



Task Force Report on the Implementation of Amendment 64

Regulation of Marijuana in Colorado

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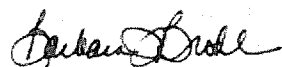
We hereby deliver to you the final report of the Amendment 64 Implementation Task Force. The Task Force, created by the Governor on December 10, 2012 in Executive Order B2012-004, was asked to identify the legal, policy and procedural issues that need to be resolved, and to offer suggestions and proposals 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

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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.