the following should be required:

- The transporter should carry a copy of the pre-prepared sales invoice and bill of lading. For internal company transfers, some type of inventory transfer document must be used in lieu of the sales invoice.
- The transporter should carry a copy of the company's marijuana license and a copy of the transportation permit if that option is selected.
- Employees who transport marijuana should complete "Responsible Vendor"- type training and carry evidence of that training when transporting marijuana.

As part of inventory control and tracking, the licensee must provide reconciliation of all inventory as it moves from cultivation to retailer, manufacturer to retailer, any transport to labs, etc.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

6.2 – Disposal of Marijuana, Products, and Waste

The Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) develop a mechanism to track, measure, and properly destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste material. The mechanism should also cover destruction of marijuana lawfully subject to destruction at the conclusion of any law enforcement action. The cost of such destruction shall be covered by a reasonable fee, to be paid by the party requesting the service.

The Task Force further recommends that CDPHE develop a mechanism that ensures that private citizens can legally dispose of marijuana, marijuana products, and marijuana waste material, including stalks, stems, roots, and leaves, without being subject to criminal prosecution or civil penalties.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Businesses cannot throw away marijuana, marijuana products, or marijuana waste as they can many other commercial and waste products. Similarly, private citizens growing marijuana at home need a mechanism to legally dispose of contaminated marijuana, excess marijuana, and marijuana waste. Without a state-overseen process or facility to properly dispose of marijuana and its products and waste, there would be a tremendous temptation for both businesses and private citizens to divert these items to the illegal market.

In order to track all marijuana regulated under Amendment 64, statutory authority and a regulatory mechanism are needed to account for and destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste. Examples of situations where marijuana cannot be sold include when a sample tests positive for mold or some other contaminant and the entire batch must be destroyed, when a strain does not sell well, or

when a batch is considered to be expired and the retailer must remove it from the shelves. The same disposal mechanism can be used to destroy marijuana that is subject to destruction as a result of law enforcement action, and possibly also marijuana and marijuana waste that private citizens growing at home wish to surrender for destruction.

Rule 12.200, used by the Medical Marijuana Enforcement Division to set requirements for the disposal of medical marijuana waste, can provide guidance in developing the necessary regulations relating to marijuana waste.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment, Colorado Department of Revenue

7 – Interaction with Consumers

7.1 – Purchase of Marijuana by Residents and Visitors

Amendment 64 authorizes persons in Colorado to possess up to one ounce of marijuana. The Task Force therefore recommends that the General Assembly clarify that all persons aged twenty-one years or older – resident or a visitor – shall be permitted to purchase marijuana for personal use.

However, the Task Force recommends that the General Assembly consider imposing a reasonable per-transaction limit of less than one ounce of marijuana and marijuana-infused products for both Colorado residents and visitors.

The Task Force further recommends that the General Assembly consider setting per-transaction purchase limits that are more restrictive for non-residents than for residents.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Neither the text of Amendment 64 nor its official Blue Book explanation envisions a residency requirement for marijuana consumers, who are referred to solely as those over the age of 21 years of age and who present a valid government-issued identification, not specifically Colorado-issued. Imposing a residency requirement for any purchase of marijuana could potentially create a black market through straw purchases by residents and unauthorized resale to non-residents.

Amendment 64 does not explicitly set a limit on the amount of marijuana that can be purchased at any one time, but it does set a one-ounce limit on the amount of marijuana that a (non-medical) consumer may possess at any one time. As such, one (1) ounce is the largest amount that should be sold at any one time to any one customer. However, the Colorado General Assembly may wish to establish a reasonable limit lower than one (1) ounce for both residents and visitors, to discourage unlawful diversion of marijuana out of the regulated system and out of the state, since the lower transaction amount would make the accumulation of marijuana more difficult. Reasonable purchase limits for residents could be set at or above the level for out-of-state residents, but not to exceed one (1) ounce.

In order to discourage the diversion of legally-purchased marijuana out of Colorado, reduce the likelihood of federal scrutiny of Colorado's adult-use marijuana industry, and support harmonious relationships with Colorado's neighboring states, an appropriate limit should be placed on the amount of marijuana or marijuana-infused products that can be purchased by out-of-state consumers. The Task Force discussed possible transaction limits of 1/8 - 1/4 ounce of marijuana, or its equivalent in infused products, for non-residents.

Additional actions should also be taken to limit diversion out of Colorado, such as point-of-sale information to out-of-state consumers, signage at airports and near borders, coordination with neighboring states regarding drug interdiction, and restricting retail licenses near the borders.

Local entities may wish to impose additional per-transaction limits.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue

7.2 – Automated Dispensing Machines

The Task Force recommends that the General Assembly enact no statute either prohibiting or requiring the use of marijuana secured automated dispensing systems within licensed retail marijuana stores. Specific statutory provisions permitting or prohibiting secured automated dispensing systems are not necessary, because the use of a secured automated dispensing system should be a business decision on the part of retail marijuana stores, provided that security measures are in place to verify the age and the residency of the consumer. Such security measures surrounding secured automated dispensing systems should be established in regulation.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Retail marijuana stores should be allowed to make business decisions regarding the display and distribution of marijuana and marijuana products within their establishments. As such, they should be allowed, but not required, to use marijuana secured automated dispensing systems that are located in a secured area in which the age and residency of the consumer is established and verified prior to the consumer operating the systems. The Colorado Department of Revenue should adopt rules establishing security measures surrounding secured automated dispensing systems. Statutory requirements already exist in the Medical Marijuana Code (Section 12-43.3-402(5.5), C.R.S.) which may serve as a guide to the Colorado General Assembly in establishing statutory requirements for such devices.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

8 – Consumer Safety

8.1 – Signage, Marketing, and Advertising

The Task Force recommends that the General Assembly enact legislation that allows both state and local governments to have a role in establishing rules and regulations to govern the signage, marketing, and advertising of marijuana and associated products. The legislation should require certain guidelines at the state level, and also allow for further limitations at the local level.

Guidelines at the state level for packaging, signage, and marketing should include the following:

1. Prohibit all mass-market campaigns that have a high likelihood of reaching minors (billboards, television, radio, direct mail, etc.). Advertising in adult-oriented newspapers and magazines would be allowed.
2. Allow branding on product packaging and consumption accessories.
3. Allow only marijuana products and marijuana-related accessories to be offered in retail marijuana stores. Prohibit the sale of traditional (non-marijuana) food, beverage, personal care items (lotions, lip balms) so there is no confusion that all products sold in an adult-use marijuana retail establishment do include marijuana.
4. Prohibit health or physical benefit claims in advertising, merchandising, and packaging.
5. Allow edible product labels to list ingredients, cannabinoid content (including but not limited to THC), and compatibility with dietary practices (such as gluten-free, contains nuts, vegan, etc.).
6. Allow opt-in marketing on the web and location-based devices (mobile) as long as there is an easy and permanent opt-out feature. No unsolicited pop-up advertising is allowed. Banner ads would only be allowed on adult-oriented sites like Westword (not Facebook or mass market sites). Marijuana retailers will be allowed to host their own websites.
7. Allow opt-in marketing programs such as email clubs (as long as opt-out feature is provided).

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions.

Justification:

Amendment 64 allows for legal access to and use of marijuana only for adults over 21 years of age. As such, and to protect the health, safety, and well-being of youth, marketing and advertising of marijuana products and accessories should be carefully regulated to avoid reaching persons under 21 years of age.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Local Governments

8.2 – Packaging Requirements

The Task Force recommends that the General Assembly pass appropriate legislation: (1) indicating that all types of marijuana sold from regulated retail facilities should be regulated (including packaging and labeling) in a manner similar to the Poison Prevention Packaging Act of 1970 (the “PPPA”), 15 U.S.C. §§ 1471-1476, and the corresponding regulations promulgated by the Consumer Product Safety Commission, and (2) granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment (CDPHE), to promulgate appropriate regulations of packaging of both medical and non-medical Marijuana-infused Products (collectively “MIP”) AND any other medical marijuana and non-medical marijuana items on any licensed premises (“Other Marijuana Consumer Items”).

The Task Force further recommends that the rules promulgated by the Colorado Department of Revenue related to packaging should require that both MIPs and Other Marijuana Consumer Items leave a licensed Medical Marijuana Center (MMC) or Retail Marijuana Store (RMS) in packaging that meets the regulatory standards (the “Standards”) as defined by CDPHE. This would be accomplished by allowing three separate and distinct processes to achieve compliance where all MIPs and Other Marijuana Consumer Items that leave an MMC or RMS in possession of a consumer are EITHER: (1) packaged by the manufacturer in packaging that meets the Standards, (2) packaged by the operator of the MMC or RMS prior to the point-of-sale in a package or container that meets the Standards, OR (3) placed in a “exit package / container ” that meets the Standards at the point-of-sale prior to exiting the store, with the compliance expectation and burden placed upon the operator of an MMC or RMS.

In addition to meeting the Standards, the operator of the MMC or RMS shall also be required to place all MIPs and Other Marijuana Consumer Items in a sealed, non-transparent or opaque package, container or other receptacle (including, but not limited to, a brown paper bag that is stapled shut) at the point-of-sale. This requirement shall not apply to MIPs and Other Marijuana Consumer Items that are already packaged by the manufacturer in a sealed, non-transparent, or opaque package, container, or other receptacle that meets the Standards.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There have been confirmed reports from Colorado hospitals that children have been taken to Emergency Rooms and Intensive Care Units for accidental ingestion of marijuana products. Unlike alcohol, marijuana is administered by multiple methods including oral consumption, and when taken orally does not have an intrinsic noxious taste and burning effect to naturally deter children from ingesting it. Moreover, marijuana may be infused in edible products that are highly attractive to children, such as baked goods and candy.

Given these risks, marijuana products should be regulated similarly to other items presenting a significant health risk to children. The PPPA requires special child-resistant packaging on a wide range of hazardous household products, including most oral prescription drugs. These regulations have led to remarkable declines in reported deaths, injuries, and sickness from children's ingestion of covered substances. Adopting these standards for marijuana packaging will help to prevent accidental ingestion of marijuana products by children.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.3 – Labeling Requirements

The Task Force recommends that the General Assembly: (1) authorize the Colorado Department of Revenue to adopt comprehensive labeling requirements for saleable products containing cannabis; and (2) determine appropriate enforcement agencies for labeling and packaging violations.

Labels should include, but are not limited to, the following:

Flower/Buds:

- 1. The license number of the cultivation licensee**
- 2. The license number of the retail center**
- 3. An identity statement and standardized graphic symbol**
- 4. Batch #**
- 5. A net weight statement**
- 6. A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.**
- 7. A list of any non-organic pesticides or fungicides used during cultivation or production**
- 8. A statement to the effect of “This product is contains marijuana and was cultivated/ produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product”**
- 9. Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force**

Continuation of Recommendation 8.3 Labeling Requirements

Labels should include, but are not limited to, the following:

Non-activated Concentrates and Infused Products:

1. **The license number of the cultivation licensee**
2. **The license number of the retail center**
3. **An identity statement and standardized graphic symbol**
4. **Batch #**
5. **A net weight statement**
6. **A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.**
7. **A list of any non-organic pesticides or fungicides used during production**
8. **A statement regarding the usage of solvents in the extraction process**
9. **A statement to the effect of "This product is contains marijuana and was cultivated/ produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product"**
10. **Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force**

All Other Infused Products:

1. **Statement of the Original Equipment Manufacturer's (OEM) name and State Licensing Authority number together with the company's telephone number or mailing address or website information**
2. **An identity statement and standardized graphic symbol**
3. **Batch #**
4. **A net weight statement**
5. **A statement on # of milligrams of THC per serving and # of servings per package**
6. **A list of ingredients and potential allergens**
7. **A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.**
8. **A list of any non-organic pesticides or fungicides used during production**
9. **A statement regarding the usage of solvents in the extraction process**
10. **A recommended use by or expiration date**
11. **A nutritional fact panel**
12. **A statement to the effect of "This product is infused with marijuana and was produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product"**
13. **Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force**

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

All products available for retail purchase are subject to substance-specific labeling requirements. These recommended labeling requirements for marijuana and its products are thought to be sufficiently comprehensive to inform and protect both consumers and the general public.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.4 – THC Potency Labeling

The Task Force recommends that the General Assembly require that all adult-use marijuana products be labeled to indicate either:

- 1. Total THC content as % by weight; OR**
- 2. Total mg dose for activated THC or TOTAL THC.**

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Research indicates that the potency of marijuana has increased over time, and variations will inevitably be found between plants and in the harvest of the same plant over time. As such, imposing potency limits would be impractical and could discourage good growing practices. Nevertheless, the THC content of all marijuana products should be accurately labeled, to inform consumers and discourage false claims by cultivators, manufacturers, and retail centers. Labeling allows consumers to take the appropriate dose for their needs and avoid negative side effects.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

8.5 – THC Potency Limits on Infused Products

The Task Force recommends that the General Assembly pass appropriate legislation granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment, to promulgate rules relating to edible forms of marijuana products. Those rules should initially establish that a “serving” of marijuana in edible form (not including concentrates, topicals, or similar products) shall have no more than 10 mg of active THC. The product labels shall clearly provide the total number of servings in any single product package and identify the “serving size” for items that are packaged together.

The General Assembly should also grant authority to the Colorado Department of Revenue to create labeling guidelines concerning the total content of THC per unit of weight, similar to the “proofing” of alcohol, namely milligrams of THC divided by total gram weight of the edible product.

The General Assembly should also grant authority to the Colorado Department of Revenue to create regulations establishing appropriate limitations on the total THC content that can be contained in a single package containing multiple servings of an edible food-type marijuana product, with any such limitation to be established at no less than 200mg of total active THC per package. These limitations on the number of servings should only apply to non-medical food-type products that are infused with activated forms of THC that are also packaged in smaller serving sizes and therefore have a reasonable possibility of being over-consumed accidentally.

These limitations should NOT apply to marijuana concentrates, tinctures, topicals, or products that are sold in pill, capsule or similar form, it being the intention of this recommendation to prevent accidental overconsumption of a single food-type product or products contained in one package. This recommendation specifically contemplates that larger multi-serving food-type products (entire cakes, pizzas, or other large multi-serving items) shall be permitted if labeled in accordance with applicable laws and regulations.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

This recommendation helps to educate consumers about the THC content in edible products and prevent accidental over-ingestion by limiting both the THC content per serving and per package. Children and inexperienced adult marijuana users are most at risk from over-ingestion of THC in the form of marijuana edible products. Children may inadvertently gain access to and ingest these products, particularly those in the form of candies and baked goods, which they may mistake for similar-looking, non-THC infused products. Inexperienced users may over-ingest because the effects of THC-infused products do not register as quickly for ingested as for inhaled marijuana products, such that the person may not stop eating the products in time to prevent illness. By limiting the THC levels in a single serving and package, both children and inexperienced users are less likely to become ill, even if they consume multiple servings of the product or an entire package.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.6 – Regulation of Additives in Marijuana Products

The Task Force recommends that the General Assembly pass appropriate legislation to direct the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or the appropriate regulatory body to prohibit or regulate additives to any marijuana product including, but not limited to, combustible, vaporized, and edible products, that in the view of the regulatory body are: 1) toxic, 2) designed to make the product more addictive, 3) designed to make the product more appealing to children, or 4) misleading to consumers.

The following definition of an additive is derived from the Food and Drug Administration's (FDA) guidance for the tobacco industry and adapted for application to the marijuana industry: "Additive" means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of a marijuana product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include marijuana or a pesticide chemical residue in or on raw marijuana or a pesticide chemical.

It should be noted that, for purposes of regulating additives in marijuana products, an additive does not include common baking and cooking items.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation builds on expert guidelines developed for tobacco to avoid similar harm to consumers of marijuana combustibles and vaporized products as has been experienced by tobacco users and to reduce potential adverse negative public health impacts of marijuana legalization. It is patterned after the Tobacco Control Act of 2009, which allows the FDA to regulate tobacco products to protect public health and reduce tobacco use by minors. Some 600 additives to cigarettes have been identified, more than half of which have been shown to increase toxicity. Additives may change the taste of the product or make it more addictive. The recommendation also takes into account the United Nations (UN) Framework Convention on Tobacco Control, which provides recommendations to reduce the morbidity and mortality of tobacco use. Article 9 of the UN Framework calls for regulating the contents of tobacco products, with specific attention to additives that increase toxicity and enhance the attractiveness and addictiveness of the product.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.7 – Prohibiting Adulterants – Nicotine

The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of any marijuana products that contain nicotine.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Tobacco use is a key risk factor in many chronic diseases, including cardiovascular disease, cancer, and respiratory disease. Colorado has made important gains in reducing the prevalence and public health burden of tobacco. According to the Centers for Disease Control and Prevention, 17.1% of Colorado adults are current smokers. This number is below the current national average of 19.3%, and well below the 1965 national average of 42.4%. Prohibiting the sale of products that combine marijuana and nicotine would help maintain these significant public health gains and reduce potential adverse negative public health impacts of marijuana legalization.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.8 – Prohibiting Adulterants – Alcohol

The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of products that combine marijuana and any alcohol that requires a liquor license to be sold.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

According to the Centers for Disease Control, approximately 80,000 deaths each year in the United States are attributable to excessive alcohol use, making it the third leading lifestyle-related cause of death in the nation. The co-administration of alcohol and marijuana may significantly enhance one's risk of death from alcohol intoxication. Because marijuana decreases nausea and vomiting, it may inhibit the body's natural tendency to vomit excess alcohol during a binge-drinking episode, thereby increasing the risk of death. There is also evidence to suggest that co-administration of alcohol and marijuana may impair driving more than administration of either substance alone, which in turn leads to increased traffic fatalities. By prohibiting the sale of products that combine marijuana and alcohol in a single product, this recommendation inhibits the co-administration of marijuana and alcohol, and promotes public health and safety.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

9 – Good Cultivation, Handling, and Laboratory Practices

9.1 – Cultivation and Handling Standards

To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:

- 1. An appropriate governmental agency, either the Colorado Department of Agriculture, the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or a combination of these agencies, shall be authorized by statute to create a list of substances banned for use in the cultivation or processing of marijuana based upon that in current Rule 14.100(E) for medical marijuana;**
- 2. Labeling of all products shall include a list of all pesticides, herbicides, fungicides, and solvents that were used in its cultivation or processing. It should be noted that the regulation should not address whether the products used are appropriate or legal under applicable agricultural laws or regulations.**

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There are presently no standards of practice for ensuring product safety in the marijuana industry, raising concerns about the presence of residual pesticides, herbicides, fungicides, solvents, mold, and bacteria in plant products. Without standardized threshold limits for contaminants in marijuana, laboratory testing is both expensive and inconclusive. This recommendation helps ensure the safety and consistency of marijuana products. Banning certain substances and requiring labeling of contaminants are two parts of a tripartite

strategy, along with Recommendation 9.2 to develop voluntary Good Cultivation and Handling Practices for the industry.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture, Colorado Department of Revenue, Colorado Department of Public Health and Environment

9.2 – Good Cultivation and Handling Practices Advisory Group

To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:

- 1. The Colorado Department of Agriculture, the Department of Revenue, the Colorado Department of Public Health and Environment, and any other relevant agency should be authorized by statute to work with any private advisory group that may be established to develop Good Cultivation and Handling Practices (GCHP) for the marijuana industry. These agencies should strongly urge the industry to form such a group.**
- 2. Participation by producers in such a GCHP advisory group shall be voluntary, but labeling may include certification of compliance with GCHP by an independent third party authorized under the provisions of the GCHP advisory group.**

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There are presently no standards of practice for ensuring product safety in the marijuana industry, raising concerns about the possible presence of residual pesticides, herbicides, fungicides, solvents, mold, and bacteria in plant products. This recommendation helps ensure the safety and consistency of marijuana products by promoting standard-setting and incentivizing growers and handlers to meet these standards. It is part of a tripartite strategy, along with Recommendation 9.1 to ban certain substances from use in cultivation or processing and require labeling of contaminants.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Private Industry

9.3 – Good Laboratory Practices Advisory Group

To help ensure the safety and consistency of marijuana products sold to Colorado consumers, the Task Force recommends that the adult-use marijuana industry be urged to establish a private advisory group by January 1, 2014, to develop Good Laboratory Practices (“GLP”) for marijuana testing laboratories, and that the Colorado Department of Public Health and Environment, the Colorado Department of Agriculture, the Department of Revenue, and any other relevant agency be authorized by statute to work with such group in the development of GLP.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Related to Recommendation 9.1 regarding banned substances and labeling of contaminants, Recommendation 8.4 requiring the labeling of THC content, and Recommendation 8.6 regulating the use of additives, testing for THC and other elements in marijuana products must be performed accurately and consistently. A Good Laboratory Practices Advisory Group for the marijuana industry, established privately and working in consultation with the above-mentioned governmental agencies, will help ensure the safety and consistency of marijuana products and assist in the accurate labeling of their contents.

Implementing Authorities:

Colorado General Assembly, Private Industry, Colorado Department of Public Health and Environment, Colorado Department of Agriculture, Colorado Department of Revenue

10 – Marijuana Education and Studies

10.1 – Education Oversight Committee

To help ensure the adequate education of consumers, retailers, and the public about marijuana and Amendment 64, the Task Force recommends that an appropriate governmental agency, such as the Colorado Department of Public Health and Environment (CDPHE), the Colorado Department of Human Services (CDHS), the Colorado Department of Public Safety (DPS), local law enforcement agencies, and local governments, shall be authorized by the General Assembly in statute to establish an Educational Oversight Committee composed of those familiar with relevant issues. The Committee will develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and additional issues as they arise.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage and will have effects on the general public. Therefore, citizens must have current and accurate information on marijuana and its properties, use, dosage, risks, and effects, including impairment and its impact on driving, parenting, and other activities. It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group. The Educational Oversight Committee will be important for directing these educational efforts.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment, Colorado Department of Public Safety, Local Law Enforcement Agencies, Local Government

10.2 – Marijuana Education for Professionals

The Task Force recommends that the appropriate governing body or group encourage that marijuana education (on impairment, paraphernalia, risks, home cultivation, etc.) be made available for continuing education credit in the following professions in Colorado:

- **Medical (doctors/nurses/pharmacists):** Colorado Medical Society, Colorado Pharmacists Society
- **First Responders (firefighters & EMTs):** Colorado State Firefighters Association, Emergency Medical Services Association of Colorado
- **Legal:** Colorado Bar Association
- **Law Enforcement:** police academies, state patrol, Peace Officer Standards and Training (POST), Colorado Association of School Resource Officers
- **K-12 Educators/Counselors:** Colorado Education Association and Colorado Department of Education
- **Microbiologists:** American Society for Microbiologists
- **Prevention Specialists:** Colorado Office of Behavioral Health
- **Coroners:** Colorado Coroners Association
- **University Staff/Professors:** Colorado Commission on Higher Education, BACCHUS Network
- **Counselors, Social Workers, Psychologists:** Colorado Health Partnerships, Colorado Counseling Association, Mental Health America and Marijuana Anonymous; Certified Addictions Counselors; Colorado Society of National Association of Social Workers
- **Child Welfare Workers:** Colorado Department of Human Services
- **Veterinarians:** Colorado Veterinary Medical Association, Colorado Association of Certified Veterinary Technicians
- **Home Growers:** Colorado Independent Marijuana Growers Association, Cannabis Therapy Institute, Cannabis Trade Council
- **Insurers:** Colorado Group Insurance Association, Colorado Insurance Guaranty Association, and Professional Independent Insurance Agents of Colorado
- **Bankers:** Department of Regulatory Agencies Division of Banking, Banking and Securities Commission
- **Tour Companies/Tour Providers:** Colorado Tourism, Colorado Outfitters Association, Colorado River Outfitters Association
- **Transportation Providers (bus services and airlines providing inter-state travel and beyond):** Each private company and Colorado Department of Transportation
- **Bar Owners/ Liquor Store Owners:** Colorado Liquor Enforcement Division and trainers such as Training for Intervention Procedures (TIPS) (revisions coming due to introduction of marijuana)
- **Others as applicable**

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage and will have effects on many industries and their personnel, who will require information on marijuana and its properties, risks, and effects. It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment

10.3 – Marijuana Education for the Public

The Task Force recommends that the General Assembly authorize funding for the development of educational materials for:

- 1. The citizens of Colorado on smart use of marijuana**
 - **Establish an unbiased, fact-based web site/informational center regarding all aspects of marijuana, including: the various types of marijuana products, their differences, effects, concentrations, spectrum of methodologies to ingest marijuana, the pros/cons of using marijuana, health & safety concerns, impairment issues that may affect driving, parenting, etc.**
 - **The General Assembly should determine who should operate the site and manage content**
 - **Brochures should be made available at the time of purchase**

- 2. Marijuana use prevention for those under age 21**
 - **Target markets include parents, students, and educators**
 - **Materials can include websites, brochures, billboards, public service announcements, etc.**

The Task force further recommends that the state leverage available resources by integrating these educational efforts with existing educational efforts to prevent the abuse of alcohol, tobacco, prescription drugs, and illegal drugs.

These efforts will require oversight by an appropriate state agency or department, such as the Colorado Department of Human Services (CDHS) and/or the Colorado Department of Public Health and Environment (CDPHE).

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage, and will have effects on the general public. Therefore, citizens must have current and accurate information on marijuana and its properties, use, dosage, risks, and effects, including impairment and its impact on driving, parenting, and other activities.

It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group.

The creation of new educational materials on marijuana presents an opportunity to simultaneously provide education about other substances that also impact minors, such as alcohol, tobacco, illegal drugs, and prescription drugs.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment

10.4 – Studies of the Health Effects of Marijuana

To protect public health and safety, the Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) be given statutory responsibility for monitoring the emerging science relevant to the study of health effects associated with marijuana use. This review function would be conducted periodically by a panel of health care professionals with an understanding of cannabinoid physiology, appointed by the State Board of Health. The panel would be required to report to the Board of Health, the Department of Revenue, and the General Assembly every two years.

The panel would be charged with establishing criteria for studies to be reviewed, reviewing studies and other data, and making recommendations, as appropriate, for policies intended to protect consumers of marijuana products and the general public. CDPHE would be authorized to collect Colorado-specific data that reports adverse health events involving marijuana use. Sources of data may include, but not be limited to, the All Payer Claims Database, hospital discharge data, and Behavioral Risk Factor Surveys (BRFS). The results of the Panel's work would be made available on the CDPHE website.

An additional 2-3 staff members are projected to be needed at CDPHE to coordinate this effort, support the panel, gather, review, and analyze data, and provide administrative support.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Since marijuana is a controlled substance under federal law, researchers in the U.S. have had difficulty performing scientific studies to accurately assess the health effects of marijuana. As such, the state of knowledge is uncertain regarding the acute and chronic effects of marijuana use on adolescents and adults, as well as the effect of confounding variables such as the use of tobacco, alcohol, other drugs, and prescription medications in combination with marijuana.

As the science evolves and marijuana use potentially increases with legalization in Colorado, it will be important to monitor the public health outcomes and keep the public informed about the risks associated with marijuana use. The recommended Panel will review the available scientific literature on cannabis and cannabinoids, including that found in international journals, and provide useful information to consumers through the CDPHE website. Its work will also guide the Colorado General Assembly and state agencies in their periodic review of marijuana legislation and regulations.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment, Independent experts

10.5 – Study of Law Enforcement Activity

The Task Force recommends that the General Assembly grant authority to the Colorado Department of Public Safety or an authorized independent entity to gather data and undertake a scientific study of law enforcement's activity and costs related to Amendment 64 over a two-year period, beginning in January 2013.

Topics of study should include:

- *Marijuana-related contacts by law enforcement, broken down by race and ethnicity*
- *Drug use, broken down into age categories and specific drugs, to include marijuana*
- *School data, to include suspensions, expulsions, and police referrals related to drug use and sales, broken down by specific drug categories*
- *Marijuana arrest data, including amounts of marijuana with each arrest and broken down by race and ethnicity*
- *Traffic accidents, to include fatalities and serious injuries related to being under the influence of marijuana*
- *Diversion of marijuana to persons under the age of 21*
- *Diversion of marijuana out of Colorado*
- *Crime occurring in and around marijuana establishments*
- *Parcel services, to include US Postal Service, UPS and FedEx*
- *Data related to drug-endangered children, specifically for marijuana*
- *Treatment information*
- *Probation data*
- *Impact on tourism*
- *Emergency room data, including information from Colorado Poison Control Center*
- *Outdoor marijuana cultivation facilities*
- *Money laundering*

The goal of the study is to obtain objective information on criminal activity related to the passage of Amendment 64. As such, it should be based on facts and evidence, and be conducted according to rigorous standards of scientific inquiry. The study should be coordinated with the work of the CDPHE study panel concurrently recommended by this Task Force (see recommendation 10.4) to review the health effects associated with marijuana use, to avoid any potential overlap and duplication of efforts.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- g. Ensure that our streets, schools, and communities remain safe

Justification:

This study is needed to discover the impacts of legalizing adult-use marijuana, such as criminal problems related to marijuana and effects on law enforcement's activities and resources. It will help to ensure that law enforcement is properly funded to handle marijuana-related problems. Given that the State of Colorado is setting a precedent with the legalization of adult-use marijuana, it is important to put a data collection system into place immediately, to capture statistics and identify emerging trends. The study will provide scientific data on which to justify future policy decisions, to replace rhetoric and unjustified assumptions. It could be funded indirectly by the marijuana industry through fees or tax revenues.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Safety, Colorado Department of Public Health and Environment

11 – Child Care Facilities

11.1 – Child Care Licensing Consequences

The Task Force recommends that the General Assembly establish consequences for any child care facility or individual licensee for using or being under the influence of marijuana, or whose employees or affiliates on the premises are using or under the influence of marijuana, at a child care facility during operating hours.

The Task Force further recommends that Section 26-6-108(c), C.R.S. - Denial of license – suspension, be amended to include statutory language providing for the use of, or being under the influence of, marijuana during operating hours as subject to licensing consequences, as for alcohol, if it is consumed at the facility or if any affiliate, individual employed by, person who resides at the facility, or the licensee themselves are under the influence of marijuana during the operating hours of the facility.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation upholds the plain language of Amendment 64 to regulate marijuana like alcohol. Under the current law, Section 26-6-108(c), C.R.S. allows for the department to deny, suspend, revoke, or make probationary the license of any child care facility found to have any affiliate, individual employed by, person who resides at the facility, or the licensee themselves, consuming or under the influence of any controlled substance or alcoholic beverage during the operating hours of the facility. Providing licensing consequences to child care facilities for allowing marijuana consumption or influence on the premises during operational hours will promote a drug-free environment and protect the health and safety of Colorado's children.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Safety, Colorado Department of Public Health and Environment

11.2 – Excluding Cultivation in a Child Care Family Home

The Task Force recommends that Section 26-6-102(4), C.R.S. be amended to include statutory language explicitly excluding the practice of home marijuana cultivation in a “Family Child Care Home,” in light of the passage of Amendment 64.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation promotes the health, safety, and well-being of Colorado’s children, and ensures a drug-free environment for their care. Section 26-6-102(4), C.R.S. currently defines “Family Child Care Home” as a facility for child care in a place of residence of a family member or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen (18) years who are not related to the head of such home. This may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types designated by rules of the state board pursuant to Section 26-6-106(2)(p), C.R.S.

Amendment 64 allows for individual possession, growth, or processing of no more than six marijuana plants for persons 21 years of age or older. Allowing for home marijuana cultivation in residences acting as child care facilities could endanger children, and should therefore be prohibited.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment

12 – Criminal Law

12.1 – Support for HB 13-1114 Regarding Penalties for DUI

The Task Force recommends that the General Assembly enact House Bill 13-1114, Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Governor Hickenlooper in Executive Order B 2012-0004 directed the Task Force to address the possible need for new statutes related to driving while under the influence of and/or impaired by marijuana. The Drug Policy Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) examined the issue exhaustively for two years and forwarded its recommendation that the Colorado General Assembly enact a 5 nanogram/ml blood THC permissible-inference statute. This recommendation is reflected in HB 13-1114, currently under consideration by the Colorado General Assembly. The Task Force defers to the judgment of the CCJJ on this issue and recommends enactment of the bill.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Public Safety, Colorado Department of Public Health and Environment, Local Governments

12.2 – ARIDE Training for Colorado Law Enforcement Officers

The Task Force recommends that the General Assembly require Advanced Roadside Impaired Driving Enforcement (ARIDE) training as a mandatory training element in future Colorado Peace Officer Standards and Training (POST) certification, and encourage local law enforcement agencies to have their peace officers trained in ARIDE, to increase and enhance the ability of law enforcement officers to detect impaired driving.

ARIDE is a program developed by the National Highway Traffic Safety Administration (NHTSA) with input from the International Association of Chiefs of Police (IACP) Technical Advisory Panel (TAP). It was created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation and Classification (DEC) Program.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Amendment 64, Section 16 (1) (b) (III) specifies that, in the interest of health and public safety, driving under the influence of marijuana shall remain illegal. Under Amendment 64, the increased availability of marijuana will likely increase the number of users and, consequently, the number who drive impaired. There is currently no chemical test that can be used in the field to detect marijuana impairment, so law enforcement officers must be able to quickly and skillfully recognize the signs of such impairment in drivers who are contacted.

There is presently a lack of standardized training for Colorado law enforcement officers to recognize drug-impaired drivers. The State of Colorado has implemented standardized field sobriety tests (SFST) and DUI enforcement training, both of which are geared to detecting drivers impaired by alcohol. In light of Amendment 64, the standardized training for law

enforcement officers in Colorado must be augmented to include advanced drug impairment field testing capacities.

ARIDE is a proven training strategy, currently used in 34 states, for detecting drivers who are impaired by drugs other than alcohol. This training should be standardized for Colorado law enforcement officers through its incorporation into both the POST academy-level training and all in-service training for current peace officers. It will make Colorado law enforcement officers aware of the types of incidents they are likely to encounter during personal contact with impaired drivers and during the pre-arrest screening of a driver. ARIDE training for officers will also be of benefit to prosecutors, judges, juries, and drivers who are contacted but found not to be impaired.

Implementing Authorities:

Colorado Attorney General, Colorado Department of Public Safety, Local Governments, Local Law Enforcement Agencies

12.3 – Revisions to the Criminal Code

The Task Force recommends the following revisions to Title 18, C.R.S. (The Criminal Code) as follows:

1. Add to Section 18-18-102: (35.5) "Transfer" means to deliver or convey.
2. Add to Section 18-18-406 (1.1): Any adult under 21 years of age who possesses one ounce of marijuana or less shall upon the first offense be subject to a civil charge of not more than \$100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may be referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions.
3. Modify Section 18-18-406 (5) to read: Transferring more than one ounce but not more than two ounces of marijuana from one person twenty-one years of age or over to another person twenty-one years of age or over for no consideration is a class 2 petty offense and shall not be deemed dispensing or sale thereof. Revise Section 18-18-425 as follows: This statute does not recite a substantive chargeable offense, but rather clarifies legislative intent behind enactment of statutes criminalizing possession, manufacture, sale, delivery, and advertisement drug paraphernalia. The General Assembly should revise this legislative declaration in light of Article 18, Section 16 of the Colorado Constitution, given that a person 21 or over now has a constitutional right to possess accessories for the purpose of using marijuana.
4. Modify Section 18-18-426 (opening statement) to read: Except as authorized in Article 18, Sections 14 and 16 of the Colorado Constitution, as used in Sections 18-18-425 to 18-18-430, unless the context otherwise requires:
5. Add to Section 18-18-428(3): Any person under 21 years of age who possesses drug paraphernalia used, designed, or intended for use in consuming marijuana shall upon the first offense be subject to a civil charge of not more than \$100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions.

"First offense" is defined in this context as any marijuana offense under Section 18-18-406, C.R.S. that involves any official action, which shall include: conviction, adjudication, non-judicial diversion, deferred prosecution, deferred sentence or civil citation. Said first offense must occur within 3 years of any subsequent offense.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- i. Take action that is faithful to the text of Amendment 64

Justification:

These proposed statutory changes will make relevant parts of Title 18 (Criminal Code), C.R.S. consistent with Amendment 64. They decriminalize certain first offenses related to marijuana and its paraphernalia for children and young adults, reflecting broad sentiment in favor of treatment and education as a more appropriate response.

Implementing Authorities:

Governor, Colorado General Assembly

12.4 – Consequences for Transfer of Marijuana to 18- to 20-Year-Olds

The Task Force recommends that the General Assembly amend Section 18-18-406(7), C.R.S. to establish consequences for the transfer of marijuana by any person 21 years of age or over to any person 18 to 20 years of age.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Currently Section 18-18-406(7), C.R.S. establishes enhanced penalties only for transfers of marijuana from adults (over 18) to juveniles (under 18). In addition to the other amendments to Section 18-18-406, C.R.S. in Task Force Recommendation 12.3 to bring the statute into alignment with the legalization of adult-use marijuana under Amendment 64 for persons 21 and over, Section 18-18-406(7), C.R.S. should be amended to address the sale or transfer of marijuana by any person age 21 or over to any person 18 to 20 years of age. The Colorado General Assembly may wish to establish enhanced penalties for the transfer of marijuana to this age group as well as to minors, in line with similar policies for the sale or transfer of alcohol. Without such an amendment, the sale or transfer of marijuana by a person age 21 or over to a person 18 to 20 years of age would be no different under law than the sale or transfer of marijuana between persons 21 or over.

Implementing Authorities:

Colorado General Assembly

12.5 – Consequences for Juvenile Possession

The Task Force recommends that the General Assembly establish consequences for persons under age eighteen for possession of less than one ounce of marijuana first offense.

Amend Section 18-13-122, C.R.S. - Minor in Possession of Alcohol to add Section 18-13-122.1, C.R.S. - Minor in Possession of Marijuana.

Amend Section 18-18-406(1), C.R.S - Possession of less than two ounces of marijuana to add a new statute – Possession of less than one ounce of marijuana first offense by a juvenile. Establish in the statutory language a definition of first offense (see recommendation 12.3 for suggested language).

Amend these two statutes to provide for education and treatment for juveniles in possession of less than one ounce of marijuana first offense without the consequences of a conviction in municipal court because of a petty offense, as per current law, or an adjudication under juvenile law, which could eventually result in detention or commitment to the Division of Youth Corrections.

Limit the consequences of possession of less than one ounce of marijuana first offense by a juvenile to education and treatment as ordered by the juvenile court, without the collateral consequences of a juvenile adjudication, by providing a civil summons to juvenile court. The consequences of the civil violation should include but not be limited to education and/or treatment as determined by the juvenile court.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

While Amendment 64 made it legal for persons 21 and over to possess small amounts of marijuana, it did not address the concerns of juveniles in possession of the same. Children must be protected while implementing this amendment, but their criminalization for minor possession is not deemed to be in their best interest, nor that of the community. Rather, public education and treatment should be prominent.

Under current law, possession of less than one ounce of marijuana first offense is a petty offense regardless of the age of the offender, with very different consequences from one municipality to the next. Legislation has been proposed that would make, for persons 21 and over, possession of less than one ounce of marijuana legal, and possession of more than one ounce but less than two ounces a petty offense.

The forthcoming changes to the criminal code as it relates to adults should be accompanied by changes in the code as it relates to juveniles. The above recommendation would place all juveniles in possession of marijuana cases under the jurisdiction of juvenile court (district court), which would allow for more consistent treatment and better tracking capabilities than if they are handled by municipal courts. This approach is not meant to interfere with any existing diversion programs currently operated by law enforcement, District Attorneys, City Attorneys, or probation departments. It does not address the issue of possession of small amounts of marijuana by persons aged 18 to 20.

Implementing Authorities:

Governor, Colorado General Assembly

12.6 – Personal Transport of Marijuana

The Task Force recommends that the General Assembly amend existing motor vehicle statutes to reflect the care required of consumers transporting marijuana in motor vehicles. The legislature should consider introducing a bill based on Section 42-4-1305, C.R.S (Open alcoholic beverage container – motor vehicle – prohibited) that would prohibit marijuana in motor vehicles in a manner similar to how alcoholic beverage containers that have been previously opened and resealed by a licensed alcohol beverage retailer are prohibited.

The legislature should consider, but not be limited to, the following issues: accessibility to occupants; differences in containment and sealing of commercial versus home grown marijuana; and differences in containment and sealing of marijuana and marijuana products versus alcoholic beverages.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Section 16(3)(d) of Amendment 64 clearly states that it does not permit consumption of marijuana “openly and publicly and in a manner that endangers others.” Although adults 21 and over in Colorado have been allowed under Amendment 64 to consume marijuana and to possess and transport one ounce or less of the substance, using marijuana in a motor vehicle could be construed to be openly and publicly, and driving under the influence of marijuana could seriously endanger public safety.

To ensure public safety and inhibit driving under the influence of marijuana, control of how consumers transport marijuana, once purchased from a licensed retailer or when transporting home-grown plants or marijuana, should be addressed in the state’s motor vehicle law in a

manner similar to the limited exceptions related to alcohol. A statute similar to the open alcoholic beverage container law, Section 42-4-1305, C.R.S. is needed to appropriately prohibit the use and transport of marijuana in motor vehicles. However, because the use and packaging of marijuana and marijuana products differ significantly from alcohol, and because home cultivation will result in a variety of packaging scenarios, the legislature must consider a number of issues specific to marijuana when drafting the legislation to ensure that it is not consumed openly and publicly and that it is not accessible to the driver of the vehicle.

Section 42-4-1305, C.R.S. addresses resealed bottles of wine transported in a motor vehicle as an exception to open container laws, if stored properly outside the reach of the driver. Sections in title 42 related to marijuana possession could read as follows: (1) The possession of sealed marijuana packages or containers shall be maintained outside the reach of the driver, such as in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or (2) The possession of sealed marijuana packages or containers shall be in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

13 – Local Civil Offenses

13.1 – Amendments to the Colorado Clean Indoor Air Act

The Task Force recommends that the General Assembly enact legislation revising the Colorado Clean Indoor Air Act, Section 25-14-201-209, C.R.S. to incorporate marijuana smoke. The following changes are proposed:

Section 25-14-202: Change “tobacco smoke” to “tobacco and marijuana smoke”; change “tobacco products” to “tobacco products and combustible marijuana”.

Section 25-14-203: Insert definition “(11.5) “Marijuana” as defined in the Colorado Constitution, Article XVIII, Section 16(2)(f)."

Section 25-14-203(16): Delete the words “medical” and “as defined by section 12-43.3-104(7), C.R.S.” from the definition of “Smoking”.

Section 25-14-204(1): Change “tobacco smoke” to “tobacco and marijuana smoke”.

The Task Force further recommends that there should be no exemption that would allow the smoking of marijuana in “cigar bars,” smoking clubs, or similar establishments where tobacco smoking is allowed.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado’s youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- i. Take action that is faithful to the text of Amendment 64

Justification:

Section 16(3)(d) of Amendment 64 clearly states that it does not permit consumption of marijuana and marijuana products “that is conducted openly and publicly or in a manner that endangers others.” The Colorado Clean Indoor Air Act has already been amended to

incorporate medical marijuana, but it must be amended again to incorporate adult-use marijuana. Exemptions to the Clean Air Act for cigar bars and smoking clubs where tobacco is permitted are not to be extended for smoking marijuana in these establishments.

Implementing Authorities:

Colorado General Assembly

13.2 – Clarification of an Offense

The Task Force recommends that the General Assembly adopt legislation to define “offense” under Amendment 64 as a criminal violation and not a civil violation. Such definitional clarification will allow local jurisdictions to enforce marijuana laws and regulations through civil actions such as injunctive relief and civil fines.

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Prior to Amendment 64, local jurisdictions could bring either criminal or civil actions to stop a zoning or code violation involving the individual use of marijuana, such as unlawful cultivation or processing in a residential neighborhood. Civil actions include injunctions to cease the violating conduct and civil fines for continued violations.

Local jurisdictions can normally regulate commercial operations through licensing, policy, and zoning powers. It is therefore imperative that the local government retain the authority to bring a civil charge in response to these violations in order to be able to effectively enforce the new marijuana laws and regulations.

Implementing Authorities:

Colorado General Assembly, Local Governments

14 – Home Cultivation and Processing of Marijuana

14.1 – Enclosed, Locked Space and Not Growing Openly or Publicly

The Task Force recommends that the General Assembly adopt statutes defining the following terms as they relate to the cultivation of adult-use marijuana in Amendment 64, Section (3)(b):

“ENCLOSED, LOCKED SPACE”:

ENCLOSED SPACE means: A permanent or semi-permanent area, covered from above and surrounded on all sides. See Section 42-4-201, C.R.S. The temporary opening of windows or doors or the temporary removal of wall or ceiling panels, does not convert the area into an unenclosed space. See Section 25-14-203, C.R.S. Some examples include, but are not limited to the following: a shed, a greenhouse, a trailer, a residence, a building, a room inside a building. An indoor area can include any enclosed area or portion thereof.

LOCKED SPACE means: The area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access, such as a key or combination lock.

Reasonable time shall be allowed for ingress and egress from the enclosed, locked space.

If the cultivation area is located in a residence and a person under twenty-one years of age lives at that residence, the cultivation area within the residence must itself be enclosed and locked. If no person under twenty-one years of age lives at a residence where cultivation occurs, the external locks of the residence are sufficient to meet the definition of “enclosed, locked space”. If someone under twenty-one years of age temporarily enters such a residence, the owner must ensure that access to the cultivation site is reasonably restricted for the duration of that person’s presence in the residence.

“GROWING IS NOT CONDUCTED OPENLY OR PUBLICLY”:

OPENLY means: Not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion.

PUBLICLY means: The area is open to general access without restriction.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
- i. Take action that is faithful to the text of Amendment 64

Justification:

It is important to have clear definitions for these terms in statute so that citizens know what is allowed and disallowed regarding home cultivation of marijuana and law enforcement officers have clear guidance for enforcing laws and regulations. These definitions allow for a residence itself to constitute an enclosed, locked space for the cultivation of marijuana in case that no person under 21 lives at that residence. In this case, the owner must ensure that there are reasonable restrictions on that person's access to the cultivation site, but will not be committing an offense simply by allowing the person under 21 to be temporarily present in the residence, such as when underage relatives or the children of friends visit. If someone under 21 does reside at a residence where cultivation takes place, the cultivation area within the residence must itself be enclosed and locked, to protect the health and safety of the underage person.

Implementing Authorities:

Colorado General Assembly

14.2 – Prohibiting the Use of Flammable Gases

The Task Force recommends that the Attorney General, the General Assembly, and local governments review current statutes and ordinances relating to the residential use of compressed, flammable gases including, but not limited to, butane, propane, and hexane. State and/or local governments should clearly establish in applicable law and/or ordinances that the use of these compressed, flammable gasses as solvents in the extraction of THC and other cannabinoids in residential settings is unlawful.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe

Justification:

Amendment 64 allows for cultivation and processing of marijuana in private homes, which could lead people in residential settings to attempt to extract THC from marijuana into concentrates using compressed, flammable gases such as butane, propane, and hexane. Because this practice poses significant fire and safety hazards to persons engaging in this activity and to their neighbors, state and local laws must prohibit it.

Implementing Authorities:

Colorado General Assembly, Attorney General, Local Governments

15 – Requests for Federal Assistance

15.1 – Banking Solutions for Legal Marijuana Businesses

The Task Force recommends that the General Assembly consider all lawful alternatives to assist marijuana businesses to access the banking system, which includes banks, credit unions, and other financial institutions.

One such alternative would be to consider a joint resolution calling on the federal government to take action by excepting marijuana businesses in states with legalized marijuana industries from relevant federal regulations. Another alternative would be to authorize and fund a study by an independent policy institute with experience in banking laws and regulations, to develop a proposal for a financial institution not subject to federal regulation. An independent policy institute could also be authorized to survey other states with legal marijuana industries for alternative models that would avoid to the greatest extent possible any federal regulatory or criminal nexus.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions

Justification:

Financial institutions that are federally licensed or insured are required to comply with federal regulations. Since marijuana is a controlled substance under federal law, banks must either refuse to hold accounts for legal marijuana businesses in Colorado or risk prosecution. This has made it difficult for these businesses to properly track transactions as required by state law and creates safety issues because the businesses are known to deal only in cash.

Amendment 64 is silent on how marijuana businesses might safely and legally bank the proceeds of their business. Without some form of legal banking, persons engaged in the marijuana business will continue to be subject to safety issues, and the entirely cash revenue system will be challenging to regulate. As such, efforts are needed either to secure a federal exemption for legal marijuana businesses in Colorado to be able to legally bank with federally-insured banks, credit unions, and other financial institutions, or to create a local financial institution that is not subject to federal regulation.

Implementing Authorities:

Colorado General Assembly

15.2 – Business Deductions for Legal Marijuana Businesses

The Task Force recommends the following actions geared at securing the right of legal marijuana businesses in Colorado to claim business expenses on their federal and state tax returns:

1. **The General Assembly should allow legal marijuana businesses to claim state income tax deductions for expenditures that would be eligible to be claimed as federal income tax deductions, but are disallowed by the federal Internal Revenue Code (IRC), Section 280E – Expenditures in connection to the illegal sale of drugs - because of the status of marijuana as a controlled substance under the Controlled Substances Act (CSA).**
2. **The General Assembly should pass a resolution requesting that the federal government reform IRC, Section 280E, not to be applicable to legal marijuana businesses in Colorado.**
3. **The Governor of Colorado should contact and attempt to create a bi-partisan coalition of state governors to advocate for reform of IRC, Section 280E.**
4. **The Governor should contact and attempt to create a bi-partisan coalition of the Colorado congressional delegation to advocate for reform of IRC, Section 280E.**

Guiding Principles:

- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Section 280E of the federal Internal Revenue Code (IRC) prohibits a business considered to be trafficking substances under the Controlled Substances Act (CSA) from claiming any tax deductions on their federal tax returns, effectively barring legal marijuana businesses in Colorado from claiming these deductions. Because state income tax calculations are based on the federal tax return, these businesses are also effectively disallowed from claiming tax deductions on their state tax returns.

Because Amendment 64 allows for the legal use and sale of marijuana in Colorado for persons 21 years of age and older, legal marijuana businesses in Colorado should be able to benefit from tax deductions for valid business expenses. This can be effected through reform of IRC, Section 280E at the federal level to except legal marijuana businesses in Colorado and other states. In the meantime, the Colorado General Assembly can amend the Colorado tax code to allow for 280E tax deductions on the state tax returns of legal marijuana businesses.

The Colorado General Assembly can further support these efforts by passing a resolution requesting the federal government to reform IRC, Section 280E to allow for deductions for legal marijuana businesses in Colorado and other states.

The Governor can also assist in these efforts by forming a coalition with governors in other states with legal marijuana industries to push for IRC, Section 280E reform. He can also request the Colorado Congressional Delegation to advocate for the reform.

Implementing Authorities:

Governor, Colorado General Assembly, coalition of State Governors, Coalition of the Colorado Congressional Delegation

16 – General Recommendations

16.1 – Maintaining the Status Quo for Employers and Employees

The Task Force affirms that the plain language of Amendment 64, Section 6(a) makes it clear that the intent of the voters was to maintain the status quo for employers and employees, and that employers may maintain, create new, or modify existing policies in response to the passage of the measure.

The Task Force recommends that employers should be encouraged to review current drug-free workplace policies, including but not limited to hiring, sanctioning, termination, and drug testing, in response to passage of the measure.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
- i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation seeks to clarify the uncertainty for employers and employees regarding their legal rights regarding employee use of marijuana during non-work hours. It is based on the Amendment 64 campaign argument that the initiative did not affect the ability of employers to maintain their current employment policies regarding off-site use of marijuana, or to create new ones, and on the 2012 State Ballot Information Booklet (Blue Book) statement that the Amendment would not affect the ability of an employer to restrict the use or possession of marijuana by employees.

Implementing Authorities:

Governor, Employers, Local Governments

16.2 – Maintaining the Status Quo for Property Owners

The plain language of Amendment 64 Section 6(d) makes it clear that the intent of the voters was to maintain the status quo for Colorado property owners. The Task Force therefore recommends that the General Assembly adopt no new statutes or regulations modifying existing Colorado property law related to adult-use marijuana. The Task Force also recommends that violations of a real property owner's policies regarding possession or consumption of marijuana on said property be treated similarly to the violation for possession or consumption of alcohol on the premises, including any civil or criminal consequences.

Guiding Principles:

- c. Be responsive to consumer needs and issues
- f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
- i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation assures real property owners that their rights prior to Amendment 64 remain unchanged and that they will be able to enforce their right to choose how their property is used. It also provides clarity in the relationship between landlords and tenants.

Implementing Authorities:

Colorado General Assembly

16.3 – Enforcement of Contracts

The Task Force recommends that the General Assembly clarify in statute that it is the public policy of Colorado that contracts shall not be void or voidable on the basis that the subject matter of the contract pertains to or the parties are, or are associated with, individuals or businesses that are operating pursuant to Colorado’s marijuana laws.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Amendment 64 does not address the enforceability of contracts relating to marijuana, which under existing law could be deemed by a court to be void or voidable because they pertain to transactions considered illegal under federal law. This recommendation ensures that contracts entered into by individuals and businesses operating pursuant to Colorado’s marijuana laws are enforceable.

Implementing Authorities:

Colorado General Assembly

16.4 – Legislation on Industrial Hemp

The Task Force recommends that the General Assembly adopt legislation during the 2013 session authorizing the cultivation, processing, and sale of industrial hemp. Such legislation should delegate to the Commissioner of Agriculture authority to establish regulatory requirements for registration and inspection for those wanting to grow or process industrial hemp. The Commissioner should work with stakeholders to address relevant issues, and should promulgate a final rule no later than December 31, 2013.

Guiding Principles:

- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Amendment 64 authorizes the Colorado General Assembly to enact legislation on industrial hemp by July 1, 2014. However, the issue is ripe for quick action, given that Colorado General Assembly members have already begun to develop proposals and the benefits of industrial hemp to Colorado's economy are compelling.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture

17 – Follow-Up to the Work of this Task Force

17.1 – Formation of a Follow-Up Task Force in Three Years

The Task Force recommends that the Governor form a new task force in December 2015, three years from the declaration of the vote on Amendment 64 and from the formation of the present Task Force. The new task force should review these recommendations in light of the actual implementation of Amendment 64 and make recommendations for improving the regulation of adult-use marijuana in Colorado, including providing advice in advance the sunset review to be conducted in 2016 for the Vertical Integration model proposed in recommendation 1.1.

Guiding Principles:

- a. Promote the health, safety, and well-being of Colorado's youth
- b. Be responsive to consumer needs and issues
- c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
- d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
- e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
- f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
- g. Ensure that our streets, schools, and communities remain safe
- h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
- i. Take action that is faithful to the text of Amendment 64

Justification:

The recommendations of this Task Force are offered to the Governor, the Colorado General Assembly, and the Attorney General, for their consideration when creating a regulatory framework and undertaking the implementation of Amendment 64. The Task Force expects that its recommendations will be further debated and adapted by the Governor, the Colorado General Assembly, the Attorney General, relevant state agencies, and the general public, in the implementation process.

The Task Force and its Working Groups have done their best to thoroughly study the issues around the use and regulation of adult-use marijuana in Colorado, project developments, and suggest policies, regulations, and actions for the implementation of Amendment 64. However, given that legal, adult use of marijuana is completely unprecedented in the United States, the Task Force expects that new issues will come up and unforeseen consequences will emerge in the coming years as the amendment is fully implemented. Given this uncertainty, as well as the fact that this Task Force has recommended (see Recommendation 1.1) that the proposed, vertically-integrated regulatory framework be reviewed after three years, it will be very helpful for the Governor to convene a new Task Force in January 2016, to review these recommendations in light of actual implementation and give its recommendations for improving public policy related to adult-use marijuana in Colorado.

Implementing Authorities:

Governor

Issues for Further Consideration

There are a number of issues for which the Task Force did not formulate a recommendation because it could not come to agreement in the time available for its work. Whereas in the early weeks of the Task Force's work recommendations were routinely sent back to the Working Groups for further discussion and amendment and were later re-introduced for the Task Force's consideration, this was not possible in the final week of the Task Force's work. As such, a number of issues remained unresolved at the conclusion of its work on February 28, 2013, but are nevertheless deserving of further attention by the Governor, the Colorado General Assembly, and the Attorney General as they proceed with the implementation of Amendment 64.

One issue for which the Task Force did not make a recommendation was defining remuneration in transactions involving marijuana, given public concerns about marijuana businesses providing marijuana free of charge to customers with the purchase of other items. This practice falls outside the intent of Amendment 64 to allow adults over the age of 21 to privately share small amounts of marijuana. The Criminal Law Working Group concluded that no recommendation was necessary on this issue because such activities are already illegal under Section 18-18-102, C.R.S. where the definition of remuneration includes services and trades. Although the Task Force did not make a recommendation on this issue, policy-makers and law enforcement officers may wish to take action to respond to these illegal actions by marijuana businesses.

The Task Force made a recommendation for defining in statute "openly and publicly" as these terms relate to home cultivation of marijuana (see Recommendation 14.1), but it was unable, within the timeframe of its work, to come to agreement about defining "openly and publicly" as these terms relate to the consumption of marijuana. This is an important omission, as defining these terms provides the basis for allowing or prohibiting consumption of marijuana in various venues.

The Task Force did make two recommendations related to consumption outside of private homes, the first (Recommendation 13.1) for amending the Colorado Clean Indoor Air Act to include marijuana smoke and disallow exceptions for marijuana use at cigar bars, and the second (Recommendation 14.1) for initiating legislation to address the use of marijuana in motor vehicles. However, these Task Force recommendations do not fully resolve the issue of defining consumption "that is conducted openly and publicly," which is not permitted by Amendment 64, Section (3)(d). Apart from considerations related to the Clean Indoor Air Act and addressing the use of marijuana in vehicles, the Colorado General Assembly must define what is meant by open and public consumption of marijuana in order to allow or prohibit consumption in different venues and give clear guidance to law enforcement officers.

The Task Force had extensive discussions on possible scenarios where citizens might smoke or ingest marijuana and whether these could be considered open and public, in which case

consumption should be prohibited. For some venues, such as front and back porches, decks, and yards in private homes where members of the public could clearly view and smell residents smoking marijuana or consuming edible marijuana products, there was disagreement about whether these venues are both open and public and, consequently, whether residents may smoke or consume marijuana there. A majority of Task Force members in a straw poll vote believed that smoking on a front porch was not “open and public” and could therefore be allowed under Amendment 64, whereas all Task Force members believed that smoking in a public park was indeed “open and public,” and therefore not allowed under Amendment 64. Related to the lack of a definition of open and public for consumption, the Task Force did not come up with a recommendation to allow or disallow the consumption of marijuana at private social clubs.

Another issue for which the Task Force did not agree at the close of its work, but for which further work is needed by the Colorado General Assembly, is Driving Under the Influence of Drugs (DUID) for persons under 21 years of age. Task Force members disagreed in their final meeting as to whether (1) driving with any amount of marijuana in the body should be considered as a *per se* DUID charge for this age group, given their lack of legal access to the drug and the similar policy in place in Colorado for driving under the influence of alcohol, or whether (2) there should be a less punitive response based on presumption or permissible inference, because the *per se* proposal could capture non-impaired drivers and drivers with small amounts of THC in their bodies from second-hand smoke, and would result in the onerous penalty of losing driving privileges. The Colorado General Assembly may wish to revisit this issue in its further discussions regarding statutory changes related to the implementation of Amendment 64.

The following criminal law issues remained unresolved within the Criminal Law Working Group at the close of the Task Force’s work and so were not forwarded to the Task Force for consideration, but they may be of concern to the Colorado General Assembly in its forthcoming debates. These include:

1. Section 42-4-1301(1), C.R.S.: Separate DUI and DUID offenses, which are currently combined.
2. Section 42-4-1301 (6)(a)(I), C.R.S.: Consider repealing this clause, given that alcohol is no longer the only legal intoxicant, and given the synergistic effects between alcohol and marijuana that result in an increased level of impairment, such that the presumption of innocence with a BAC level of 0.05 is no longer valid.
3. Section 42-3-1304, C.R.S. - Samples of blood or other bodily substance: Expand the statute to require sampling of all drivers, deceased or otherwise, involved in both fatal collisions and collisions where transport to hospital is required.
4. Section 42-4-1301.1, C.R.S. - Expressed consent for the taking of blood, urine, or saliva sample: The choice of a breath or blood test is no longer consistent with public safety. The law should be changed to allow and encourage blood testing as the default sample, given that only a blood test can detect drugs other than alcohol.

5. Section 42-4-1301.1(6)(a), C.R.S.: Consider augmenting the number of medical personnel to permit trained peace officers to collect blood samples, to reduce the delay between the time a DUID suspect is apprehended and the blood sample is drawn.
6. Social clubs: If and when social marijuana clubs are to be allowed by statute, ensure that alcohol is not served there, given the increased impairment that occurs when the two drugs are used together.
7. Define “a plant” in Amendment 64, versus a clone, clipping, or cutting of marijuana.
8. Change public nuisance forfeiture statutes to bring them into alignment with Amendment 64.
9. Section 25-14-103.5, C.R.S. - Prohibition against the Use of Tobacco Products on School Property.: Expand to include marijuana.
10. Section 18-18-406, C.R.S.: Consider revisions to address possession of marijuana in amounts over 2 ounces outside the room where cultivation occurs, and possession of more than 6 plants per adult.
11. Establish guidelines for Colorado law enforcement agencies regarding what can legally be done with plants seized in excess of the 6-plant limit per person.

Appendix A – Amendment 64

Amendment 64 Use and Regulation of Marijuana

Ballot Title: Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first \$40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 16. Personal use and regulation of marijuana

(1) Purpose and findings.

(a) IN THE INTEREST OF THE 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 OR 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.

(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 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.

(2) Definitions. As used in this section, unless the context otherwise requires,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS 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.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS 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.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR

ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

(3) Personal use of marijuana. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

(4) Lawful operation of marijuana-related facilities. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA

PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

(5) Regulation of marijuana.

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT

AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

(6) Employers, driving, minors, and control of property.

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE, OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

(7) Medical marijuana provisions unaffected. NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(8) Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

(9) Effective date. UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

Appendix B – Executive Order B 2012-004**STATE OF COLORADO****OFFICE OF THE GOVERNOR**

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John W. Hickenlooper
Governor

B 2012-004**EXECUTIVE ORDER****Creating a Task Force on the Implementation of Amendment 64**

Pursuant to the authority vested in me under Article IV, Section 2, of the Colorado Constitution and the laws of the state of Colorado, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order creating a Task Force on the Implementation of Amendment 64 - Use and Regulation of Marijuana.

I. Background and Purpose

On November 6, 2012, the voters of the State of Colorado endorsed Amendment 64 - an amendment to Article XVIII of the Colorado constitution providing for the regulation of marijuana like alcohol - by a vote of approximately 55% of the electorate. Amendment 64 makes the personal use, possession, and limited home-growing of marijuana legal under Colorado law for adults 21 years of age and older. Additionally, it allows for the lawful operation of marijuana-related facilities. Amendment 64 presents issues of first impression in Colorado and in the United States, as no state previously has legalized marijuana for recreational use in the face of federal legal restrictions.

Amendment 64 requires state and local governments to act with speed and efficiency. The voters approved very short timelines for the implementation of this new law. It is prudent that the General Assembly enact enabling legislation to implement Amendment 64. Amendment 64 directs the General Assembly to enact an excise tax on the sale of marijuana and requires the Colorado Department of Revenue to adopt necessary regulations by July 1, 2013. The Department of Revenue must begin accepting and processing applications for licenses to operate a marijuana establishment on October 1, 2013 and the Department must begin issuing licenses by January 1, 2014 or cede regulatory authority to local government if it fails to do so. Amendment 64 also permits local governments to enact ordinances that are compatible with the new state laws to regulate the time, place, manner, and number of marijuana establishment operations.

Colorado state and local governments must consider and resolve a number of legal, policy and procedural issues, involving various interests and stakeholders, in order to implement this new law. All stakeholders share an interest in creating efficient and effective regulations that provide for the responsible development of the new marijuana laws. As such, there is a need to create a task force through which we can coordinate and create a regulatory structure that promotes the health and safety of the people of Colorado.

The incoming majority and minority leaders of the General Assembly support this Task Force.

The Amendment 64 Implementation Task Force is hereby established with the following mission and scope.

II. Mission and Scope

The Task Force's mission shall be to identify the legal, policy, and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative, regulatory and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64. The Task Force is encouraged to develop a comprehensive framework and timeline for legislation and regulations needed to implement Amendment 64. The Task Force shall report its recommendations and findings to the Governor, to the General Assembly and to the Attorney General.

Task Force members are charged with finding practical and pragmatic solutions to the challenges of implementing Amendment 64 while at all times respecting the diverse perspectives that each member will bring to the work of the task force. The Task Force shall respect the will of the voters of Colorado and shall not engage in a debate of the merits of marijuana legalization or Amendment 64.

The issues that the Task Force shall address include, but are not limited to:

1. The need to amend current state and local laws regarding the possession, sale, distribution or transfer of marijuana and marijuana products to conform them to Amendment 64's decriminalization provisions, including, but not limited to, laws related to:
 - a. Possession of drug paraphernalia;
 - b. Possession of marijuana; and
 - c. Marijuana cultivation.
2. The possible need for new statutes, including, but not limited to, laws related to:
 - a. Marijuana testing facilities;
 - b. Marijuana product manufacturing facilities;
 - c. Marijuana retail facilities;
 - d. Time, place, and manner restrictions for marijuana consumption, including conforming to existing non-smoking laws;
 - e. Industrial hemp cultivation, processing, and sale; and
 - f. Driving while under the influence of and/or impaired by marijuana.
3. Amendment 64's directive to the General Assembly that it enact an excise tax on the sale or other transfer of marijuana.
4. The need for new regulations including, but not limited to, those related to:
 - a. Procedures for issuing, renewing, suspending, and revoking a license to operate a marijuana establishment;

- b. A schedule of application, licensing and renewal fees;
 - c. Qualifications for a license that are related to operating a marijuana establishment;
 - d. Security requirements for marijuana establishments;
 - e. Labeling requirements;
 - f. Health and safety standards for the manufacture of marijuana products, including food, and the cultivation of marijuana;
 - g. Restrictions on advertising and display of marijuana and marijuana products; and
 - h. Penalties for noncompliance with regulations.
5. Education regarding long-term health effects of marijuana use and harmful effects of marijuana use by those under the age of 18.
 6. Reconciliation of Colorado and Federal laws such that the new laws and regulations do not subject Colorado state and local governments and state and local government employees to prosecution by the federal government.
 7. The impact of Amendment 64 on employers and employees and the Colorado economy.

The Task Force shall explore any and all options that address the preceding issues and help clarify and/or better coordinate state and local government implementation of Amendment 64. Such options examined shall include, but are not limited to:

- memorandums of agreement, intergovernmental agreements, and letters of cooperation and consent between the state and any other jurisdiction;
- changes to existing laws or regulations; and
- new laws and regulations.

III. Membership

The Task Force shall be co-chaired by the Governor's Chief Legal Counsel and the Executive Director of the Colorado Department of Revenue. The Task Force co-chairs will have the ability to issue guidelines for operation of the Task Force and amend those guidelines as needed. The Task Force co-chairs will form and appoint working groups, chaired by one or more members of the Task Force and comprised of persons with subject matter expertise, to aid it in its work. The Task Force co-chairs will identify and approve the scope of work and issues for the Task Force and working groups.

In addition to the co-chairs, Task Force membership shall also include the following:

- One member of the General Assembly appointed by the incoming Speaker of the House;
- One member of the General Assembly appointed by the incoming President of the Senate;
- One member of the General Assembly appointed by the incoming House Minority Leader;
- One member of the General Assembly appointed by the incoming Senate Minority Leader;
- The Colorado Attorney General, or his designee;
- A representative of the Colorado Municipal League;
- A representative of Colorado Counties, Inc.;
- The Executive Director of the Colorado Department of Public Health and Environment, or his designee;
- The Executive Director of the Colorado Department of Public Safety, or his designee;
- The Colorado Commissioner of Agriculture, or his designee;

- The Senior Director responsible for the Colorado Medical Marijuana Enforcement Division, or his designee;
- A representative of the campaign to pass Amendment 64;
- A representative of the medical marijuana dispensary and cultivation industry;
- A representative of marijuana consumers;
- A person with expertise in legal issues related to the legalization of marijuana;
- A person with expertise in the treatment of marijuana addiction;
- A representative of the Colorado Commission on Criminal & Juvenile Justice;
- The Executive Director of the Colorado District Attorney's Council, or his designee;
- The Colorado State Public Defender, or his designee;
- A person representing the interests of employers;
- A person representing the interests of employees; and
- One at-large member who is not a resident of the Denver-metro area.

IV. Open Meetings

All meetings of the Task Force and any working groups of the Task Force shall be open to the public and the Task Force shall endeavor to solicit public comment as part of its consideration of the policy, legal and procedural issues that need to be resolved to implement Amendment 64. To the extent it deems appropriate, the Task Force shall incorporate the public input it receives into its recommendations and findings.

V. Duration

This Executive Order shall continue in existence until the Task Force reports its recommendations and findings to the Governor, the General Assembly and the Attorney General but no later than February 28, 2013, unless it is either earlier terminated or extended beyond that date by further executive order.



GIVEN under my hand and the
Executive Seal of the State of
Colorado, this tenth day of
December, 2012.

A handwritten signature in blue ink, reading "John W. Hickenlooper".

John W. Hickenlooper
Governor

Appendix C – Task Force Members and Contributors

Task Force Members

Name	Affiliation	Interests Represented
Jack Finlaw, Co-Chair	Office of the Governor, Chief Legal Counsel	Office of the Governor
Barbara Brohl, Co-Chair	Colorado Department of Revenue, Executive Director	Colorado Department of Revenue
Larry Abrahamson	Colorado District Attorneys' Council	District Attorneys
Kristal L. Bernert	KLB Services, LLC	At-Large Task Force Member
Eric Bergman	Colorado Counties Inc.	Local Government
David Blake	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Kevin Bommer	Colorado Municipal League	Local Government
Ron Carleton	Colorado Department of Agriculture, Deputy Commissioner	Agriculture
Mike Cerbo	AFL-CIO	Colorado Employees
Brian Connors	Office of the Colorado State Public Defender, Chief Deputy Public Defender	Public Defenders
Charles Garcia	Colorado Criminal and Juvenile Justice Commission (CCJJ)	CCJJ
John Jackson	Greenwood Village, Police Chief	Law Enforcement
Senator Cheri Jahn	State Senator	Colorado General Assembly
Dr. Sam Kamin	University of Denver, Law Professor	Legal expertise
Ron Kammerzell	Colorado Department of Revenue	Enforcement, including MMED
Senator Vicki Marble	State Senator Appointed by Senate Minority Leader	Colorado General Assembly
Representative Dan Nordberg	State Legislator Appointed by House Minority Leader	Colorado General Assembly
Representative Dan Pabon	State House Representative	Colorado General Assembly
Meg Sanders	Medical marijuana industry	Medical marijuana industry
Christian Sederberg	Amendment 64 Campaign	Amendment 64 Campaign
Craig Small	Marijuana consumers	Marijuana consumers
Dr. Christian Thurstone	University of Colorado Denver and Denver Health, Child Psychiatrist	Physician with addictions treatment experience
Dr. Chris Urbina	Colorado Department of Public Health & Environment (CDPHE)	CDPHE
Tamra Ward	Colorado Concern	Colorado Business Community

Support to the Task Force

Name	Affiliation	Role
Ro Silva	Colorado Department of Revenue, Public Information Officer	Task Force Public Information Officer
Brandon Friede	Office of the Governor's Legal Counsel, Attorney	Task Force Secretary
Lindsay Cox	Office of Governor's Legal Counsel, Staff Assistant	Administrative Support
Mia Tsuchimoto	Colorado Department of Revenue, Executive Assistant	Administrative Support
Laura Jane Weimer	Attorney General's Office, Executive Assistant	Administrative Support
William Browning	Rebound Solutions, President and CEO	Strategic Facilitation of the Task Force Process
Michael Niyompong	Rebound Solutions, Vice President	Task Force Report Graphic Design
Lorii Rabinowitz	Rebound Solutions, Vice President	Facilitation of the Task Force Process
Dr. Lisa McCann	Rebound Solutions, Senior Analyst	Task Force Report Writer
Hilary Gustave	Rebound Solutions, Senior Analyst	Technical Editor

Appendix D – Working Group Members

Regulatory Framework Working Group

Name	Affiliation	Interests Represented
Ron Kammerzell - Co-Chair and Task Force Member	Colorado Department of Revenue	Enforcement, including MMED
Representative Dan Pabon, Co-Chair and Task Force Member	State House Representative	Colorado General Assembly
David Blake, Task Force Member	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Dr. Sam Kamin, Task Force Member	University of Denver, Law Professor	Legal expertise
Meg Sanders, Task Force Member	Medical marijuana industry	Medical marijuana industry
Betty Aldworth	Self-employed	Amendment 64 Campaign
Norton Arbelaez	RiverRock LLC, Compliance Officer	Medical marijuana industry
Donald Burmania	Colorado Department of Revenue	Liquor Enforcement
Robert Dill	Attorney	Experience in medical marijuana law
Laura Harris	Colorado Department of Revenue	MMED Enforcement
Cally King	Governor's Office	Governor's Office
Dr. Jeremy Nemeth	University of Colorado Denver, Assistant Professor, Planning and Design	Policy expertise
Chris Nevitt	Denver City Councilman	Local Government
James Shpall	Applejack Associates, President	Alcohol industry
Mary Beth Susman	Denver City Council, President	Local Government

Local Authority and Control Working Group

Name	Affiliation	Interests Represented
Kevin Bommer, Co-Chair and Task Force Member	Colorado Municipal League	Local Government
Eric Bergman, Co-Chair and Task Force Member	Colorado Counties Inc.	Local Government
Senator Vicki Marble, Task Force Member	State Senator Appointed by Senate Minority Leader	Colorado General Assembly
David Baumgarten	Gunnison County Attorney	Local Government
Wayne Cauthen	Citizen	Citizen concerned with local government impact
Gina Fenton-Carbone	Citizen	Citizen concerned with youth impact
Mishawn Cook	City of Boulder, Tax & License Manager	Local Government
Tom Downey	Denver Division of Excise & License, Director	Local Government
James Eklund	Governor's Office of Legal Counsel, Senior Deputy Legal Counsel	Governor's Office
Lew Gaiter	Larimer County Commissioner	Local Government
Cheri Hackett	Cannabis Trade for Colorado	Medical marijuana industry
Andy Hill	Colorado Department of Local Affairs (DOLA), Community Development Office	DOLA
Wanda James	Simply Pure	Medical marijuana industry
Harris Kenny	Reason Foundation, Policy Analyst	Policy Interests
Lewis Koski	Colorado Department of Revenue, Medical Marijuana Enforcement Division (MMED)	MMED
Adam Paul	Lakewood City Councilman	Local Government
Mike Rozycki	San Miguel County Planning Director	Local Government
Bryan Treu	Eagle County Attorney	Local Government
Jason Warf	Colorado Springs Medical Cannabis Council	Marijuana consumers

Tax, Funding, and Civil Law Working Group

Name	Affiliation	Interests Represented
David Blake, Co-Chair and Task Force Member	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Senator Cheri Jahn, Co-Chair and Task Force Member	State Senator	Colorado General Assembly
Kristal L. Bernert, JD, CPA, Task Force Member	KLB Services, LLC	At-Large Task Force Member
Mike Cerbo, Task Force Member	AFL-CIO	Colorado Employees
Tamra Ward, Task Force Member	Colorado Concern	Colorado Business Community
Bill Callison	Faegre, Baker, Daniels LLP, Attorney	Tax and corporate law
Don Childears	Colorado Bankers Association	Banking industry
Michael Elliott	Medical Marijuana Industry Group, Executive Director	Medical marijuana industry
Dorinda Floyd	Colorado Department of Revenue, CFO	Colorado Department of Revenue
Holli Hartman	Baker & Hosteller LLP, Attorney	Employee law
Dan Krug	Office of State Planning and Budget (OSPB)	OSPB
Mary Jo McGuire	Conspire2Hire, Compliance Director	Drug and alcohol testing
Adrienne Russman	Governor's Office	Governor's Office
Kimberlie Ryan	Ryan Law Firm, LLC, Attorney	Civil Rights Employment Law/Employee Rights
Alexis Senger	Office of State Planning and Budget (OSPB)	OSPB
John Vecchiarelli	Colorado Department of Revenue	Tax administration

Consumer Safety and Social Issues Working Group

Name	Affiliation	Interests Represented
Dr. Chris Urbina, Co-Chair and Task Force Member	Colorado Department of Public Health & Environment (CDPHE)	CDPHE
Christian Sederberg, Co-Chair and Task Force Member	Amendment 64 Campaign	Amendment 64 Campaign
Ron Carleton, Task Force Member	Colorado Department of Agriculture, Deputy Commissioner	Agriculture
Craig Small, Task Force Member	Marijuana consumers	Marijuana consumers
Dr. Christian Thurstone, Task Force Member	University of Colorado Denver and Denver Health, Child Psychiatrist	Physician with addictions treatment experience
Ian Barringer	Rm3 Labs Colorado LLC, President	Medical marijuana industry, testing labs
Dr. Laura Borgelt	University of Colorado, Assoc. Professor, Pharmacy	Pharmacy and family medicine
Frank Cornelia	Behavioral Healthcare Council	Treatment provider
Kenneth Finn	Springs Rehabilitation, PC	Medicine
Kevin Fisher	RK Enterprises, Owner	Industry
Dr. Kari Franson	University of Colorado, Associate Dean, Pharmacy	Pharmacy
Brandon Friede	Governor's Office	Governor's Office
Laura Harris	Colorado Department of Revenue, MMED	MMED
Ashley Kasprzak	Team Fort Collins, Executive Director	Concerned with youth impact
Aaron Kennedy	State of Colorado, Chief Marketing Officer	Advertising Specialist
Lisa Morzel	Boulder City Council Member	Local Government
Wade Troxell	Fort Collins City Councilman	Local Government
Chris Wiant	Care Colorado	Care Colorado
Katharine (Jade) Woodard	Alliance for Drug Endangered Children	Concerned with youth impact

Criminal Law Working Group

Name	Affiliation	Interests Represented
John Jackson, Co-Chair and Task Force Member	Greenwood Village, Police Chief	Law Enforcement
Brian Connors, Co-Chair and Task Force Member	Office of the Colorado State Public Defender, Chief Deputy Public Defender	Public Defenders
Larry Abrahamson, Task Force Member	Colorado District Attorneys' Council	District Attorneys
Charles Garcia, Task Force Member	Colorado Criminal and Juvenile Justice Commission (CCJJ)	CCJJ
Representative Dan Nordberg, Task Force Member	State Legislator Appointed by House Minority Leader	Colorado General Assembly
David Blair	Denver Family Therapy, Director	Social workers
Lauren Davis	Hoban & Feola LLC, Attorney	Marijuana consumers
Stephanie Donner	Governor's Office of Legal Counsel, Senior Deputy Legal Counsel	Governor's Office
Darrell Lingk	CDOT Highway Safety Office, Director	CDOT
Genifer Murray	CannLabs	Medical marijuana industry, testing labs
Rachel O'Bryan	Attorney, self-employed	Concerned with youth impact
J. Grayson Robinson	Arapahoe County Sheriff	Law enforcement
Marco Vasquez	Colorado Department of Revenue, MMED	MMED
Ed Wood	Retired	DUID interest

Appendix E – Issues and Questions Considered by the Working Groups

Regulatory Framework

1. Identify a regulatory framework and classifications for other uses besides consumption (e.g., hemp).
2. Identify the extent of the Colorado Department of Revenue's enforcement and regulatory powers.
3. Consider whether tracking mechanisms are needed for recreational purchasers and users.
4. Do we need a temporary regulatory scheme between now and January 2014?
5. Consider establishing state operated recreational marijuana dispensaries.
6. Establish rules and regulations for the transportation of marijuana by growers, retail operations and purchasers.
7. Pre-emption should be considered here, more relevant than criminal context
8. The issue of financial banking is a component that should be address as part of the regulatory framework.
9. Licensing model impacts and how it impacts local authority
10. Identify framework for all types of consumption
11. Understand and assess the environmental impact of the industry
12. Set the ground rules for determining if there is a pre-emption issue
13. Will insurance companies determine if they will cover Medical marijuana in their prescription policies?
14. What are the impacts of Amendment 64 on means-tested programs such as Medicaid?
15. How does the state address gray market issues?
16. What is the funding model for regulation and enforcement?
17. What are the tracking mechanisms (number 3 above) and are they relevant in the framework?
18. How does the state regulate personal growth?
19. There needs to be a definition for "growing openly or publicly."
20. Sunset and policy review – ability to assess and adjust policy after a set time.
21. Who will regulate growers?
22. Can the state harmonize medical marijuana and A64 policies and rules? This would be a single regulatory framework.
23. Can the state develop emergency funding for program implementation?

Local Authority and Control

1. What type of licensing regime is appropriate – consider alcohol and medical marijuana models?
2. Can local authorities act independently in use and consumption regulations under a state framework?
3. Should there be different classes of state and local licensing depending on type of operation (consumption, retail, grow, etc.)?
4. What can local jurisdictions regulate?
5. What will be the local controls regarding advertising (locally)?
6. What are the local funding models?
7. What is the local authority over fines and licensing?
8. How do we ensure municipal codes are aligned / consistent with state policies and rules?
9. Is there consideration for longer timeline for the implementation of local rules and regulation?
10. Does local authority regulate quasi-criminal civil penalties?
11. Can state and local licensing / regulator model allow for each jurisdiction to oversee different aspects? Is there a way to eliminate duplication?

Tax, Funding, and Civil Law

1. Must the Colorado 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? Must a tax referred measure go to the voters in November 2013?
2. How do state regulatory agencies fund the regulatory and enforcement tools needed to oversee the regulation of recreational marijuana in light of lack of funding for MMED?
3. Address the industry's banking issues – consider creating a state financial institution for the industry?
4. Address employment issues such as rules related to drug-free work places, issues related to hiring and termination for legal use outside of the workplace, testing issues, federal rules and contract requirement and questions related to unemployment and workers' comp insurance.
5. How does Colorado address the 280E tax issue at the state level?
6. What are the effects on contract and family law?
7. What is the interaction between recreational users and family law?
8. What is the interaction between recreational users and means-tested programs?
9. What are the effects on student loans, aid, public benefits, and means-tested benefit programs?
10. Where do the financial resources go – how are they allocated?
11. How is excise tax defined?
 - a. How will it be collected?
 - b. How is it defined across municipalities?
 - c. Where in the supply chain will the excise tax be collected?

12. A clear employee/employer contract is necessary.

Consumer Safety and Social Issues

1. Define what it means to “sell, distribute, or transfer marijuana to minors.”
Does this include a prohibition of advertisements for marijuana to minors?
2. Recommending to social worker in marijuana around kids
3. DUID – what does it mean to drive under the influence?
4. How does this impact drug free schools?
5. Recommendations for social services and programs for parenting, marijuana use, 2nd and 3rd hand smoke exposure, giving children marijuana, leaving marijuana in reach of children, raising children in or near grow operations.
6. Responsible vendor program requirements
7. Packing requirements: labeling (to prevent child consumption)
8. Science based approach for setting regulation
9. Potency levels and issues
10. Growing standards – such as using pesticides
11. Organic labeling
12. Best practices for endorsing anti-use campaigns (children and minors)
13. What agency would regulate potency levels?
14. Should there be host laws (an example is if parents host a party)?
15. Rules / policies on pregnant women – including warning labels
16. Propose restrictions on sales to minors
17. Local governments should be allowed to social policy
18. Identification of testing standards. If product testing is required, how would this is done? Who would regulate testing?
19. Who should provide consumer advocacy to protect consumers to report bad business practices?
20. Stores and advertising near schools, substance abuse treatment centers, mental health clinics, and community colleges
21. How does Hashish fit into marijuana identification and labeling?
22. How can campaigns be provided that educate the public on do’s and don’ts regarding marijuana?
23. Can excise tax funding be used for education programs?

Criminal Law

1. Interim issues related to fact that possession and use is now lawful but no legal purchases and sales will occur until January 2014
2. DUID – per se vs. permissive inference concept endorsed by the CCJJ, “open container” rules and testing issues
3. Need to clarify when and where consumption of marijuana is “open” and “public” and therefore not permitted.
4. How do we define use of marijuana “in a manner that endangers others,” which is not permitted by Amendment 64.
5. Probable cause and reasonable suspicion issues related to permissive search and seizure under the Fourth Amendment, both in homes and automobiles.

6. How might legalization of recreational use/possession and home grow impact human services' determinations in child abuse and neglect cases?
7. Identify possible interstate outcomes with the possession, sale and transportation of marijuana.
8. Look at potential outcomes if/when the Department of Justice intervenes. Juvenile law and court jurisdiction – how will cases be managed and processed?
9. DUI and DUID
 - a. Standards for DUID with respect to employees
10. How will Colorado amend the Controlled Substance Act?
11. What defines probable cause?
12. How local businesses can protect themselves from number 7 above?
13. There needs to be a definition of legitimate criminal actor regarding sellers
14. What is the impact on minors?
15. The Taskforce should review the Gaming as a potential model.

Appendix F – Recommendation Template

Amendment 64 Implementation Task Force Working Group Recommendation Template

1. Working Group Name:
2. Individual Sponsor(s):
3. Describe the Recommendation:
4. What provision of Amendment 64 does the recommendation apply? If there is no provision within Amendment 64, please justify why this recommendation is necessary?
5. Which guiding principle does this recommendation support (underline all those that apply)?
 - a. Promote the health, safety, and well-being of Colorado's youth
 - b. Be responsive to consumer needs and issues
 - c. Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome
 - d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
 - e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
 - f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
 - g. Ensure that our streets, schools, and communities remain safe
 - h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
 - i. Take action that is faithful to the text of Amendment 64
6. Please summarize the rationale for the recommendation – why is it important?
7. What issue or issues does your recommendation resolve? (Please identify the issues)
8. Is there a dissent about this recommendation? If yes, please provide a summary of the dissenting opinion about this recommendation.
9. Which of the following does the recommendation impact (underline those that apply):
 - a. Statute (legislation)
 - b. Policy
 - c. Rules and Regulations
 - d. Other: *(please describe)*
10. Who owns implementation of the recommendation (underline those that apply):
 - a. Governor

- b. State Legislature
- c. Attorney General
- d. Colorado Department of Revenue
- e. Colorado Department of Public Safety
- f. Colorado Department of Public Health and Environment
- g. Local Government
- h. Other: *(please describe)*

11. Is the recommendation dependent on another decision or action: If yes – specifically what actions or decisions are required before this recommendation can be implemented?
12. Will the recommendation have a cost to implement? If yes, what is the reason for the cost? If yes, give an estimate of the cost.
13. Give an estimate of how long it would take to implement the recommendation.

Appendix G – List of Acronyms

Acronym	Full Name
ARIDE	Advanced Roadside Impaired Driving Enforcement Program
BRFS	Behavioral Risk Factor Surveys
CCJ	Colorado Commission on Criminal and Juvenile Justice
CDPHE	Colorado Department of Public Health and Environment
CDHS	Colorado Department of Human Services
CDOT	Colorado Department of Transportation
CRS	Colorado Revised Statutes
CSA	Controlled Substances Act
DEA	U.S. Drug Enforcement Administration
DEC	Drug Evaluation and Classification Program
DOLA	Colorado Department of Local Affairs
DOR	Colorado Department of Revenue
DPS	Colorado Department of Public Safety
EO	Executive order
FDA	U.S. Food and Drug Administration
FTE	Full-time equivalent
GA	Colorado General Assembly
GCHP	Good cultivation, handling, and practices
IACP	International Association of Chiefs of Police
IRC	Internal Revenue Code
MCF	Marijuana Cultivation Facility (adult-use marijuana)
MIP	Marijuana-infused Product (medical marijuana)
MMC	Medical Marijuana Center (medical marijuana)
MMED	Colorado Medical Marijuana Enforcement Division
MMJ	Medical marijuana
MPMF	Marijuana Product Manufacturing Facility (adult-use marijuana)
NHTSA	National Highway Traffic Safety Administration
OEM	Original Equipment Manufacturer
OPC	Optional Premises Cultivation (medical marijuana)
OSPB	Office of State Planning and Budget
POST	Peace Officer Standards and Training
PPPA	Poison Prevention Packaging Act
RMS	Retail Marijuana Store (adult-use marijuana)
SFST	Standardized Field Sobriety Testing
TAP	Technical Advisory Panel

Appendix H – Summary List of Recommendations

Category	ID	Title	Recommendation
Regulatory Structure	1.1	Vertical Integration	<p>The Task Force recommends that the General Assembly adopt the current 70/30 “vertical integration” model, as contained within the Medical Marijuana Code, for adult-use marijuana. Under this model, cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The Task Force recommends that the General Assembly enact the following additional requirements:</p> <ul style="list-style-type: none"> • Add a requirement that all licensees file a monthly report with the state licensing authority, which documents all sales/transfers of marijuana during the month outside of the licensee’s common ownership structure pursuant to the 30% allowance. This monthly report shall detail all such transactions including the amount of product transferred, the licensee the product was transferred to, and the calculation of the percentage of on-hand inventory transferred outside of the common ownership structure expressed as a percentage of the total on-hand inventory for the month. • Provide the ability for the state licensing authority to issue conditional licenses for a series of license applications submitted under a vertically integrated common ownership structure and to restrict the operation of any license contingent on local approval or other conditions that may be required. • Add statewide restrictions on the number of licenses a vertically integrated common ownership structure can hold statewide. The General Assembly could obtain guidance from other industries for which a license is required, such as gaming and liquor. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number. • Add statewide restrictions on the size of marijuana cultivation facilities. This restriction could be based on square footage of the facility, the number of plants cultivated, energy use, or any combination thereof. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number. <p>Provide for a grace period of one (1) year that would limit new applications for adult-use marijuana licenses to medical marijuana license holders in good standing, or applicants that had an application pending with the Medical Marijuana Enforcement Division prior to December 10, 2012.</p> <p>This proposed framework would be subject to a sunset review, to be conducted three (3) years after the enactment of the statute establishing the vertical integration model, at which time the General Assembly should consider de-coupling the manufacturing and retail licenses and proposing an “open integration” model.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			

Category	ID	Title	Recommendation
Regulatory Structure	1.2	State Run Model (Not Recommended)	The Task Force was encouraged to recommend that adult-use marijuana be sold only through state-owned and operated stores. The Task Force rejected this model because it is not consistent with the text or the spirit of Amendment 64.
Implementing Authorities <ul style="list-style-type: none"> • Governor • Colorado General Assembly 			
Regulatory Structure	1.3	State and Local Licensing	<p>The Task Force recommends that the General Assembly enact a statute that provides that a state license for an adult-use marijuana establishment shall be issued conditionally and shall not become operational unless and until local requirements have been met and local authorization to operate is granted, in those jurisdictions that have elected to enact local authorization requirements.</p> <p>This statute should recognize the authority of local governments to require local authorization requirements for any adult-use marijuana establishment as a legitimate type of “time, place, manner, and number” regulation at the local level, by which a local county or municipality may:</p> <ol style="list-style-type: none"> 1. Defer to state standards; 2. Choose to adopt their own standards; or 3. Ban adult-use marijuana establishments within their jurisdictions. <p>The statute should further provide that if a local government authority chooses not to enact specific local authorization requirements, a state-issued conditional license shall not become operational unless and until the local government authority affirmatively authorizes the activity for which the state license was issued.</p> <p>Local counties and municipalities should neither be required to adopt, nor be prohibited from adopting, additional local standards. Similarly, they should neither be required to conduct, nor be prohibited from conducting, hearings prior to allowing adult-use marijuana establishments to operate in their jurisdictions.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Regulatory Structure	1.4	Single Marijuana Enforcement Division	The Task Force recommends that the General Assembly convert the Medical Marijuana Enforcement Division into a new Marijuana Enforcement Division and enact legislation to provide this agency with statutory powers to regulate medical marijuana and adult-use marijuana as the principal state licensing and regulatory authority.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue 			

Category	ID	Title	Recommendation
Regulatory Financing	2.1	Financing Plan	<p>The Task Force recommends using the General Fund to support the spending authority for a new Marijuana Enforcement Division for five years, through FY 2017-18, after which this arrangement should be reviewed by the General Assembly. The new division should be responsible for the enforcement and regulation of both adult-use and medical marijuana. Revenue from all sales taxes, application and license fees, and other fees generated from adult-use marijuana and medical marijuana should be deposited in the General Fund.</p> <p>The fund balance from the Medical Marijuana Licensing Cash Fund should be used as a funding source for the Marijuana Enforcement Division in FY 2013-14.</p> <p>The Colorado Department of Revenue should provide to the Joint Budget Committee, Senate Finance Committee, House Finance Committee, and the Governor, no later than September 30 of each year beginning with September 30, 2014, a report detailing the amount of revenue generated from adult-use marijuana and medical marijuana including excise taxes, sales taxes, application and license fees, and other fees.</p> <p>The fund balance from the Medical Marijuana Licensing Cash Fund should also be used to fund a portion of the spending authority for the new Marijuana Enforcement Division, when created upon the Governor's signature of the enabling legislation, to finance costs incurred in FY 2012-13 for activities associated with Amendment 64.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Governor • Colorado General Assembly • Colorado Department of Revenue 			
Regulatory Financing	2.2	Application Fees	<p>The Task Force recommends that the General Assembly adopt legislation that directs the Colorado Department of Revenue to confer with local jurisdictions when considering whether to raise the \$5,000 cap on application fees to reflect the actual costs of reviewing applications for local approval. The Task Force further requests that the General Assembly clarify how application fees greater than the initial \$5,000 amount are to be shared between the state and local jurisdictions.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			

Category	ID	Title	Recommendation
Regulatory Financing	2.3	Licensing Fees	The Task Force recommends that the General Assembly give statutory authority to the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, the Colorado Department of Law, the Colorado Department of Agriculture, and any other agency charged with responsibilities under Amendment 64, to promulgate rules to set application, licensing, and renewal fees and any other fees or costs directly related to fully funding the implementation of Amendment 64. All revenue generated by these fees should be sent to the General Fund for a period of at least five (5) years.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Colorado Department of Law • Colorado Department of Agriculture 			
Regulatory Financing	2.4	Operating Fees	The Task Force recommends that the General Assembly adopt legislation that defines “operating fees,” as referred to in Section 5(f) of Amendment 64, to mean “fees that may be charged by a local government for costs including but not limited to inspection, administration and enforcement of businesses authorized pursuant to this section.”
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Local Governments 			
Taxation	3.1	Tax Clarification	The Task Force affirms that: <ol style="list-style-type: none"> 1. Amendment 64 (5)(d) is facially constitutional; 2. The language of Amendment 64(5)(d) did not comply with TABOR; 3. Voter approval of Amendment 64(5)(d) was not a vote for a tax increase that can be implemented and collected with the simple enactment of a tax statute by the General Assembly; and 4. Another vote of the majority of the people of the State of Colorado is required, through a TABOR-compliant referendum or citizen initiative, to impose specific taxes on adult-use marijuana.
Implementing Authorities <ul style="list-style-type: none"> • N/A 			

Category	ID	Title	Recommendation
Taxation	3.2	Sales Tax	The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with TABOR, asking the voters to amend Title 39 of the Colorado Revised Statutes to provide for a new Article entitled "Marijuana Products Sales Tax." The General Assembly should make use of expertise and research available at the Office of State Planning and Budgeting, the Colorado Department of Revenue, the Colorado Legislative Council, and possibly a private firm with specific expertise in economic and/or dynamic modeling, to develop a reasonable sales tax rate and a robust new sales tax structure for marijuana products, to submit to Colorado voters for their consideration in the November 2013 state-wide election and to be effective on January 1, 2014 if approved by the voters.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Office of State Planning and Budgeting • Colorado Department of Revenue • Colorado Legislative Council • Private consulting firm with expertise in economic and/or dynamic modeling 			
Taxation	3.3	Excise Tax and Escalator	<p>The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with Amendment 64 (5)(d) and TABOR that should be voted on during the November 2013 state-wide election and be effective on January 1, 2014 if passed. The referendum should give the voters the opportunity to approve a 15% excise tax, calculated at the transaction point that a marijuana cultivation facility transfers any product to a marijuana production facility or retail store. As per Amendment 64, the referendum should further direct the first \$40 million in revenue raised annually to the Building Excellent Schools Today (BEST) program for school capital construction. The excise tax should be measured by an average market rate to be determined by the Colorado Department of Revenue on a bi-annual basis.</p> <p>The Task Force further recommends that any referendum considered and introduced by the General Assembly in 2013 for an excise tax on marijuana should include a reasonable escalation clause that would take effect after 2017.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly 			

Category	ID	Title	Recommendation
Licensee Requirements	4.1	Residency Requirements for Owners and Employees	The Task Force recommends that the General Assembly adopt Colorado residency requirements for adult-use marijuana licensees similar to those contained in the Medical Marijuana Code.
Implementing Authorities			Colorado law should require that an owner of a licensed, adult-use marijuana establishment shall have been a resident of Colorado for at least two years prior to the date of the owner's application (Section 12-43.3-710(1)(m), C.R.S.). All officers, managers, and employees of a licensed, adult-use marijuana establishment shall be residents of Colorado upon the date of their license application (Section 12-43.3-310 (6), C.R.S).
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Licensee Requirements	4.2	Review of Suitability Requirements for Licensees	The Task Force recommends that the General Assembly adopt laws identifying persons prohibited as licensees conforming to Section 12-43.3-307, C.R.S., and removing those prohibitions that are not directly and demonstrably related to the operation of an adult-use marijuana establishment.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Licensee Requirements	4.3	Responsible Retailers Program and Statewide Advisory Group	The Task Force recommends that the Colorado Department of Revenue be authorized to establish a voluntary Responsible Marijuana Retailers program for owners of adult-use marijuana retail businesses and their employees, similar to the voluntary Liquor Responsible Vendor program currently in place for alcohol retailers.
Implementing Authorities			It further recommends that the Colorado Department of Revenue facilitate the formation of a statewide Advisory Group of adult-use marijuana retail owners and their employees. The advisory group should write bylaws, determine leadership, write a code of ethics, promote ongoing education, and support training efforts.
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	5.1	Complete Transition from Medical to Adult-Use Marijuana	<p>The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to surrender their Medical Marijuana Center (MMC) license or Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation License(s) (OPC) simultaneously upon receiving their Retail Marijuana Store (RMS) license or Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s). To effectuate this transition, the Marijuana Enforcement Division shall, beginning October 1, 2013, accept applications from state licensed medical marijuana businesses for (1) RMS licenses, (2) MPMF licenses, and (3) corresponding MCF license(s), provided that the applicant:</p> <ul style="list-style-type: none"> A. Is a medical marijuana licensee in good standing on the date of application for the RMS, MPMF, and corresponding MCF license(s) for each of the medical marijuana facilities that desire to surrender their MMC, MIP, and corresponding OPC licenses. B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs, MPMFs, or MCFs. <p>Upon application for an RMS license or an MPMF license and corresponding MCF license(s) and prior to the issuance of the RMS license or MPMF license and corresponding MCF license(s), the medical marijuana business shall continue operating under the privileges of its medical marijuana licenses. The Department of Revenue shall approve or deny the RMS, MPMF, and corresponding MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.</p> <p>Upon the approval and issuance of a state RMS or MPMF license and simultaneous surrender of the MMC or MIP license, all medical marijuana inventory located at the facility shall become the marijuana inventory of the RMS or MPMF. Upon the approval and issuance of the state MCF license and simultaneous surrender of the OPC license, all medical marijuana plants and inventory located at the facility shall become the marijuana plants and inventory of the RMS or MPMF that owns and controls the MCF.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	5.2	Partial Transition for Cultivation and Manufacturing	<p>The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their medical Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation (OPC) license(s), if any, and apply for a Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MIP and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MIP and corresponding OPCs, if any) for (1) MPMF licenses, and (2) corresponding MCF license(s), provided that the applicant:</p> <ol style="list-style-type: none"> Is a medical marijuana licensee in good standing on the date of application for the MPMF and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their MPMF and corresponding MCF licenses; Is operating in a jurisdiction that has not prohibited the licensing of MPMF or MCF; and The relevant local jurisdiction(s) permit(s) the operation of both an MIP and MPMF at the same location and the operation of an OPC and RMF at the same location in accordance with regulations relating to such operation. <p>Upon application for the MPMF license and corresponding MCF license(s) and prior to the issuance of the MPMF and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the MPMF and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.</p> <p>Upon the approval and issuance of a state MPMF, all medical marijuana plants located at the MCF facility that were identified as the plants for transfer shall become the marijuana plant inventory of the MPMF that owns and controls the MCF. Upon the approval and issuance of a state MPMF license, the company may produce and sell medical marijuana-infused products and marijuana products in accordance with applicable laws and regulations relating to the operation of such facilities.</p>
Implementing Authorities <ul style="list-style-type: none"> Colorado General Assembly Colorado Department of Revenue Local Governments 			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	5-3	Partial Transition for Cultivation and Retail	<p>The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their Medical Marijuana Center (MMC) license and corresponding Optional Premises Cultivation (OPC) license(s) and apply for a Retail Marijuana Store (RMS) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MMC and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MMCs and corresponding OPCs) for (1) RMS licenses, and (2) corresponding MCF license(s), provided that the applicant:</p> <ol style="list-style-type: none"> Is a medical marijuana licensee in good standing on the date of application for the RMS and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their RMS and corresponding MCF licenses; Is operating in a jurisdiction that has not prohibited the licensing of RMSs or MCFs; and The relevant local jurisdiction(s) permit(s) the operation of both an MMC and RMS at the same location and the operation of an OPC and RMF at the same location. <p>Upon application for the RMS license and corresponding MCF license(s) and prior to the issuance of the RMS and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF at the time of licensure. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the RMS and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.</p> <p>Upon the approval and issuance of a state RMS license, all medical marijuana plant inventory located at the MCF facility that was identified as the plants for transfer shall become the marijuana plant inventory of the RMS that owns and controls the MCF.</p>
Implementing Authorities			
<ul style="list-style-type: none"> Colorado General Assembly Colorado Department of Revenue Local Governments 			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	5.4	Separation of Inventories in Dual-Use Cultivation and Manufacturing	<p>The Task Force recommends that the General Assembly should enact legislation permitting the operation of an Optional Premises Cultivation Facility (OPC), licensed under the medical marijuana regulations, and a Marijuana Cultivation Facility (MCF), licensed pursuant to Amendment 64, on the same premises.</p> <p>The General Assembly also enact legislation permitting the operation of a Marijuana-infused Products Facility (MIP), licensed under the medical marijuana regulations, and a Marijuana Manufacturing Facility (MMF), licensed pursuant to Amendment 64, on the same premises.</p> <p>Either sort of dual use facility should be required to maintain a separation, either physical or virtual, between the two facilities being operated in the same location, to ensure that inventories are kept separate and distinct between the two license types.</p>
Implementing Authorities <ul style="list-style-type: none"> • Governor • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Transition to the Amendment 64 Regulatory Environment	5.5	Complete Separation in Dual-Use Medical and Retail	<p>The Task Force recommends that the General Assembly should enact legislation to define “licensed premises” and to establish regulations for the operation of a licensed Medical Marijuana Center (MMC) and a licensed Retail Marijuana Store (RMS) within one location. Such regulations should include appropriate restrictions such as separate and distinct ingress/egress, inventory control, point of sale, and recordkeeping, given that the products for medical and adult-use marijuana facilities cannot be co-mingled, as per Amendment 64.</p> <p>This legislation should also clarify the ability of a local government authority to prohibit multiple licensed premises involving a medical and adult-use marijuana license within one location, based on its authority to regulate time, place, manner, and number.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			

Category	ID	Title	Recommendation
Operational Requirements	6.1	Commercial Transport of Marijuana	The Task Force recommends that the General Assembly enact a requirement that the Colorado Department of Revenue develop rules and regulations that ensure the safe transport of marijuana and marijuana products among and between licensed businesses and labs.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Operational Requirements	6.2	Disposal of Marijuana, Products, and Waste	<p>The Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) develop a mechanism to track, measure, and properly destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste material. The mechanism should also cover destruction of marijuana lawfully subject to destruction at the conclusion of any law enforcement action. The cost of such destruction shall be covered by a reasonable fee, to be paid by the party requesting the service.</p> <p>The Task Force further recommends that CDPHE develop a mechanism that ensures that private citizens can legally dispose of marijuana, marijuana products, and marijuana waste material, including stalks, stems, roots, and leaves, without being subject to criminal prosecution or civil penalties.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			
Interaction with Consumer	7.1	Purchase of Marijuana by Residents and Visitors	<p>Amendment 64 authorizes persons in Colorado to possess up to one ounce of marijuana. The Task Force therefore recommends that the General Assembly clarify that all persons aged twenty-one years or older – resident or a visitor – shall be permitted to purchase marijuana for personal use.</p> <p>However, the Task Force recommends that the General Assembly consider imposing a reasonable per-transaction limit of less than one ounce of marijuana and marijuana-infused products for both Colorado residents and visitors.</p> <p>The Task Force further recommends that the General Assembly consider setting per-transaction purchase limits that are more restrictive for non-residents than for residents.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Governor • Colorado General Assembly • Colorado Department of Revenue 			

Category	ID	Title	Recommendation
Interaction with Consumer	7.2	Automated Dispensing Machines	<p>The Task Force recommends that the General Assembly enact no statute either prohibiting or requiring the use of marijuana secured automated dispensing systems within licensed retail marijuana stores. Specific statutory provisions permitting or prohibiting secured automated dispensing systems are not necessary, because the use of a secured automated dispensing system should be a business decision on the part of retail marijuana stores, provided that security measures are in place to verify the age and the residency of the consumer. Such security measures surrounding secured automated dispensing systems should be established in regulation.</p>
<p>Implementing Authorities</p> <ul style="list-style-type: none"> • Governor • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Consumer Safety	8.1	Signage, Marketing, and Advertising	<p>The Task Force recommends that the General Assembly enact legislation that allows both state and local governments to have a role in establishing rules and regulations to govern the signage, marketing, and advertising of marijuana and associated products. The legislation should require certain guidelines at the state level, and also allow for further limitations at the local level.</p> <p>Guidelines at the state level for packaging, signage, and marketing should include the following:</p> <ol style="list-style-type: none"> 1. Prohibit all mass-market campaigns that have a high likelihood of reaching minors (billboards, television, radio, direct mail, etc.). Advertising in adult-oriented newspapers and magazines would be allowed. 2. Allow branding on product packaging and consumption accessories. 3. Allow only marijuana products and marijuana-related accessories to be offered in retail marijuana stores. Prohibit the sale of traditional (non-marijuana) food, beverage, personal care items (lotions, lip balms) so there is no confusion that all products sold in an adult-use marijuana retail establishment do include marijuana. 4. Prohibit health or physical benefit claims in advertising, merchandising, and packaging. 5. Allow edible product labels to list ingredients, cannabinoid content (including but not limited to THC), and compatibility with dietary practices (such as gluten-free, contains nuts, vegan, etc.). 6. Allow opt-in marketing on the web and location-based devices (mobile) as long as there is an easy and permanent opt-out feature. No unsolicited pop-up advertising is allowed. Banner ads would only be allowed on adult-oriented sites like Westword (not Facebook or mass market sites). Marijuana retailers will be allowed to host their own websites. 7. Allow opt-in marketing programs such as email clubs (as long as opt-out feature is provided).
<p>Implementing Authorities</p> <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Local Governments 			

Category	ID	Title	Recommendation
Consumer Safety	8.2	Packaging Requirements	<p>The Task Force recommends that the General Assembly pass appropriate legislation: (1) indicating that all types of marijuana sold from regulated retail facilities should be regulated (including packaging and labeling) in a manner similar to the Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. §§ 1471-1476, and the corresponding regulations promulgated by the Consumer Product Safety Commission, and (2) granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment (CDPHE), to promulgate appropriate regulations of packaging of both medical and non-medical Marijuana-infused Products (collectively "MIP") AND any other medical marijuana and non-medical marijuana items on any licensed premises ("Other Marijuana Consumer Items").</p> <p>The Task Force further recommends that the rules promulgated by the Colorado Department of Revenue related to packaging should require that both MIPs and Other Marijuana Consumer Items leave a licensed Medical Marijuana Center (MMC) or Retail Marijuana Store (RMS) in packaging that meets the regulatory standards (the "Standards") as defined by CDPHE. This would be accomplished by allowing three separate and distinct processes to achieve compliance where all MIPs and Other Marijuana Consumer Items that leave an MMC or RMS in possession of a consumer are EITHER: (1) packaged by the manufacturer in packaging that meets the Standards, (2) packaged by the operator of the MMC or RMS prior to the point-of-sale in a package or container that meets the Standards, OR (3) placed in a "exit package / container" that meets the Standards at the point-of-sale prior to exiting the store, with the compliance expectation and burden placed upon the operator of an MMC or RMS.</p> <p>In addition to meeting the Standards, the operator of the MMC or RMS shall also be required to place all MIPs and Other Marijuana Consumer Items in a sealed, non-transparent or opaque package, container or other receptacle (including, but not limited to, a brown paper bag that is stapled shut) at the point-of-sale. This requirement shall not apply to MIPs and Other Marijuana Consumer Items that are already packaged by the manufacturer in a sealed, non-transparent, or opaque package, container, or other receptacle that meets the Standards.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			

Category	ID	Title	Recommendation
Consumer Safety	8.3	Labeling Requirements	The Task Force recommends that the General Assembly: (1) authorize the Colorado Department of Revenue to adopt comprehensive labeling requirements for saleable products containing cannabis; and (2) determine appropriate enforcement agencies for labeling and packaging violations.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			
Consumer Safety	8.4	THC Potency Labeling	The Task Force recommends that the General Assembly require that all adult-use marijuana products be labeled to indicate either: <ol style="list-style-type: none"> 1. Total THC content as % by weight; OR 2. Total mg dose for activated THC or TOTAL THC.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue 			
Consumer Safety	8.5	THC Potency Limits on Infused Products	<p>The Task Force recommends that the General Assembly pass appropriate legislation granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment, to promulgate rules relating to edible forms of marijuana products. Those rules should initially establish that a “serving” of marijuana in edible form (not including concentrates, topicals, or similar products) shall have no more than 10 mg of active THC. The product labels shall clearly provide the total number of servings in any single product package and identify the “serving size” for items that are packaged together.</p> <p>The General Assembly should also grant authority to the Colorado Department of Revenue to create labeling guidelines concerning the total content of THC per unit of weight, similar to the “proofing” of alcohol, namely milligrams of THC divided by total gram weight of the edible product.</p> <p>The General Assembly should also grant authority to the Colorado Department of Revenue to create regulations establishing appropriate limitations on the total THC content that can be contained in a single package containing multiple servings of an edible food-type marijuana product, with any such limitation to be established at no less than 200mg of total active THC per package. These limitations on the number of servings should only apply to non-medical food-type products that are infused with activated forms of THC that are also packaged in smaller serving sizes and therefore have a reasonable possibility of being over-consumed accidentally.</p> <p>These limitations should NOT apply to marijuana concentrates, tinctures, topicals, or products that are sold in pill, capsule or similar form, it being the intention of this recommendation to prevent accidental overconsumption of a single food-type product or products contained in one package. This recommendation specifically contemplates that larger multi-serving food-type products shall be permitted if labeled in accordance with applicable regulations.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			

Category	ID	Title	Recommendation
Consumer Safety	8.6	Regulation of Additives in Marijuana Products	<p>The Task Force recommends that the General Assembly pass appropriate legislation to direct the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or the appropriate regulatory body to prohibit or regulate additives to any marijuana product including, but not limited to, combustible, vaporized, and edible products, that in the view of the regulatory body are: 1) toxic, 2) designed to make the product more addictive, 3) designed to make the product more appealing to children, or 4) misleading to consumers.</p> <p>The following definition of an additive is derived from the Food and Drug Administration's (FDA) guidance for the tobacco industry and adapted for application to the marijuana industry: "Additive" means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of a marijuana product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include marijuana or a pesticide chemical residue in or on raw marijuana or a pesticide chemical.</p> <p>It should be noted that, for purposes of regulating additives in marijuana products, an additive does not include common baking and cooking items.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			
Consumer Safety	8.7	Prohibiting Adulterants – Nicotine	<p>The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of any marijuana products that contain nicotine.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			
Consumer Safety	8.8	Prohibiting Adulterants – Alcohol	<p>The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of products that combine marijuana and any alcohol that requires a liquor license to be sold.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue 			

Category	ID	Title	Recommendation
Good Cultivation	9.1	Cultivation and Handling Standards	To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			<ol style="list-style-type: none"> 1. An appropriate governmental agency, either the Colorado Department of Agriculture, the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or a combination of these agencies, shall be authorized by statute to create a list of substances banned for use in the cultivation or processing of marijuana based upon that in current Rule 14.100(E) for medical marijuana; 2. Labeling of all products shall include a list of all pesticides, herbicides, fungicides, and solvents that were used in its cultivation or processing. It should be noted that the regulation should not address whether the products used are appropriate or legal under applicable agricultural laws or regulations.
Good Cultivation	9.2	Good Cultivation and Handling Practices Advisory Group	To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Private Industry 			<ol style="list-style-type: none"> 1. The Colorado Department of Agriculture, the Department of Revenue, the Colorado Department of Public Health and Environment, and any other relevant agency should be authorized by statute to work with any private advisory group that may be established to develop Good Cultivation and Handling Practices (GCHP) for the marijuana industry. These agencies should strongly urge the industry to form such a group. 2. Participation by producers in such a GCHP advisory group shall be voluntary, but labeling may include certification of compliance with GCHP by an independent third party authorized under the provisions of the GCHP advisory group.

Category	ID	Title	Recommendation
Good Cultivation	9.3	Good Laboratory Practices Advisory Group	To help ensure the safety and consistency of marijuana products sold to Colorado consumers, the Task Force recommends that the adult-use marijuana industry be urged to establish a private advisory group by January 1, 2014, to develop Good Laboratory Practices ("GLP") for marijuana testing laboratories, and that the Colorado Department of Public Health and Environment, the Colorado Department of Agriculture, the Department of Revenue, and any other relevant agency be authorized by statute to work with such group in the development of GLP.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment 			
Marijuana Education and Studies	10.1	Education Oversight Committee	To help ensure the adequate education of consumers, retailers, and the public about marijuana and Amendment 64, the Task Force recommends that an appropriate governmental agency, such as the Colorado Department of Public Health and Environment (CDPHE), the Colorado Department of Human Services (CDHS), the Colorado Department of Public Safety (DPS), local law enforcement agencies, and local governments, shall be authorized by the General Assembly in statute to establish an Educational Oversight Committee composed of those familiar with relevant issues. The Committee will develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and additional issues as they arise.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Health and Environment • Colorado Department of Public Safety • Local Law Enforcement Agencies, Local Government 			

Category	ID	Title	Recommendation
Marijuana Education and Studies	10.2	Marijuana Education for Professionals	The Task Force recommends that the appropriate governing body or group encourage that marijuana education (on impairment, paraphernalia, risks, home cultivation, etc.) be made available for continuing education credit in the following professions in Colorado:
Implementing Authorities			
<ul style="list-style-type: none"> Colorado General Assembly Colorado Department of Public Health and Environment 			<ul style="list-style-type: none"> Medical (doctors/nurses/pharmacists): Colorado Medical Society, Colorado Pharmacists Society First Responders (firefighters & EMTs): Colorado State Firefighters Association, Emergency Medical Services Association of Colorado Legal: Colorado Bar Association Law Enforcement: police academies, state patrol, Peace Officer Standards and Training (POST), Colorado Association of School Resource Officers K-12 Educators/Counselors: Colorado Education Association and Colorado Department of Education Microbiologists: American Society for Microbiologists Prevention Specialists: Co Office of Behavioral Health Coroners: Colorado Coroners Association University Staff/Professors: Colorado Commission on Higher Education, BACCHUS Network Counselors, Social Workers, Psychologists: Colorado Health Partnerships, Colorado Counseling Association, Mental Health America and Marijuana Anonymous; Certified Addictions Counselors; Colorado Society of National Association of Social Workers Child Welfare Workers: Co Department of Human Services Veterinarians: Colorado Veterinary Medical Association, Colorado Association of Certified Veterinary Technicians Home Growers: Colorado Independent Marijuana Growers Association, Cannabis Therapy Institute, Cannabis Trade Council Insurers: Colorado Group Insurance Association, Colorado Insurance Guaranty Association, and Professional Independent Insurance Agents of Colorado Bankers: Department of Regulatory Agencies Division of Banking, Banking and Securities Commission Tour Companies/Tour Providers: Colorado Tourism, Co Outfitters Association, Co River Outfitters Association Transportation Providers (bus services and airlines providing inter-state travel and beyond): Each private company and Colorado Department of Transportation Bar Owners/ Liquor Store Owners: Colorado Liquor Enforcement Division and trainers such as Training for Intervention Procedures (TIPS) (revisions coming due to introduction of marijuana) Others as applicable

Category	ID	Title	Recommendation
Marijuana Education and Studies	10.3	Marijuana Education for the Public	The Task Force recommends that the General Assembly authorize funding for the development of educational materials for: <ol style="list-style-type: none"> The citizens of Colorado on smart use of marijuana <ul style="list-style-type: none"> Establish an unbiased, fact-based web site/informational center regarding all aspects of marijuana, including: the various types of marijuana products, their differences, effects, concentrations, spectrum of methodologies to ingest marijuana, the pros/cons of using marijuana, health & safety concerns, impairment issues that may affect driving, parenting, etc. The General Assembly should determine who should operate the site and manage content Brochures should be made available at the time of purchase Marijuana use prevention for those under age 21 <ul style="list-style-type: none"> Target markets include parents, students, and educators Materials can include websites, brochures, billboards, public service announcements, etc. <p>The Task force further recommends that the state leverage available resources by integrating these educational efforts with existing educational efforts to prevent the abuse of alcohol, tobacco, prescription drugs, and illegal drugs.</p> <p>These efforts will require oversight by an appropriate state agency or department, such as the Colorado Department of Human Services (CDHS) and/or the Colorado Department of Public Health and Environment (CDPHE).</p>
Implementing Authorities			
<ul style="list-style-type: none"> Colorado General Assembly Colorado Department of Human Services Colorado Department of Public Health and Environment 			

Category	ID	Title	Recommendation
Marijuana Education and Studies	10.4	Studies of the Health Effects of Marijuana	<p>To protect public health and safety, the Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) be given statutory responsibility for monitoring the emerging science relevant to the study of health effects associated with marijuana use. This review function would be conducted periodically by a panel of health care professionals with an understanding of cannabinoid physiology, appointed by the State Board of Health. The panel would be required to report to the Board of Health, the Department of Revenue, and the General Assembly every two years.</p> <p>The panel would be charged with establishing criteria for studies to be reviewed, reviewing studies and other data, and making recommendations, as appropriate, for policies intended to protect consumers of marijuana products and the general public. CDPHE would be authorized to collect Colorado-specific data that reports adverse health events involving marijuana use. Sources of data may include, but not be limited to, the All Payer Claims Database, hospital discharge data, and Behavioral Risk Factor Surveys (BRFS). The results of the Panel's work would be made available on the CDPHE website.</p> <p>An additional 2-3 staff members are projected to be needed at CDPHE to coordinate this effort, support the panel, gather, review, and analyze data, and provide administrative support.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Public Health and Environment • Independent experts 			

Category	ID	Title	Recommendation
Marijuana Education and Studies	10.5	Study of Law Enforcement Activity	<p>The Task Force recommends that the General Assembly grant authority to the Colorado Department of Public Safety or an authorized independent entity to gather data and undertake a scientific study of law enforcement's activity and costs related to Amendment 64 over a two-year period, beginning in January 2013. <i>Topics of study should include:</i></p> <ul style="list-style-type: none"> • Marijuana-related contacts by law enforcement, broken down by race and ethnicity • Drug use, broken down into age categories and specific drugs, to include marijuana • School data, to include suspensions, expulsions, and police referrals related to drug use and sales, broken down by specific drug categories • Marijuana arrest data, including amounts of marijuana with each arrest and broken down by race and ethnicity • Traffic accidents, to include fatalities and serious injuries related to being under the influence of marijuana • Diversion of marijuana to persons under the age of 21 • Diversion of marijuana out of Colorado • Crime occurring in and around marijuana establishments • Parcel services, to include US Postal Service, UPS and FedEx • Data related to drug-endangered children, specifically for marijuana • Treatment information • Probation data • Impact on tourism • Emergency room data, including information from Colorado Poison Control Center • Outdoor marijuana cultivation facilities • Money laundering <p>The goal of the study is to obtain objective information on criminal activity related to the passage of Amendment 64. As such, it should be based on facts and evidence, and be conducted according to rigorous standards of scientific inquiry. The study should be coordinated with the work of the CDPHE study panel concurrently recommended by this Task Force (see recommendation 10.4) to review the health effects associated with marijuana use, to avoid any potential overlap and duplication of efforts.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Public Safety • Colorado Department of Public Health and Environment 			

Category	ID	Title	Recommendation
Child Care Facilities	11.1	Child Care Licensing Consequences	<p>The Task Force recommends that the General Assembly establish consequences for any child care facility or individual licensee for using or being under the influence of marijuana, or whose employees or affiliates on the premises are using or under the influence of marijuana, at a child care facility during operating hours.</p> <p>The Task Force further recommends that Section 26-6-108(c), C.R.S. - Denial of license – suspension, be amended to include statutory language providing for the use of, or being under the influence of, marijuana during operating hours as subject to licensing consequences, as for alcohol, if it is consumed at the facility or if any affiliate, individual employed by, person who resides at the facility, or the licensee themselves are under the influence of marijuana during the operating hours of the facility.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Safety • Colorado Department of Public Health and Environment 			
Child Care Facilities	11.2	Excluding Cultivation in a Child Care Family Home	<p>The Task Force recommends that Section 26-6-102(4), C.R.S. be amended to include statutory language explicitly excluding the practice of home marijuana cultivation in a “Family Child Care Home,” in light of the passage of Amendment 64.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Health and Environment 			
Criminal Law	12.1	Support for HB 13-1114 Regarding Penalties for DUID	<p>The Task Force recommends that the General Assembly enact House Bill 13-1114, Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs.</p>
Implementing Authorities <ul style="list-style-type: none"> • Governor • Colorado General Assembly • Colorado Department of Public Safety • Colorado Department of Public Health and Environment • Local Governments 			

Category	ID	Title	Recommendation
Criminal Law	12.2	ARIDE Training for Colorado Law Enforcement Officers	<p>The Task Force recommends that the General Assembly require Advanced Roadside Impaired Driving Enforcement (ARIDE) training as a mandatory training element in future Colorado Peace Officer Standards and Training (POST) certification, and encourage local law enforcement agencies to have their peace officers trained in ARIDE, to increase and enhance the ability of law enforcement officers to detect impaired driving.</p> <p>ARIDE is a program developed by the National Highway Traffic Safety Administration (NHTSA) with input from the International Association of Chiefs of Police (IACP) Technical Advisory Panel (TAP). It was created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation and Classification (DEC) Program.</p>
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado Attorney General • Colorado Department of Public Safety • Local Governments • Local Law Enforcement Agencies 			

Category	ID	Title	Recommendation
Criminal Law	12.3	Revisions to the Criminal Code	<p>The Task Force recommends the following revisions to Title 18, C.R.S. (The Criminal Code) as follows:</p> <ol style="list-style-type: none"> 1. Add to Section 18-18-102: (35.5) "Transfer" means to deliver or convey. 2. Add to Section 18-18-406 (1.1): Any adult under 21 years of age who possesses one ounce of marijuana or less shall upon the first offense be subject to a civil charge of not more than \$100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may be referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions. 3. Modify Section 18-18-406 (5) to read: Transferring more than one ounce but not more than two ounces of marijuana from one person twenty-one years of age or over to another person twenty-one years of age or over for no consideration is a class 2 petty offense and shall not be deemed dispensing or sale thereof. Revise Section 18-18-425 as follows: This statute does not recite a substantive chargeable offense, but rather clarifies legislative intent behind enactment of statutes criminalizing possession, manufacture, sale, delivery, and advertisement drug paraphernalia. The General Assembly should revise this legislative declaration in light of Article 18, Section 16 of the Colorado Constitution, given that a person 21 or over now has a constitutional right to possess accessories for the purpose of using marijuana. 4. Modify Section 18-18-426 (opening statement) to read: Except as authorized in Article 18, Sections 14 and 16 of the Colorado Constitution, as used in Sections 18-18-425 to 18-18-430, unless the context otherwise requires: 5. Add to Section 18-18-428(3): Any person under 21 years of age who possesses drug paraphernalia used, designed, or intended for use in consuming marijuana shall upon the first offense be subject to a civil charge of not more than \$100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions. <p>"First offense" is defined in this context as any marijuana offense under Section 18-18-406, C.R.S. that involves any official action, which shall include: conviction, adjudication, non-judicial diversion, deferred prosecution, deferred sentence or civil citation. Said first offense must occur within 3 years of any subsequent offense.</p>
Implementing Authorities <ul style="list-style-type: none"> • Governor • Colorado General Assembly 			

Category	ID	Title	Recommendation
Criminal Law	12.4	Consequences for Transfer of Marijuana to 18- to 20-Year-Olds	The Task Force recommends that the General Assembly amend Section 18-18-406(7), C.R.S. to establish consequences for the transfer of marijuana by any person 21 years of age or over to any person 18 to 20 years of age.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly 			
Criminal Law	12.5	Consequences for Juvenile Possession	The Task Force recommends that the General Assembly establish consequences for persons under age eighteen for possession of less than one ounce of marijuana first offense.
Implementing Authorities			
<ul style="list-style-type: none"> • Governor • Colorado General Assembly 			
			<p>Amend Section 18-13-122, C.R.S. - Minor in Possession of Alcohol to add Section 18-13-122.1, C.R.S. - Minor in Possession of Marijuana.</p> <p>Amend Section 18-18-406(1), C.R.S - Possession of less than two ounces of marijuana to add a new statute – Possession of less than one ounce of marijuana first offense by a juvenile. Establish in the statutory language a definition of first offense (see recommendation 12.3 for suggested language).</p> <p>Amend these two statutes to provide for education and treatment for juveniles in possession of less than one ounce of marijuana first offense without the consequences of a conviction in municipal court because of a petty offense, as per current law, or an adjudication under juvenile law, which could eventually result in detention or commitment to the Division of Youth Corrections.</p> <p>Limit the consequences of possession of less than one ounce of marijuana first offense by a juvenile to education and treatment as ordered by the juvenile court, without the collateral consequences of a juvenile adjudication, by providing a civil summons to juvenile court. The consequences of the civil violation should include but not be limited to education and/or treatment as determined by the juvenile court.</p>

Category	ID	Title	Recommendation
Criminal Law	12.6	Personal Transport of Marijuana	<p>The Task Force recommends that the General Assembly amend existing motor vehicle statutes to reflect the care required of consumers transporting marijuana in motor vehicles. The legislature should consider introducing a bill based on Section 42-4-1305, C.R.S (Open alcoholic beverage container – motor vehicle – prohibited) that would prohibit marijuana in motor vehicles in a manner similar to how alcoholic beverage containers that have been previously opened and resealed by a licensed alcohol beverage retailer are prohibited.</p> <p>The legislature should consider, but not be limited to, the following issues: accessibility to occupants; differences in containment and sealing of commercial versus home grown marijuana; and differences in containment and sealing of marijuana and marijuana products versus alcoholic beverages.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Revenue • Local Governments 			
Local Civil Offenses	13.1	Amendments to the Colorado Clean Indoor Air Act	<p>The Task Force recommends that the General Assembly enact legislation revising the Colorado Clean Indoor Air Act, Section 25-14-201-209, C.R.S. to incorporate marijuana smoke. The following changes are proposed:</p> <p>Section 25-14-202: Change “tobacco smoke” to “tobacco and marijuana smoke”; change “tobacco products” to “tobacco products and combustible marijuana”.</p> <p>Section 25-14-203: Insert definition “(11.5) “Marijuana” as defined in the Colorado Constitution, Article XVIII, Section 16(2)(f).”</p> <p>Section 25-14-203(16): Delete the words “medical” and “as defined by section 12-43.3-104(7), C.R.S.” from the definition of “Smoking”.</p> <p>Section 25-14-204(1): Change “tobacco smoke” to “tobacco and marijuana smoke”.</p> <p>The Task Force further recommends that there should be no exemption that would allow the smoking of marijuana in “cigar bars,” smoking clubs, or similar establishments where tobacco smoking is allowed.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly 			

Category	ID	Title	Recommendation
Local Civil Offenses	13.2	Clarification of an Offense	The Task Force recommends that the General Assembly adopt legislation to define "offense" under Amendment 64 as a criminal violation and not a civil violation. Such definitional clarification will allow local jurisdictions to enforce marijuana laws and regulations through civil actions such as injunctive relief and civil fines.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Local Governments 			
Home Cultivation and Processing of Marijuana	14.1	Enclosed, Locked Space and Not Growing Openly or Publicly	<p>The Task Force recommends that the General Assembly adopt statutes defining the following terms as they relate to the cultivation of adult-use marijuana in Amendment 64, Section (3)(b):</p> <p>"ENCLOSED, LOCKED SPACE":</p> <p>ENCLOSED SPACE means: A permanent or semi-permanent area, covered from above and surrounded on all sides. See Section 42-4-201, C.R.S. The temporary opening of windows or doors or the temporary removal of wall or ceiling panels, does not convert the area into an unenclosed space. See Section 25-14-203, C.R.S. Some examples include, but are not limited to the following: a shed, a greenhouse, a trailer, a residence, a building, a room inside a building. An indoor area can include any enclosed area or portion thereof.</p> <p>LOCKED SPACE means: The area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access, such as a key or combination lock.</p> <p>Reasonable time shall be allowed for ingress and egress from the enclosed, locked space.</p> <p>If the cultivation area is located in a residence and a person under twenty-one years of age lives at that residence, the cultivation area within the residence must itself be enclosed and locked. If no person under twenty-one years of age lives at a residence where cultivation occurs, the external locks of the residence are sufficient to meet the definition of "enclosed, locked space". If someone under twenty-one years of age temporarily enters such a residence, the owner must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence.</p> <p>"GROWING IS NOT CONDUCTED OPENLY OR PUBLICLY":</p> <p>OPENLY means: Not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion.</p> <p>PUBLICLY means: The area is open to general access without restriction.</p>
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly 			

Category	ID	Title	Recommendation
Home Cultivation and Processing of Marijuana	14.2	Prohibiting the Use of Flammable Gases	The Task Force recommends that the Attorney General, the General Assembly, and local governments review current statutes and ordinances relating to the residential use of compressed, flammable gases including, but not limited to, butane, propane, and hexane. State and/or local governments should clearly establish in applicable law and/or ordinances that the use of these compressed, flammable gasses as solvents in the extraction of THC and other cannabinoids in residential settings is unlawful.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly • Attorney General • Local Governments 			
Requests for Federal Assistance	15.1	Banking Solutions for Legal Marijuana Businesses	The Task Force recommends that the General Assembly consider all lawful alternatives to assist marijuana businesses to access the banking system, which includes banks, credit unions, and other financial institutions.
Implementing Authorities <ul style="list-style-type: none"> • Colorado General Assembly 			One such alternative would be to consider a joint resolution calling on the federal government to take action by excepting marijuana businesses in states with legalized marijuana industries from relevant federal regulations. Another alternative would be to authorize and fund a study by an independent policy institute with experience in banking laws and regulations, to develop a proposal for a financial institution not subject to federal regulation. An independent policy institute could also be authorized to survey other states with legal marijuana industries for alternative models that would avoid to the greatest extent possible any federal regulatory or criminal nexus.

Category	ID	Title	Recommendation
Requests for Federal Assistance	15.2	Business Deductions for Legal Marijuana Businesses	<p>The Task Force recommends the following actions geared at securing the right of legal marijuana businesses in Colorado to claim business expenses on their federal and state tax returns:</p> <ol style="list-style-type: none"> 1. The General Assembly should allow legal marijuana businesses to claim state income tax deductions for expenditures that would be eligible to be claimed as federal income tax deductions, but are disallowed by the federal Internal Revenue Code (IRC), Section 280E – Expenditures in connection to the illegal sale of drugs - because of the status of marijuana as a controlled substance under the Controlled Substances Act (CSA). 2. The General Assembly should pass a resolution requesting that the federal government reform IRC, Section 280E, not to be applicable to legal marijuana businesses in Colorado. 3. The Governor of Colorado should contact and attempt to create a bi-partisan coalition of state governors to advocate for reform of IRC, Section 280E. 4. The Governor should contact and attempt to create a bi-partisan coalition of the Colorado congressional delegation to advocate for reform of IRC, Section 280E.
Implementing Authorities <ul style="list-style-type: none"> • Governor • Colorado General Assembly • Coalition of State Governors • Coalition of the Colorado Congressional Delegation 			
General Recommendations	16.1	Maintaining the Status Quo for Employers and Employees	<p>The Task Force affirms that the plain language of Amendment 64, Section 6(a) makes it clear that the intent of the voters was to maintain the status quo for employers and employees, and that employers may maintain, create new, or modify existing policies in response to the passage of the measure.</p> <p>The Task Force recommends that employers should be encouraged to review current drug-free workplace policies, including but not limited to hiring, sanctioning, termination, and drug testing, in response to passage of the measure.</p>
Implementing Authorities <ul style="list-style-type: none"> • Governor • Employers • Local Governments 			

Category	ID	Title	Recommendation
General Recommendations	16.2	Maintaining the Status Quo for Property Owners	The plain language of Amendment 64 Section 6(d) makes it clear that the intent of the voters was to maintain the status quo for Colorado property owners. The Task Force therefore recommends that the General Assembly adopt no new statutes or regulations modifying existing Colorado property law related to adult-use marijuana. The Task Force also recommends that violations of a real property owner's policies regarding possession or consumption of marijuana on said property be treated similarly to the violation for possession or consumption of alcohol on the premises, including any civil or criminal consequences.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly 			
General Recommendations	16.3	Enforcement of Contracts	The Task Force recommends that the General Assembly clarify in statute that it is the public policy of Colorado that contracts shall not be void or voidable on the basis that the subject matter of the contract pertains to or the parties are, or are associated with, individuals or businesses that are operating pursuant to Colorado's marijuana laws.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly 			
General Recommendations	16.4	Legislation on Industrial Hemp	The Task Force recommends that the General Assembly adopt legislation during the 2013 session authorizing the cultivation, processing, and sale of industrial hemp. Such legislation should delegate to the Commissioner of Agriculture authority to establish regulatory requirements for registration and inspection for those wanting to grow or process industrial hemp. The Commissioner should work with stakeholders to address relevant issues, and should promulgate a final rule no later than December 31, 2013.
Implementing Authorities			
<ul style="list-style-type: none"> • Colorado General Assembly • Colorado Department of Agriculture 			
Follow-Up to the Work of this Task Force	17.1	Formation of a Follow-Up Task Force in Three Years	The Task Force recommends that the Governor form a new task force in December 2015, three years from the declaration of the vote on Amendment 64 and from the formation of the present Task Force. The new task force should review these recommendations in light of the actual implementation of Amendment 64 and make recommendations for improving the regulation of adult-use marijuana in Colorado, including providing advice in advance the sunset review to be conducted in 2016 for the Vertical Integration model proposed in recommendation 1.1.
Implementing Authorities			
<ul style="list-style-type: none"> • Governor 			