



To: CML Membership
From: Rachel Allen, CML Staff Attorney
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Date: November 7, 2012
Subject: Amendment 64 - Use and Regulation of Marijuana Passes

Colorado voters approve marijuana for consumers at least 21 years old

On November 6, 2012, Colorado voters passed Amendment 64 to Use and Regulation of Marijuana. Amendment 64 provides for persons 21-years-of-age or older to legally consume or possess 1 ounce or less of marijuana without a doctor's recommendation and tax marijuana similar to alcohol. Amendment 64 also creates the framework for a regulatory scheme for retail sales of marijuana.

This memo addresses issues of immediate consideration for Colorado's cities and towns. CML will continue to monitor and report on emerging issues and developments, such as workplace issues, rulemaking, and implementation. Please consult with your municipal attorney to address retail marijuana operations in your municipality.

Marijuana retail sales and home grows

Unless specifically prohibited (see below), special retail stores will be allowed to sell marijuana in a system of licensed establishments regulated the by state and local governments.

Amendment 64 also allows for people to grow up to six marijuana plants in their home or other enclosed, locked space. However, it is not clear at this time how this constitutional protection will interact with local land use powers, particularly any ordinances pertaining to home grows.

Amendment 64 does not change existing medical marijuana laws

Retail operations may be licensed as a medical marijuana center or retail marijuana establishment, not both. Medical marijuana centers choosing to convert to a retail marijuana operation will pay a reduced fee for the marijuana application, but otherwise, Amendment 64 has no impact on the existing medical marijuana regulatory scheme. Local governments may choose to prohibit or license retail marijuana or medical marijuana operations. How your municipality has addressed medical marijuana does not dictate how your municipality will or should address retail marijuana establishments.

Timeline for local prohibition or regulation

Amendment 64 tasks the Colorado Department of Revenue with issuing regulations for retail marijuana stores by July 1, 2013. Municipalities should opt whether to adopt 1) a prohibition or 2) local restrictions on the time, place, manner and number of retail marijuana operations in their jurisdiction before October 1, 2013.

Local governments may prohibit by council action at any time, but the first opportunity to refer a retail marijuana prohibition question to the ballot is the general election on November 4, 2014. Some municipalities may choose to issue a prohibition, moratorium, or regulations until the voters have the opportunity to be heard at the next general election.

Local licenses may be issued October 1, 2013

In the event that the Colorado Department of Revenue does not issue regulations by July 1, 2013, then cities and towns may choose to issue local licenses starting on October 1, 2013, but there is no requirement for local governments to issue retail marijuana licenses in the absence of a state licensing program.

CML will keep you informed

The League will monitor the Colorado Department of Revenue progress and keep municipalities abreast of developments. This is critical because if the Department of Revenue doesn't issue licenses by July 1, 2013, then municipalities that opt to issue local license will have 90 days to enact a regulation, licensing, and enforcement program.

CML will also keep our members informed on employee-employer issues, as it relates to the use and possession of marijuana in the workplace.

Finally, CML will investigate and report on the complex federal issues that are likely to arise as Amendment 64 is implemented in Colorado. Marijuana continues to be illegal under federal law, and it is possible that a lawsuit challenging the legality of Amendment 64 is forthcoming. That would set up a dynamic discussion of the 10th Amendment and the extent of state sovereignty on this issue.

For additional information, please go to www.cml.org, call (303) 831-6411 / (866) 578-0936 toll free or contact:

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