

City Council Meeting: March 7, 2017  
Agenda Item: 4.A

To: Mayor and City Council  
From: David Martin, Director, Administration  
Subject: Study Session on Cannabis Regulations

### **Recommended Action**

Staff recommends that the City Council:

1. Direct staff to draft an ordinance to create a regulatory permit and selection process for medical cannabis dispensaries;
2. Direct staff to draft an ordinance prohibiting commercial cannabis related business activities; and
3. Direct staff to draft an ordinance to amend the Santa Monica Municipal Code to address changes in State law related to cannabis regulations.

### **Executive Summary**

In 2015, two medical cannabis dispensaries were authorized by the Zoning Ordinance (ZO). Due to the rapid changes in State law governing cannabis regulations, the City has not accepted applications to operate a medical cannabis dispensary. Staff recommends that Council direct staff to establish a regulatory permit and selection process with objective criteria for the two dispensaries envisioned by the ZO, in addition to the required Conditional Use Permit (CUP).

Due to current Planning and Community Development priorities and the uncertainties around how recreational marijuana legalization will play out, staff also recommends that Council direct staff to draft an ordinance prohibiting commercial cannabis related business activities and to update the Zoning Ordinance to address changes in State law related to cannabis regulations. The Council could revisit this in the future based on experience in other communities.

### **Background**

In 1996 California voters passed the California Compassionate Use Act (CUA), which appeared on the ballot as Proposition 215, creating a limited immunity for individuals who used cannabis for medical purposes to use in court if they get arrested and calling on the legislature to regulate distribution. The legislature cannot change this immunity.

In 2003 the State adopted Senate Bill 420, also known as the Medical Marijuana Program Act (MMPA), broadened the CUA to certain transportation related and other

offences, provided limited immunity for groups of patients who form “collectives” or “cooperatives”, and created a voluntary state ID card program to identify qualified patients who register with the program.

Of course, despite the limited California State legalization, marijuana remains a Schedule I Controlled Substance under Federal law. This means that private possession, use, or distribution of marijuana remains, and continues to remain, illegal for all purposes, including medical purposes. In 2013 the United States Attorney General’s Office issued what is referred to as the “Cole Memo<sup>1</sup>” that it will not interfere with state laws that include “robustly enforced” “strict regulations”

On June 23, 2015, City Council adopted an update to the Comprehensive Zoning Ordinance (ZO) which authorized two medical cannabis dispensaries no larger than 2,500 square feet with the issuance of a Conditional Use Permit (CUP). Distancing requirements from certain sensitive uses such as schools and day care facilities were established among other regulations. The two dispensaries were also limited to the following Mixed-Use and Commercial District locations:

- Mixed-Use Boulevard District along Wilshire Boulevard between Lincoln Boulevard and Centinela Avenue;
- General Commercial District along Santa Monica Boulevard between Lincoln Boulevard and 20th Street; and
- Mixed-Use Boulevard Low District along Santa Monica Boulevard between 23rd Street and Centinela Avenue.

The ZO defines “Medical Marijuana Dispensary” as:

*Any facility, building, structure, or fixed location where one or more qualified patients and/or persons with identification cards and/or primary caregivers cultivate, distribute, sell, dispense, transmit, process, exchange, give away, or otherwise make available marijuana for medical purposes. The terms “primary caregiver”, “qualified patient”, and “person*

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<sup>1</sup> The status of the Cole Memo is unclear as the current administration could choose to revoke the memo at any time.

*with an identification card” shall be as defined in California Health and Safety Code Section 11362.5 et seq.*

### Medical Cannabis Regulation and Safety Act

In October 2015, the California State Legislature passed and the Governor signed the Medical Cannabis Regulation and Safety Act<sup>2</sup> (MCRSA) which was comprised of three bills (Assembly Bills 243 and 266, and Senate Bill 643). This Act created for the first time a comprehensive regulatory framework for medical cannabis, including cultivation, distribution, manufacturing, testing, and sale. The regulation of this full supply chain of activities for cannabis is commonly referred to as “seed to sale” regulations by the industry. MCRSA is more far reaching than the CUA and MMPA, which merely provided state law immunity to qualified patients and primary caregivers, but did not regulate the cannabis market itself.

MCRSA mandates that state agencies set up extensive rules and systems to regulate and control the cannabis market. MCRSA establishes the Bureau of Medical Cannabis Control (BMCC) under the Department of Consumer Affairs, which is responsible for administering and enforcing MCRSA, including the writing of rules that will govern the medical cannabis marketplace. MCRSA grants licensing authority to the Department of Food and Agriculture and the Department of Public Health. It ends the current collective/cooperative model by sunseting SB 420 one year after the Bureau of Medical Cannabis Control posts a notice on its website that licenses are being issued. After that date, all medical cannabis collectives will have to be licensed.

The League of California Cities’ *Medical Marijuana – Revisited After New State Laws*, which was delivered on May 4, 2016 at the League’s City Attorney Spring Conference is provided as Attachment A.

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<sup>2</sup> The Medical Cannabis Regulation and Safety Act (MCRSA) was originally titled Medical Marijuana Regulation and Safety Act. On June 27, 2016, Senate Bill 837 was adopted to amend certain areas of the MCRSA, including changing the name of the Medical Marijuana Regulation and Safety Act, to the Medical Cannabis Regulation and Safety Act. All references to medical marijuana or marijuana throughout the bill are also changed to medical cannabis or cannabis. These changes reflect the legislature’s recognition of the industry’s preference for the term “cannabis” over “marijuana” or “marihuana”

## Adult Use of Marijuana Act (AUMA) / Proposition 64

On November 8, 2016, California voters approved Proposition 64, known as the Adult Use of Marijuana Act, with 57.13% of voters supporting the initiative. Within Los Angeles County 59.54% supported the initiative, and in Santa Monica, the initiative was supported by 71% of voters.

The AUMA took effect November 9, 2016, immediately following the election. Under AUMA a person 21 years of age or older may now possess, process, transport, purchase or give away (to persons 21 years of age or older) not more than 28.5 grams<sup>3</sup> of cannabis in the non-concentrated form and not more than 8 grams of cannabis in a concentrated form including cannabis products like edibles and extracts. Smoking is allowed in a private home or at a business licensed for on-site cannabis consumption, and also allows legal possession of cannabis accessories.

AUMA does not allow for commercial sales without both a state and local permit, and clearly provides that local jurisdictions continue to have full authority to regulate or prohibit any business establishment selling recreational cannabis.

Although AUMA authorizes adults in California to legally possess, use, and transport recreational cannabis, there is currently no legal business in the state to purchase recreational cannabis, since licensed medical dispensaries are not allowed to sell recreational cannabis (i.e. to persons who do not have the required physician's recommendation to purchase medical cannabis). Though out-of-state residents can legally purchase recreational cannabis under AUMA, they too may not do so until state and local licensing begins, as currently licensed medical dispensaries may only dispense medical cannabis to California residents for medical use. At this point in time a person may use it, give it, and grow it; but they may not sell it.

Under AUMA, a person may not:

- Consume cannabis in a business establishment unlicensed for such use;

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<sup>3</sup> 28.5 grams is the equivalent of 1 ounce.

- Smoke cannabis anywhere smoking tobacco is prohibited;
- Smoke cannabis within 1,000 feet of a school, day care, or youth center while children are present (except in a private residence);
- Possess cannabis on the grounds of a school, day care center, or youth center while children are present;
- Possess an open container while driving or riding in a car, boat, or other vehicle;  
or
- Consume cannabis while driving or riding in a vehicle (except where local ordinances allow it).

AUMA provides that local jurisdictions may impose additional "reasonable regulations" on personal cultivation outdoors. Under AUMA, however, local jurisdictions may not prohibit indoor personal grows of up to 6 plants in a private residence or inside an "accessory structure" on the grounds of a private residence that is "fully enclosed and secure."

AUMA's stated purpose and intent is to "take nonmedical cannabis production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment", and control cultivation, processing, manufacture, distribution, testing and sale of nonmedical cannabis..." including requiring state agencies to establish a program that is nearly identical to MCRSA.

The League of California Cities issued a memorandum dated September 26, 2016, titled *The Control, Regulate, and Tax Adult Use of Marijuana Act* (Attachment B). It is important to note that the document was issued prior to the passage of AUMA by the voters. The League of California Cities also published a document on frequently asked questions regarding AUMA which was issued on November 16, 2016, after the initiative was passed by the voters (Attachment C).

#### Key Licensing Provisions of Cannabis Regulations under AUMA and MCRSA

Both MCRSA and AUMA establish six nearly identical license categories. Some of the differences include:

- Under MCRSA the retail sales permit is called “Dispensary” and under AUMA it is called “Retailer”;
- AUMA did not create a separate “Transporting” permit as MCRSA does, instead this activity is covered under the “Distribution” license;
- MCRSA contains a “Specialty Cottage” cultivation license to accommodate “micro farmers”.
- AUMA created a category of cannabis businesses called “microbusinesses” which is not included under MCRSA. A “microbusiness” is defined as a small operator with cultivation space not exceeding 10,000 square feet. A microbusiness license would allow holders to cultivate cannabis and act as a licensed distributor, Level 1 manufacture (using either nonvolatile solvents or no solvents), and retailer all under one license.

Following are the license categories that currently exist:

<b>MCRSA</b>		<b>AUMA</b>	
<b>Category</b>	<b>Type</b>	<b>Category</b>	<b>Type</b>
Cultivation	1-4	Cultivation	1-5
Manufacturing	6-7	Manufacturing	6-7
Testing	8	Testing	8
Dispensary	10	Retailer	10
Distribution	11	Distribution	11
Transporting	12		

N/A	N/A	Microbusiness	12
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Within the categories, MCRSA established a total of 17 license types and AUMA established a total of 19 license types. Attachment D provides a detailed comparison of the various licenses. Both medical and recreational cannabis business activities will require permitting and licensing by both the relevant state authorities and the local jurisdiction.

Taxes

MCRSA did not create any new taxes for cannabis businesses, however the tax scheme created by AUMA will apply to medical cannabis in addition to recreational cannabis. All businesses (for-profit and nonprofit) operating pursuant to MCRSA are required to have a seller’s permit with the State Board of Equalization. The following graph provides an outline of the taxes under both MCRSA and AUMA.

Tax	Medical Cannabis (Licensed under MCRSA)	Recreational Cannabis (Licensed under AUMA)
<b>Sales and Use Tax*</b> Effective November 9, 2016	Exempt	10.5% (Santa Monica)
<b>Excise Tax</b> Effective January 1, 2018	15% Excise tax on gross receipts for both medical and recreational cannabis. The excise tax would be imposed on purchasers of cannabis or cannabis products sold in California.	
<b>Cultivation Tax</b> Effective January 1, 2018	Tax on all harvested medical and recreational cannabis that enters the commercial market. Tax does not apply to cannabis cultivated for personal use or cultivated by a qualified patient or primary caregiver.  Tax is calculated as follows: <ul style="list-style-type: none"> <li>• Cannabis flowers: \$9.25 per dry-weight ounce</li> <li>• Cannabis leaves: \$2.75 per dry-weight ounce</li> </ul>	

\*AUMA requires that a study be conducted by January 1, 2018, to determine whether nonprofit

*recreational cannabis businesses should also be exempt from the state taxes and fees.*

Any cannabis businesses operating within Santa Monica would also be subject to all Business License requirements outlined in Article 6 of the Santa Monica Municipal Code. As such, a for-profit cannabis retailer, whether for medical or commercial uses, would be classified as Tax Rate Group 1 Retail business under Section 6.08.140 of the Santa Monica Municipal Code and would therefore be required to pay \$1.25 for each \$1,000 or fraction thereof of gross receipts in excess of \$60,000 in addition to a \$75 minimum tax on receipts up to \$60,000. For example, a business that report \$1,000,000 in gross receipts for the tax year would be required to pay \$1,255 in business license tax.

Local governments can impose additional taxes on cannabis businesses, however, imposing any new taxes would require voter approval.

The State also adopted several other bills to augment MCRSA and AUMA and new legislation has been introduced that is currently pending in the legislature. (Attachment E).

## **Discussion**

For the purpose of this report the term cannabis is used interchangeably with marijuana. It is also intended to mean cannabis in raw plant form (i.e. flower, bud) and processed forms (e.g. edibles, beverages, extracts, topicals, etc.).

The laws regarding cannabis are complicated and conflicting. Laws differ dramatically from state to state, between states and the federal government, and between the MCRSA and AUMA within California. Most importantly, cannabis remains illegal under federal law. Recently, federal officials have made statements to indicate that they may view state authorized medical marijuana use differently than recreational marijuana use for enforcement purposes.

As of November 9, 2016, the use of both recreational and medical cannabis has been



entirely legalized in Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington. The District of Columbia has also fully legalized recreational and medical cannabis, but the sale of cannabis for recreational use is currently blocked by Congress. For the remaining states, laws vary widely with some states only legalizing the non-psychoactive form of cannabis (i.e. CBD).

Medical cannabis has been distributed in a “retail” setting through dispensaries in California since the voters adopted the Compassionate Use Act (i.e. Proposition 215) in 1996. A person must demonstrate that they have a physician recommendation<sup>4</sup> to use cannabis due to a medical condition.

The Department of Consumer Affairs (DCA) is currently in the process of establishing the Bureau of Medical Cannabis Regulation ([bmcr.ca.gov](http://bmcr.ca.gov)) which will regulate various aspects of the cannabis market for both medical and recreational cannabis businesses, including cultivation, transporting, distribution, manufacturing, packaging, labeling, testing, and retail sales. The California Department of Food and Agriculture (CDFA) has begun establishing the Medical Cannabis Cultivation Program (MCCP) to develop regulations for cultivation. The California Department of Public Health (CDPH) has begun establishing the Office of Manufactured Cannabis Safety (OMCS) but has not produced any publications to date. The following chart provides a high level summary of the administrative structure for establishing the regulatory scheme:

<p align="center"><b>Bureau of Cannabis Regulation (Lead Agency)</b></p>	<ul style="list-style-type: none"> <li>• Distributors</li> <li>• Dispensaries</li> <li>• Transporters</li> </ul>
<p align="center"><b>Department of Food and Agriculture</b></p>	<ul style="list-style-type: none"> <li>• Cultivation</li> <li>• Track and Trace</li> </ul>

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<sup>4</sup> A physician may recommend marijuana, however, federal law prohibits a physician from issuing a “prescription”.

<b>Department of Public Health</b>	<ul style="list-style-type: none"> <li>• Manufacturing</li> <li>• Testing</li> </ul>
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State agencies are also currently establishing rules to govern the market which means the state of cannabis regulations for both medical and recreational businesses are far from settled and will likely continue to develop for the next several years.

Enforcement Challenges and Compliance

Regardless of the action taken by Council on recreational cannabis related business activities within Santa Monica, enforcement and regulatory staff will still need to be prepared for the unfolding impacts of legalization statewide. The legalization of cannabis has brought increased challenges and costs for law enforcement. Particularly since Los Angeles borders Santa Monica, cannabis related tourism will also likely grow.

In preparation for this study session, staff attended the 2016 Marijuana Management Symposium, a gathering of regulators, law enforcement personnel, elected officials, public health officials, and tourism staff. Denver has seen a decrease in arrests but an increase in demands on police. The most common cannabis industry related crime in Denver is burglary, accounting for 63% of cannabis industry related crime in 2015.

Law enforcement representatives at the symposium emphasize a need to provide adequate and appropriate staffing for administration, inspections, and enforcement. For example, training of law enforcement personnel around issues related to driving while under the influence (THC or THC-Combination w/Alcohol); no reliable THC field-testing for sobriety exists currently as with alcohol<sup>5</sup>.

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<sup>5</sup> The detection of any THC in blood is not an indicator of impairment but only indicates presence in the system. Detection of delta-9 THC, one of the psychoactive properties of marijuana, may be an indicator of impairment (source: Colorado Department of Public Safety Division of Criminal Justice Office of Research and Statistics). In 2016 SB1462 was introduced to allow the use of an oral fluid screening test to determine the presence or concentration of drugs, to assist an officer in making a determination that a person was driving under the influence of drugs. The Senate Committee Appropriations staff report also notes that “there is currently no per se level at which a person is presumed intoxicated due to a controlled substance, and a standard level has not been established at which a person is presumed to be impaired.”

Law enforcement representatives at the symposium also encouraged cities to obtain clear guidance from policy makers on the prioritization of enforcement. The Police Foundation and the Colorado Association of Chiefs of Police issued *Colorado's Legalization of Marijuana and the Impact on Public Safety: A Practical Guide for Law Enforcement*, which is provided as Attachment F.

If Council directs staff to move forward with the selection of the two medical dispensaries and due to the legalization of cannabis statewide, it will be critical for the City to establish:

- Procedures for monitoring compliance for any Medical Cannabis dispensaries that are approved to operate in Santa Monica;
- Training programs for police officers and other enforcement staff;
- Enforcement priorities

Additional staffing may be required to ensure that the cannabis program compliance and education programs in Santa Monica are being addressed. Staff will make any necessary proposals for staffing or resources related to regulating the two medical cannabis dispensaries with any future staff report that may be submitted to create a regulatory permit and selection process.

*The Legalization of Marijuana in Colorado – The Impact (Volume 4)*, published in September 2016 by the Rocky Mountain High Intensity Drug Trafficking Area, Investigative Intelligence Unit<sup>6</sup> is also provided as Attachment G for additional information.

### Licensing Options

The Zoning Ordinance currently requires that a medical cannabis dispensary obtain a

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<sup>6</sup> The High Intensity Drug Trafficking Area Program (HIDTA) is a component of former President Obama's National Drug Control Strategy which provides federal resources help eliminate or reduce drug trafficking. Law enforcement organizations within HIDTAs assess drug trafficking problems and design specific initiatives to reduce or eliminate the production, manufacture, transportation, distribution and chronic use of illegal drugs and money laundering.

Conditional Use Permit. The following chart outlines several options to regulate and permit cannabis dispensaries.

<b>A</b>	Conditional Use Permit (CUP) only	Existing local law currently requires a Medical Cannabis Dispensary to obtain a CUP.	CUP is approved by the Planning Commission. A CUP may be appealed to or by City Council.	A CUP runs with the land, and does not allow for a vetting process to select each successive business operator. It only allows the City to grant or deny the CUP as a land use entitlement to the property based on objective factors. Would only allow for either a “first come, first served” or lottery selection process.
<b>B</b>	Conditional Use Permit w/Regulatory Permit	Existing local law currently requires a Medical Cannabis Dispensary to obtain a CUP.	<p>CUP is approved by the Planning Commission. A CUP may be appealed to or by City Council.</p> <p>A regulatory permit is approved by City Staff and appealable to a Hearing Examiner.</p>	<p>In addition to the CUPs discretionary entitlement process, a regulatory permit would allow the City to vet and approve each successive operator based on objective factors. The City could create a selection process or rely on a “first come, first served” or lottery system process.</p> <p>A regulatory permit provides staff with effective means for enforcement of regulatory requirements.</p>
<b>C</b>	Development Agreement (DA)	The law currently does not require a Medical Cannabis Dispensary to obtain a DA. A change to the Zoning Ordinance would be required to implement this option.	DAs are approved by City Council which receives recommendations from the Planning Commission.	Similar to a CUP, a DA runs with the land and does not allow for a vetting process to select each successive business operator. . The DA process is time consuming. Additionally, Das are somewhat more difficult to enforce through administrative enforcement or police

				enforcement means.
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Staff recommends that Council direct staff to implement option B and draft an ordinance to create the regulatory permit for medical cannabis dispensaries with an objective selection process for an operator to obtain a Medical Cannabis Dispensary operating permit. Staff recommends that the Medical Cannabis dispensaries be required to obtain the Medical Cannabis Dispensary permit prior to submitting a CUP application. Staff recommends that the selection process include a defined application period where the City would accept applications. Those applications would be reviewed based on objective permit criteria related to the proposed operator’s business experience, proposed operations, and reputations of the applicants. Land Use and related location/size considerations would be addressed as part of the CUP application process. The Regulatory Permit application and criteria envisioned would likely include:

- Names and addresses of any person with a financial interest in the dispensary, including but not limited to all principals, officers, or managers.
- Names and address of any person responsible for the dispensary activities, including employees, if any.
- Authorization to conduct background check on all individuals associated with the dispensary as determined by the Police Department<sup>7</sup>.
- A description of the intended business plan, including intent to operate as non-profit or for-profit business, any plans for including cultivation on site.
- A description, of any proposals that would benefit the community.
- Detailed financial information, including information on existing and proposed loans and lenders.
- Names and addresses of current and proposed suppliers for cannabis products

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<sup>7</sup> MCRSA does require that applicants obtain a local permit and proof of their legal right to occupy the proposed location. Applicants are required to submit to a Department of Justice fingerprint background check. Applicants may be denied for convictions such as violent or serious felonies, felonies involving fraud, deceit or embezzlement, any sanctions by a local licensing jurisdiction in the prior 3 years, or felony drug offences.

proposed to be sold.

- Names and addresses of current and proposed testing facilities to be used to ensure quality and potency and a full description of the quality control/testing protocols to be followed and labeling to be used. (*note: this provision is conditional on when the state begins issuing licenses for testing facilities and standards for such testing and quality control*)
- Copies of articles of organization or incorporation.
- A listing of all other cannabis related business locations owned and/or operated by applicant, including any person with a financial interest in the dispensary, along with copies of any operating permits for each of the locations
- A description of the proposed security plan. (Note: The Zoning Ordinance currently requires an applicant to submit a security plan, however, staff recommends moving this requirement to be part of the regulatory permit for more effective enforcement. The dispensary would also be required to update the security plan once a location was identified and updated periodically throughout the time the dispensary is permitted.)

Applicants would likely be disqualified if:

- Any person associated with the application has made one or more false or misleading statements, or omissions on the application or during the application process;
- If any person associated with the application has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of the Compassionate Use Act. A conviction would include a plea or verdict of guilty or a conviction following a plea of nolo contendere (i.e. “no contest”)
- If any person with a financial interest, principals, officers, managers, or any person responsible for the dispensary activities has been convicted of any

unlawful, fraudulent, unfair, or deceptive business acts or practices. A conviction would include a plea or verdict of guilty or a conviction following a plea of nolo contendere (i.e. “no contest”);

- If any person with a financial interest, principals, officers, managers, or any person responsible for the dispensary activities has operated a marijuana dispensary, cooperative, or collective without a permit issued or approved by the governing jurisdiction and/or has refused or failed to comply with any order or instruction any jurisdiction to cease such operation.

Staff recommends that the Director of Planning and Community Development, or designee, make the decision to grant or deny the Medical Dispensary Permit based on the recommendations of an evaluation committee, created by the Director of Planning and Community Development. The committee is proposed to be made up of representatives from various City departments such as Planning and Finance, as well as enforcement staff and individuals with expertise within the cannabis industry. The Director’s decision would be appealable to a City Hearing Officer, consistent with existing law. Following the issuance of the Medical Cannabis Dispensary Permit, the applicant would then be required to apply for a Conditional Use Permit for the specific location proposed, Santa Monica Business License, and any necessary state permits. Staff also recommends that all employees of the dispensary be required to undergo a California Department of Justice criminal fingerprinting LiveScan background check prior to being able to begin working within the dispensary, and throughout the time the dispensary is permitted.

### Commercial Recreational Cannabis and State Law Changes

The City has not been accepting applications for medical cannabis dispensaries pending the establishment of a selection process and a regulatory framework, and in anticipation of changes to State law. Subsequent to the adoption of the ZO, new state laws regulating cannabis were adopted, including the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA). These new laws have significantly changed the legal landscape since the ZO was adopted in June 2015, which necessitates updates to the ZO to conform to state law.

The state is required by AUMA to begin issuing operating licenses to cannabis businesses by January 1, 2018. Although there have been some suggestions that there could be delays, until the state law is changed, this is the expected date for the state to begin issuing permits.

Both MCRSA and AUMA allow local jurisdictions to ban or regulate any type of medical or recreational cannabis business licensed under the laws. This includes banning all cannabis sales or banning just recreational cannabis businesses but allowing medical cannabis. MCRSA requires medical cannabis businesses to obtain both a state license and a permit from their local government; however, while the AUMA does not explicitly require a local permit, it does reserve to local jurisdictions the right to regulate, license or prohibit commercial recreational marijuana related uses.

Due to the difficulty in expressly prohibiting or permitting every possible unlawful or lawful use, the Santa Monica ZO is established under the principles of permissive zoning, meaning that the ZO expressly lists permitted uses and prohibited uses. Any other uses not listed are presumed to be prohibited. The AUMA does not contain the same protective language as MCRSA with respect to permissive zoning, and to provide greater certainty, if Council desires ban commercial recreational cannabis activities (including commercial deliveries of recreational cannabis) or may consider allowing but regulating such activities in the future, staff recommends that Council adopt an express prohibition.

Due to the current work plan of the Planning and Community Development Department and to allow time for staff to implement the changes needed to implement the two medical dispensaries envisioned by the ZO, staff recommends that Council direct staff to draft an ordinance prohibiting all recreational commercial cannabis business activities (including commercial deliveries of recreational cannabis). Staff also recommends that Council direct staff to amend the Zoning Ordinance to align with recent changes in State law.



Alternative Options

Staff recommends that Council direct staff to prepare an ordinance prohibiting commercial cannabis related business activities, however, Council could choose to direct staff to:

1. Return with a more comprehensive study session on potential cannabis related business activities and land uses for both recreational and medical operations; or
2. Return with a limited review to consider authorizing certain additional low impact cannabis related business activities, such as testing and manufacturing that does not include volatile solvents, since the current definition of Medical Marijuana Dispensary arguably allows for testing and manufacturing currently, and changes to the definitions will be necessary to align with state law.

Next Steps

Depending on the guidance and direction provided by Council on key areas noted above, staff will initiate specific projects to implement that direction and return with any necessary ordinance and/or resolutions.

Should Council direct staff to draft an ordinance banning recreational sales of cannabis, various amendments to the ZO would still be proposed to reconcile local law with state law for the purpose of licensing medical cannabis business, including the two dispensaries currently envisioned.


**Prepared By:** Salvador Valles, Assistant Director of PCD

**Approved**

**Forwarded to Council**

  
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David Martin, Director

3/1/2017

  
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Rick Cole, City Manager

3/1/2017

**Attachments:**

- A. League of California Cities Medical-Marijuana-Revisited-May 2016
- B. League of California Cities AUMA-Memo September 26 2016
- C. League of California Cities AUMA-FAQ\_Updated-on-November-22
- D. Cannabis License Types
- E. Other Relevant Legislation
- F. Legalized Marijuana Practical Guide for Law Enforcement
- G. 2016 FINAL Legalization of Marijuana in Colorado The Impact
- H. Written Comments
- I. Powerpoint Presentation



# Medical Marijuana – Revisited After New State Laws

Wednesday, May 4, 2016 Opening General Session; 1:00 – 3:00 p.m.

Stephen A. McEwen, City Attorney, Buellton, Assistant City Attorney, Atascadero and Hemet

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## **I. INTRODUCTION**

Since the passage of Proposition 215 in 1996, medical marijuana has presented perplexing and challenging land use issues for city attorneys. Proposition 215, known as the Compassionate Use Act (“CUA”), and Senate Bill 420, known as the Medical Marijuana Program Act (“MMP”), offered cities little guidance on how to address medical marijuana land uses, resulting in a patchwork regulatory approach across the state and costly litigation.

On October 9, 2015, Governor Brown signed Assembly Bills 243 and 266 and Senate Bill 643 (collectively, the “Medical Marijuana Regulation and Safety Act” or “MMRSA”), which together create a state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, the manufacturing of medical marijuana products, and physician recommendations for medical marijuana. MMRSA recognizes a range of medical marijuana businesses referred to as “commercial cannabis activities,” including cultivation businesses, marijuana product manufacturers, marijuana distributors and transporters, marijuana testing laboratories, and dispensaries, and provides immunity to marijuana businesses operating with both a state license and a local permit.

MMRSA, combined with several important court victories, will help cities tremendously in dealing with medical marijuana land uses. It is now clear under both statutory and case law that cities can ban medical marijuana activities completely or choose to allow them subject to local permitting requirements. Despite this regulatory flexibility, there are still difficult and uncertain issues that remain. The goal of this paper is to provide an overview of the state’s medical marijuana laws and address the special issues that will likely pose continuing challenges for local jurisdictions. This paper will also briefly summarize the Control, Regulate and Tax Adult Use of Marijuana Act, which will likely appear on the November 2016 general election ballot.

## **II. OVERVIEW OF FEDERAL AND STATE MARIJUANA LAWS**

In order to understand what MMRSA accomplishes and how it works, it is important to place it in the context of existing federal and state marijuana laws. All marijuana activities remain illegal under federal law, which classifies marijuana as a Schedule I controlled substance with no medical value. In general, state law prohibits marijuana activities, but the CUA and MMP provide limited exceptions from these prohibitions for qualified patients and primary caregivers to engage in specified marijuana activities for medical use only. MMRSA supplements the CUA and MMP by providing a regulatory framework for the cultivation, manufacturing, and distribution of medical marijuana and medical marijuana products.

### **A. Federal Controlled Substances Act**

In 1970, Congress enacted the Comprehensive Drug Abuse Prevention and Control Act. Title II of that Act, the Controlled Substances Act (CSA), 21 U.S.C. § 801 et seq., imposes a “comprehensive regime to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances.” To effectuate these goals, Congress devised a regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled

substance except in a manner authorized by the CSA. (*Gonzales v. Raich* (2005) 545 U.S. 1; 21 U.S.C. §§ 841(a)(1), 844(a).) The CSA created five categories, or schedules, of controlled substances, each with its own set of restrictions and requirements. (21 U.S.C. § 812) From its inception, the CSA has classified marijuana as a Schedule I drug. (21 U.S.C. § 812(c).) A Schedule I controlled substance is one that has a “high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.” (*Gonzales v. Raich, supra*, 545 U.S. at p. 14; 21 U.S.C. § 812(b)(1).) It is illegal, therefore, to import, manufacture, distribute, possess or use marijuana in the United States. (21 U.S.C. §§ 823(f), 841(a)(1), 844(a).) There is no medical necessity defense to the CSA’s prohibitions. (*United States v. Oakland Cannabis Buyers’ Coop.* (2001) 532 U.S. 483, 491.) Accordingly, the operation of any marijuana facility violates federal law.

## **B. California Uniform Controlled Substances Act**

California first made marijuana illegal in 1913. (1913 Cal.Stats. ch. 342, § 8a.) In 1972, the Legislature consolidated the state’s narcotics laws under the California Uniform Controlled Substances Act (“UCSA”), commencing at Health and Safety Code section 11000. Chapter 6 of the UCSA, entitled “Offenses and Penalties” and commencing at Health and Safety Code section 11350, established the state’s prohibition, penalties, and punishments for controlled substances. (Health & Safety Code §§ 11350 et seq.) Within Chapter 6, Article 2 is entitled “Marijuana” and sets forth general prohibitions and punishments for the possession, cultivation, transportation, and distribution of marijuana. (Health & Safety Code §§ 11357 et seq.)

## **C. Compassionate Use Act**

Against this backdrop of longstanding federal and state prohibitions and punishments for marijuana, California voters approved the CUA in 1996. The primary purpose of the CUA, which was codified at Health and Safety Code section 11362.5, was “[t]o ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes.” The scope of the CUA, however, was very limited. Health and Safety Code section 11362.5(d) provides that: “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.” Section 11362.5(c) protected physicians from punishment for recommending marijuana to a patient for medical purposes.

Following the CUA, many medical marijuana dispensaries opened throughout the state. However, contrary to what many marijuana advocates believed at the time, the CUA did not “legalize” medical marijuana or authorize the establishment of dispensaries. (*Ross v. Raging Wire Telecommunications* (2008) 42 Cal.4<sup>th</sup> 920, 926.) California courts held consistently that the Act only created a limited exception from criminal liability under the state UCSA for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances. (*People v. Mower* (2002) 28 Cal.4<sup>th</sup> 457, 480; *People v. Kelly* (2010) 47 Cal.4<sup>th</sup> 1008, 1014.)

## **D. Medical Marijuana Program Act**

In 2003 the Legislature enacted the MMP, adding sections 11362.7 through 11362.83 to the Health & Safety Code. (*People v. Wright* (2006) 40 Cal.4<sup>th</sup> 81, 93.) The purpose of the MMP was to clarify the scope of the CUA. The MMP established a voluntary program for identification cards issued by counties for qualified patients and primary caregivers, and provided criminal immunity to qualified patients and primary caregivers for certain activities involving medical marijuana. Of particular importance and concern to cities, Health and Safety Code section 11362.775 created immunities for the collective or cooperative cultivation of medical marijuana:

“Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357 [possession of marijuana], 11358 [cultivation of marijuana], 11359 [possession for sale], 11360 [transportation], 11366 [maintaining a place for the sale, giving away or use of marijuana], 11366.5 [making available premises for the manufacture, storage or distribution of controlled substances], or 11570 [abatement of nuisance created by premises used for manufacture, storage or distribution of controlled substance].”

Many marijuana advocates argued that this immunity from state criminal sanctions also preempted local zoning prohibitions against medical marijuana establishments. This resulted in numerous court battles between local agencies and medical marijuana dispensaries, as well as a split among the courts of appeal on this issue. On May 6, 2013, the California Supreme Court resolved the issue, ruling unanimously in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4<sup>th</sup> 729 (“*Inland Empire*”), that the CUA and the MMP did not preempt local ordinances that completely and permanently banned medical marijuana facilities

In reaching this conclusion, the Supreme Court recognized that a city’s “inherent local police power includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within a local jurisdiction’s borders, and preemption by state law is not lightly presumed.” (*Inland Empire, supra*, 56 Cal.App.4<sup>th</sup> at p. 738.) After examining state medical marijuana laws, the Court concluded that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical marijuana will not be permitted to operate within its borders.” (*Ibid.*) The Court reasoned that Health and Safety Code section 11362.775 only immunized “the cooperative or collective cultivation and distribution of medical marijuana by and to qualified patients and their designated caregivers from prohibitions that would otherwise apply under state law. The state statute does not thereby *mandate* that local governments authorize, allow, or accommodate the existence of such facilities.” (*Id.* at p. 759 [emphasis in original].)

The Court summarized its analysis of the CUA and MMP as follows:

“As we have noted, the CUA and MMP are careful and limited forays into the subject of medical marijuana, aimed at striking a delicate balance in an area that remains controversial, and involves sensitivity in federal-state relations. We must take these laws as we find them, and their purposes and provisions are modest. They remove state-level criminal and civil sanctions from specified medical marijuana activities, but they do not establish a comprehensive state system of legalized medical marijuana; or grant a ‘right’ of convenient access to marijuana for medicinal use; or override the zoning, licensing, and police powers of local jurisdictions; or mandate local accommodation of medical marijuana cooperatives, collectives, or dispensaries.”  
(Id. at pp. 762-763.)

*Inland Empire*’s broad holding in favor of local control not only resolved issues related to medical marijuana dispensaries, cooperatives, and collectives, but also applied to other medical marijuana activities, such as cultivation. In *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, 984, the Third District Court of Appeal held, based on *Inland Empire*, that there was no right to cultivate medical marijuana and that a city could implement and enforce a complete ban on this activity, including a ban on cultivation by individual qualified patients for their own personal medical use. More recent appellate decisions reached the same conclusion regarding local control over medical marijuana cultivation and affirmed local agencies’ ability to ban such activities completely. (See *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 969-970 [holding that the CUA and MMP did not preempt a local ban on all cultivation activities]; *Safe Life Caregivers v. City of Los Angeles* (2016) 243 Cal.App.4th 1029, 1032 [affirming that “there is no constitutional or statutory right to possess, cultivate, distribute, or transport marijuana for medical purposes.”].)

*Inland Empire* and *Maral* were important decisions for local control and provided long-awaited clarification on the meaning of the CUA and MMP. *Inland Empire* recognized, however, that “nothing prevents future efforts by the Legislature, or by the People, to adopt a different approach.” (*Inland Empire, supra*, 56 Cal.4th at p. 763.) Not surprisingly, medical marijuana proponents soon shifted their focus to the state legislature in an attempt to amend the MMP. In 2013 alone, there were four medical marijuana bills introduced in the legislature that would have weakened local control over and undermined the victories in *Inland Empire* and related cases. In September 2013, AB 604, which would have preempted local prohibitions of medical marijuana establishments, was defeated on State Senate Floor by only two votes.

Based on these near misses, and faced with the prospect of additional legislative amendments sponsored by medical marijuana advocates that could preempt local control, the League of California Cities and California Police Chiefs Association decided in 2014 to take a proactive approach to medical marijuana and put together their own medical marijuana regulatory proposal. Senate Bill 1162 was designed to create a state regulatory framework for medical marijuana while expressly preserving *Inland Empire* and the ability of local agencies to ban medical marijuana completely. While SB 1262 was unsuccessful, it laid the groundwork for future legislative efforts by bringing together a powerful coalition consisting of local governments, law enforcement agencies, and labor organizations, who all recognized that the public supported broadening medical marijuana access and that it was important to provide a workable regulatory framework for the industry. In 2015, the League and Police Chiefs



Association continued to work together on medical marijuana legislation and found multiple legislators who were eager to sponsor a new proposal. This renewed lobbying effort culminated in the emergence of three bills – Assembly Bills 243 and 266 and Senate Bill 643.

### **III. THE 2015 LEGISLATION – AB 243, AB 266, AND SB 643**

Taken together, AB 243, AB 266, and SB 643 create a comprehensive state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, as well as physician recommendations for medical marijuana. There are three major components to the legislation:

- **MMRSA.** Each bill contains various provisions of MMRSA, which commences at Business and Professions Code section 19300. MMRSA is intended to govern all commercial cannabis activities, which are defined as “cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.” Under Business and Professions Code section 19320(a), “no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization.”
- **AB 243 and AB 266** amend the MMP by (1) deleting Health and Safety Code section 11362.775(a), which provided state criminal law immunity for the collective and cooperative cultivation of medical marijuana, and (2) adding Health and Safety Code section 11362.777, which regulates medical marijuana cultivation.
- **SB 643** (1) directs the California Medical Board to prioritize the investigation of clearly excessive medical marijuana recommendations by physicians or repeated acts of recommending medical marijuana without a good faith prior examination and a medical reason for the recommendation; (2) imposes fines against doctors who make recommendations to licensed dispensaries in which they have a financial interest; (3) categorizes medical marijuana recommendations without an appropriate prior examination and a medical indication as unprofessional conduct; and (4) imposes restrictions on advertising for physician recommendations for medical marijuana.

#### **A. MMRSA - Overview**

Under MMRSA, California will have, for the first time, a comprehensive state regulatory system for medical marijuana that governs the industry from “seed to sale.” This is a significant leap forward from the CUA and MMP, which merely provided state law immunity to qualified patients and primary caregivers, but did not regulate the mechanics of medical marijuana cultivation, processing, and distribution. (See *City of Monterrey v. Caarnshimba* (2013) 215 Cal.App.4<sup>th</sup> 1068, 1092 [analyzing the CUA and MMP and observing that “the precise parameters of a Dispensary operating lawfully under California law remain undefined by case law or statute”].) The newly-created Bureau of Medical Marijuana Regulation, which is within the Department of Consumer Affairs, will have primary responsibility for administering and

enforcing MMRSA. MMRSA divides state licensing and enforcement responsibilities among three agencies:

- The Department of Food and Agriculture will issue medical marijuana cultivation licenses.
- The Department of Consumer Affairs will issue licenses for medical marijuana dispensaries, distributors, and transporters.
- The Department of Public Health will issue licenses for medical marijuana manufacturers and testing laboratories.

A state cannabis license will be valid for only one year. (Bus. & Prof. Code § 19321(b).) A separate state license is required for each commercial cannabis business location. (Bus. & Prof. Code § 19320(c).) Each of these state licensing authorities is responsible for creating regulations governing their respective areas of responsibility. (Bus. & Prof. Code § 19321(a).)

Once MMRSA's regulatory scheme is in operation, which the state anticipates will be January 2018, the medical marijuana industry will operate in the following way:

- Step One: Medical marijuana cultivators cultivate marijuana and medical marijuana manufacturers produce medical marijuana products in accordance with state and local regulations.
- Step Two: Medical marijuana cultivators and manufacturers deliver their products to a medical marijuana distributor.
- Step Three: The distributor confirms the identity and quality of the products and sends them to a medical marijuana testing laboratory.
- Step Four: The testing laboratory performs batch testing on a random sample of the product. If the product meets the safety standards to be established by the state, the testing laboratory issues a certificate of analysis and returns the product to the distributor.
- Step Five: The distributor performs a final quality assurance review and then delivers the product to a medical marijuana dispensary.
- Step Six: The dispensary distributes the medical marijuana to qualified patients and primary caregivers.

(Bus. & Prof. Code § 19326.)

As noted above, all medical marijuana businesses, or commercial cannabis activities, must have both a state license and local permit in order to operate lawfully within California. (Bus. & Prof. Code § 19320(a).) A person cannot commence any commercial cannabis activity under a state license until the "applicant" has obtained a "local permit, license or other

authorization.” (Bus. & Prof. Code § 19320(a).) In fact, a person or entity cannot even apply for a state license “unless that person or entity has received a license, permit, or authorization by a local jurisdiction.” (Bus. & Prof. Code § 19322(a).) With regard to medical marijuana cultivation, newly-added Health and Safety Code section 11362.777(b)(2) is equally explicit: a cultivator cannot apply for a state cultivation license unless the applicant “has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from” the local jurisdiction. In addition, Health and Safety Code section 11362.777(b)(3) states that a cultivator cannot apply for a state cultivation license if the proposed cultivation will violate any local ordinance or regulation, or if medical marijuana is prohibited by the local jurisdiction, either expressly or through permissive zoning.

This dual licensing scheme is the basis for a new state law immunity for medical marijuana establishments. Under Business and Professions Code section 19317, any person operating a commercial cannabis business under both a state license and a local permit is immune from arrest, prosecution, or other sanction under state law, and cannot be subject to a civil fine or seizure or forfeiture of assets. This new dual licensing immunity represents a much more objective standard than the existing immunity for collective and cooperative cultivation under Health and Safety Code section 11362.775 and should make it easier for both local authorities and law enforcement to determine which medical marijuana establishments are operating lawfully. Rather than have to determine whether an establishment is a bona fide collective or cooperative, which can be difficult to do when dealing with all-cash businesses that often do not maintain accurate records, local officials will only need to confirm that the establishment has a state license and local permit. The immunity for collective and cooperative cultivation under Health and Safety Code section 11362.775 will remain in effect only until one year after the Bureau posts a notice on its website that the state licensing authorities have commenced issuing licenses under MMRSA and will be repealed upon issuance of licenses.

The new state licensing requirements for commercial cannabis activities do not apply to qualified patients and primary caregivers provided that they meet certain requirements and remain within certain specified limits.

- Qualified Patients

- Business and Professions Code section 19319(a) – no state license is required for a qualified patient who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use and does not distribute to anyone else.

- Health and Safety Code section 11362.777(g) – no state cultivation license is required for a qualified patient if the cultivation area is 100 square feet or less, the cultivation is for the patient’s personal medical use only, and the patient does not distribute the marijuana to any other person.

- Primary Caregivers

- Business and Professions Code section 19319(b) – no state license is required for a primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis for no more than five qualified patients and who does not receive payment except for reimbursement of actual costs.

- Health and Safety Code section 11362.777(g) – no state cultivation license is required for a primary caregiver if his or her cultivation area is 500 square feet or less, the cultivation is for no more than five qualified patients, and the caregiver does not receive payment except for reimbursement of actual costs

In addition to these licensing exceptions under MMRSA, existing criminal law immunities under the CUA and MMP for qualified patients and primary caregivers, with the exception of those set forth in Health and Safety Code section 11362.775, will remain in effect:

- Health and Safety Code § 11362.5(d): “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.”
- Health and Safety Code § 11362.765(a): A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use or designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver, shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

Health and Safety Code section 11362.77(a) provides a safe harbor for qualified patients and primary caregivers “as to the amount of marijuana they may possess and the number of plants they may maintain.” (*Kirby v. County of Fresno, supra*, 242 Cal.App.4<sup>th</sup> at p. 953.) Under this provision, qualified patients and primary caregivers may possess up to eight ounces of dried marijuana per qualified patient and maintain up to six mature or 12 immature marijuana plants per qualified patient. Upon a doctor’s recommendation, a qualified patient or primary caregiver may possess a greater amount consistent with a patient’s medical needs. (Health & Safety Code § 11362(b).)

Please note that the licensing exceptions and state criminal law immunities for qualified patients and primary caregivers do not preempt local land use ordinances which prohibit medical marijuana activities completely. (*Maral v. City of Live Oak, supra*, 221 Cal.App.4<sup>th</sup> at p. 984; *Kirby v. County of Fresno, supra*, 242 Cal.App.4<sup>th</sup> at pp. 969-970.)

## **B. Local Regulatory Options**

The League's and Police Chiefs Association's primary objective in pushing for new medical marijuana regulations was to preserve broad local control over medical marijuana land uses against repeated legislative attacks by marijuana advocates. *Inland Empire* emphatically affirmed local government's "inherent, constitutionally recognized power to determine the appropriate use of land within its borders." *Inland Empire* also recognized "that neither the CUA nor the MMP expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana." (*Inland Empire, supra*, 56 Cal.4<sup>th</sup> at p. 762.) In order to ensure that cities and counties would continue to have this full range of regulatory options available, MMRSA included three separate provisions that protect local police power authority over medical marijuana establishments:

- Business and Professions Code § 19315(a): "Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements."
- Business and Professions Code § 19316(a): "Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide."
- Business and Professions Code § 19316(c): "Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution."

These local control provisions demonstrate that MMRSA does not preempt local medical marijuana ordinances. Cities, therefore, have a wide range of regulatory options to deal with medical marijuana land uses:

- Express bans. The great majority of California cities have prohibited medical marijuana dispensaries and related activities. Under *Inland Empire, Maral, Kirby, and Safe Life Carevigers*, as well as the local control provisions in MMRSA, such bans will be enforceable absent a drastic change in state law. In adopting prohibitions on medical marijuana, or reviewing existing bans, cities must decide how extensive the ban should be. In the past, most medical marijuana ordinances focused on dispensaries, collectives, and cooperatives. MMRSA recognizes a range of new businesses, including cultivators, medical marijuana manufacturers, distributors, transporters, and testing laboratories. Cities may opt to ban each of these activities under MMRSA.
- Regulatory schemes. Now that MMRSA establishes a state framework for regulating all aspects of the medical marijuana industry, more cities are exploring the option of allowing such businesses through some form of a local regulatory permit system. The

only minimum requirement for those local agencies that want to allow commercial cannabis activities is that they issue a “local permit, license, or other authorization.” (Bus. & Prof. Code § 19320(a).) For cultivation businesses, the language is slightly different: in order to obtain a state license, the cultivator must receive a “license, permit, or other entitlement” from the local jurisdiction. (Health & Safety Code § 11362.777(b)(1)(A).)

Typically, medical marijuana ordinances involve locational restrictions, the issuance of a regulatory permit that is subject to annual renewal, and the imposition of various safety-related operating requirements. Locational restrictions may include the designation of certain zoning districts as permissible locations and separation requirements to avoid clustering of medical marijuana land uses. Some cities have limited the number of medical marijuana establishment permits that they are willing to issue. Operating requirements can be extensive and include the following: the use of licensed security guards, designated hours of operation, prohibition against sales of alcohol and/or tobacco and on-site alcohol and/or tobacco consumption, installation of adequate odor control devices and ventilation systems, and limitations on access to minors.

Cities that issue permits for medical marijuana businesses should expect to be inundated with permit inquiries and/or applications. With the amount of money that is at stake, unsuccessful applicants will likely look for potential ways to attack the city’s selection and evaluation process. Those cities, therefore, should give careful consideration to how they are going to process applications for medical marijuana businesses. Local ordinances should provide clear guidelines as to what information is required in the application, what grounds constitute a basis for denial of a permit, the type of permit to be issued (CUP or renewable regulatory permit), and who is responsible for making the decision on issuing the permit. Some cities vest the decision making authority in the city manager, police chief, or other staff member. Others leave the ultimate decision to the city council.

With regard to processing applications and issuing permits, there are a number of possible approaches:

- First come, first serve. A city can accept and review applications in the order they are received, subject to applicable zoning requirements and separation restrictions. The reviewer will ensure that the applicant meets the applicable standards for a medical marijuana business and on that basis either grant or deny the permit.

- Lottery. Cities that expect to receive a large number of applications may want to consider a lottery system for issuing permits. The advantage of the lottery system is that it provides a degree of neutrality in the selection process. The disadvantage, of course, is that a lottery can deprive a city of control over who gets a permit, which can be a significant problem given the number of suspicious actors and former felons who are involved in the medical marijuana industry. Many medical marijuana lotteries, therefore, are combined with staff-level

screening of applicants either before or after the lottery, or both. For example, in Santa Ana, which conducted a lottery in 2015, medical marijuana dispensary applicants had to first register with the director of planning and building. The director then reviewed the registration application to determine if the applicant complied with the city's medical marijuana regulations. Applicants who made it on to the qualified registration list were then entered into a lottery, which was administered by an independent accounting firm. The lottery was used to select 20 applicants who could then apply to the city for a regulatory safety permit from the police department, which required another level of staff review.

- Scoring system. As an alternative to a lottery system, a city could implement a subjective evaluation process to review medical marijuana applicants. Applicants would receive a score based on a review of their applications and, in some instances, an interview. Those applicants who receive the highest scores would then be recommended for approval to the decision making authority. If this selection method is used, it may be preferable to use a neutral outside consultant to review the applications, conduct interviews, and make recommendations.

- Permissive zoning. Most, if not all, zoning codes in California are permissive in nature. Under permissive zoning principles, the omission of any particular land use from local zoning regulations is the equivalent of an express ban unless the planning director or other designated official finds that the proposed use is substantially the same in character and intensity as those land uses listed in the code. (See *City of Corona v. Naulls* (2008) 166 Cal.App.4<sup>th</sup> 418, 433-436.) If the city can make this finding, such a use is subject to the permit process and zoning requirements which govern the land use category in which it falls.

Permissive zoning provides cities with some flexibility in dealing with medical marijuana activities. Cities can rely on permissive zoning to prohibit medical marijuana uses if they so choose. The new legislation, in fact, recognizes that such an approach is permissible. Newly-enacted Health and Safety Code section 11362.777(b)(3), which addresses medical marijuana cultivation, states that a “person or entity shall not submit an application for a state license . . . if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.”

In the past, medical marijuana establishments have argued that they fall within various land use categories and descriptions, such as pharmacies, retail sales, nurseries, and agriculture. Based on the unique nature of most medical marijuana activities and the potential for negative secondary effects, cities have generally been successful in defeating such similar use arguments. For example, in *County of Los Angeles v. Hill* (2011) 192 Cal.App.4<sup>th</sup> 861, the court held that “medical marijuana dispensaries and pharmacies are not ‘similarly situated’ for public health and safety purposes and therefore need not be treated equally.” (*Id.* at p. 871.) In reaching this conclusion, the court observed that the presence of large amounts of cash and marijuana at medical marijuana dispensaries

makes them attractive targets for crime. (*Ibid.*) In *County of Tulare v. Nunes* (2013) 215 Cal.App.4<sup>th</sup> 1188, the court concluded that a medical marijuana collective did not qualify as an “agricultural” land use because “marijuana is a controlled substance and is not treated as a mere crop or horticultural product under the law.” (*Id.* at p. 1205.) In *City of Monterey v. Carrnshimba, supra*, 215 Cal.App.4<sup>th</sup> 1068, the court rejected a similar argument that a medical marijuana dispensary was substantially similar to the listed commercial use classifications for personal services, retail sales, pharmacies and medical supplies. (*Id.* at p. 1091.) The court concluded that a medical marijuana dispensary did not fit within the definition of these land use classifications and observed that the city had consistently interpreted its zoning code as prohibiting medical marijuana dispensaries. (*Ibid.*)

Cities, however, should be cautious in relying on permissive zoning to prohibit any medical marijuana land use. As more people try to enter the lucrative medical marijuana industry, cities relying on the permissive zoning approach could see repeated requests for similar use determinations. These case-by-case requests could result in time-consuming administrative hearings and costly and uncertain litigation. There is potential for marijuana advocates to challenge similar use determinations depending on the wording of individual municipal codes. For these reasons, cities that want to ban all or some medical marijuana activities may want to consider adopting express prohibitions.

Cities that want to permit medical marijuana businesses under permissive zoning principles should also be cautious. By allowing a medical marijuana business to proceed under permissive zoning principles, a city is setting a precedent for future land use interpretations. (See *City of Monterey v. Carrnshimba, supra*, 215 Cal.App.4<sup>th</sup> at p. 1091.) In addition, a city should evaluate whether the applicable land use regulations are sufficient to address the potentially negative secondary effects that are commonly associated with medical marijuana land uses, such as unsafe construction and electrical wiring, noxious fumes and odors, and increased crime in and around marijuana establishments. The potential loss of local control over marijuana cultivation land uses could hinder the city’s ability to protect the public health, safety, and welfare.

### **C. Local Enforcement Against Commercial Cannabis Activities**

MMRSA established a dual enforcement scheme for commercial cannabis activities that violate either state or local laws. The state licensing authorities will enforce state statutes and regulations. State authorities can suspend or revoke state licenses (Bus. & Prof. Code § 19320(c)), pursue civil penalties against violating businesses in an amount equal to two times the applicable licensing fee per violation (Bus. & Prof. Code § 19318(a)), or may prosecute violators criminally (Bus. & Prof. Code § 19318(c)). Local authorities will be responsible for enforcing local ordinances and regulations. For state-licensed facilities operating within a city, a city may have authority to enforce state law and regulations “if delegated by the state.” (Bus. & Prof. Code § 19316(b).)

Under their constitutional police power and statutory authority, cities will continue to have the full range of enforcement remedies. As *Inland Empire* explained, the CUA and MMP



“remove *state-level* criminal and civil sanctions from specified medical marijuana activities, but they do not . . . override the zoning, licensing, and police powers of local jurisdictions.” (*Inland Empire, supra*, 56 Cal.App.4<sup>th</sup> at pp. 762-763 [emphasis added].) Furthermore, as noted above, Business and Professions Code section 19316(c) provides that nothing in MMRSA or its implementing regulations “shall be deemed to limit the authority or *remedies* of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.” (Emphasis added.) Similarly, Business and Professions Code section 19315(a) states that nothing in MMRSA “shall be interpreted to supersede or limit *existing* local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.” (Emphasis added.) The police power of local jurisdictions authorizes the following remedies:

- Civil action for injunctive relief. (*Inland Empire, supra*, 56 Cal.4<sup>th</sup> at p. 762 [finding that neither the CUA nor the MMP preempts the authority of California cities and counties “to allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana, and to enforce such policies by nuisance actions”]; *City & County of San Francisco v. City Inv. Corp.* (1971) 15 Cal.App.3d 1031, 1041 [holding that a city can abate a violation of a local ordinance through an injunction].)
- Administrative abatement proceedings. (Govt. Code §§ 36901, 38771, 38773.5.)
- Administrative citations. (Govt. Code § 53069.4.)
- License revocation. Business and Professions Code section 19320(b) states, “Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization.” In order to utilize this valuable enforcement tool, cities should review their permit revocation procedures to ensure that they comply with due process requirements.
- Criminal enforcement. In general, cities can criminally prosecute those who engage in unpermitted medical marijuana activities. The constitutional police power referenced in *Inland Empire* includes the authority to initiate criminal prosecutions against those who violate local ordinances. (Govt. Code § 36900(a).) Furthermore, Health and Safety Code section 11362.83, which is part of the MMP, expressly recognizes this authority to criminally prosecute unpermitted medical marijuana cooperatives and collectives.

While the police power confers broad authority on cities to enforce local ordinances, the recent court of appeal decision in *Kirby, supra*, 242 Cal.App.4<sup>th</sup> 940, casts uncertainty over a city’s ability to criminally prosecute certain medical marijuana-related offenses. *Kirby* dealt with a county medical marijuana ordinance that, among other restrictions, prohibited cultivation in all zones of the city, including cultivation by individual qualified patients for their own personal medical use. The medical marijuana ordinance also contained a provision that made marijuana cultivation in violation of the ordinance a

misdemeanor. The plaintiff challenged the ordinance provisions relating to cultivation and criminal prosecution. The trial court sustained the county's demurrer.

As noted above, the court of appeal upheld the county's complete prohibition on medical marijuana cultivation, concluding that the CUA and MMP did not preempt the county's zoning authority in this area. The court of appeal, however, concluded that Health and Safety Code section 11362.71(e) preempted a local ordinance that *directly* criminalized marijuana cultivation. (*Id.* at p. 961.) Section 11362.71(e) provides:

“No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.”

According to *Kirby*, this provision does not merely protect individuals from arrest under state law, but also precludes criminal arrest under local ordinances. The court contrasted this provision with sections 11362.765 and 11362.775, which listed specific state laws for which immunity applied. (*Id.* at p. 960.) Since the immunity from arrest in section 11362.71 was not expressly limited to state laws, the court concluded that this section necessarily protected individuals from arrest and prosecution under local zoning ordinances. The court found additional support for its conclusion in the UCSA, which is a comprehensive scheme for defining drug crimes and penalties. In the court's view, both “the USCA and MMP's prohibition of arrests manifest the Legislature's intent to fully occupy the area of criminalization and decriminalization of activity directly related to marijuana.” (*Id.* at pp. 960-961.)

*Kirby*, however, added a significant caveat to its ruling. The court noted that, while a local jurisdiction could not impose a direct criminal sanction on cultivation, it could impose an “*indirect* criminal sanction . . . because the failure to abate a public nuisance after notice is recognized as a separate crime by the Legislature.” (*Id.* at p. 961 [citing Pen. Code § 373a and Health & Safety Code § 11362.83(b)] [emphasis added].) Therefore, a local agency could still prosecute someone for cultivating marijuana in violation of a local zoning ordinance under a general penalty provision that designates any code violation as a public nuisance and a misdemeanor.

There may be additional cases in the near future that address the issue of criminal prosecution under local medical marijuana regulations. Until the issue gets fully resolved, most likely by the Supreme Court, cities may want to review the enforcement provisions in their local ordinances. Under *Kirby*, local ordinances that specifically make the “possession, transportation, delivery, or cultivation of medical marijuana” a crime may be subject to challenge.

### III. SPECIAL ISSUES

## A. Cultivation

Marijuana cultivation has long been a topic of concern for local agencies and law enforcement. It is well documented that marijuana cultivation is often associated with significant negative secondary effects such as hazardous electrical wiring, diversion of public waters, water pollution, noxious odors and fumes, and violent crime. Under MMRSA, the CUA, the MMP, and existing case law, local agencies can ban marijuana cultivation completely.

As noted above, *Maral* and *Kirby* both held that neither the CUA nor the MMP preempted local bans on medical marijuana cultivation, including cultivation by a qualified patient for his or her personal medical use. (*Maral v. City of Live Oak, supra*, 221 Cal.App.4th at p. 984; *Kirby v. County of Fresno, supra*, 242 Cal.App.4th at pp. 969-970.) The local control provisions in MMRSA reaffirmed this police power authority. (Bus. & Prof. Code §§ 19315(a), 19316(a), and 19316(c).)

While these decisions and statutory provisions should support local cultivation bans, the fallout from a drafting error in AB 243 may encourage marijuana advocates to challenge such ordinances. Health and Safety Code section 11362.777(c)(4), which was part of AB 243, provided that if a city or county did not have a land use ordinance or regulation prohibiting medical marijuana cultivation, either expressly or otherwise under principles of permissive zoning, or chose not to implement a regulatory scheme, then commencing March 1, 2016, the state Department of Food and Agriculture would become the sole licensing authority for cultivation applicants in that jurisdiction. As a result of this deadline, which was left in AB 243 inadvertently, cities and counties scrambled to adopt medical marijuana cultivation ordinances. Assembly Bill 21, signed by Governor Brown on February 3, 2016, deleted the March 1<sup>st</sup> deadline. However, as part of a legislative compromise, AB 21 also deleted a sentence from Health and Safety Code section 11362.777(g) that expressly stated that cities and counties could ban cultivation by qualified patients and primary caregivers and replaced it with the following:

“Exemption from the requirements of this section [the dual licensing requirements for medical marijuana cultivation facilities] does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.”

There has been concern that deleting a provision that expressly recognized the ability of cities and counties to ban private medical marijuana cultivation could be interpreted as a concession that no such right existed and would undermine *Maral* and *Kirby*. However, in light of the new language which preserves the existing police power authority of cities and counties, such an interpretation is unlikely. Rather, the better interpretation is that the revised Health and Safety Code section 11362.777(g) preserves the status quo for cities and counties with regard to local control over all marijuana cultivation activities and that, based on *Inland Empire, Maral*, and *Kirby*, cities and counties can still prohibit marijuana cultivation completely.

## B. Deliveries

Based on a quick review of Weedmaps.com, it is safe to conclude that medical marijuana delivery services are likely operating in every California city. Most delivery services, however, do not advertise the location at which they either store or obtain their medical marijuana, which presents challenges for law enforcement in cities that prohibit such activities. As a result of MMRSA, this clandestine business model will change drastically.

Business and Professions Code section 19340(a) provides that medical marijuana deliveries can *only* be made by a state-licensed dispensary in a city, county, or city and county that does not *explicitly* prohibit it by local ordinance. Therefore, in order for a city or county to prohibit medical marijuana delivery services by a state-licensed dispensary, it will need to enact an express ban. Business and Professions Code section 19300.5(m) defines “delivery” as follows”

“[T]he commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount to be determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. ‘Delivery’ also means the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.”

For those cities that choose to ban medical marijuana deliveries, there is one exception: a local jurisdiction cannot prevent a delivery service from using public roads to simply pass through its jurisdiction from a licensed dispensary to a delivery location outside of its boundaries. (Bus. & Prof. Code § 19340(f).)

Cities can also choose to allow and regulate medical marijuana deliveries by licensed dispensaries. Business and Professions Code section 19316(a) provides that a local agency “may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity.” This would include deliveries by a licensed dispensary. MM RSA currently imposes very basic requirements on delivery services. Under MM RSA, a delivery person must carry a copy of the dispensary’s state-issued license, a government ID, and a copy of the delivery request. The patient or caregiver requesting a delivery must also maintain a copy of the delivery request (which suggests that each delivery request must generate a written record of some type). MM RSA does not require that the delivery person be a primary caregiver. Dispensaries and delivery people who comply with MM RSA will be immune from prosecution for marijuana transportation. (Bus. & Prof. Code § 19317(f).)

Keep in mind, however, that the state is working on the implementing regulations, which may further explain how medical marijuana deliveries can occur. For instance, it will be up to the Department of Consumer Affairs to determine how much marijuana can be transported during the delivery process. This is an important question because a small amount of marijuana can have a significant street value, making it an attractive criminal target. Any health and safety regulations developed by the state for medical marijuana deliveries will represent the minimum state-wide standards.

The Department of Consumer Affairs does not anticipate issuing any state dispensary licenses until January 2018. Until 2018, local agencies can continue to rely on their constitutional police powers to regulate and/or prohibit medical marijuana delivery services.

### **C. Federal Preemption**

In *Inland Empire*, the Court stated that “localities in California are left free to accommodate such conduct, if they choose, free of state interference.” (*Inland Empire, supra*, 56 Cal.4<sup>th</sup> at p. 762.) The Court, however, did not address the extent to which local regulatory and permitting schemes would conflict with federal law.

In *City of Palm Springs v. Luna Crest, Inc.* (Cal. Ct. App. March 17, 2016) 2016 WL 1056700, the court of appeal concluded the CSA did not preempt a local ordinance that allowed a certain number of dispensaries to operate subject to a local permit. Luna Crest opened a medical marijuana dispensary in Palm Springs without a permit, contending that the CSA preempted Palm Springs’ regulatory permitting scheme. First, the court concluded that there was no conflict between the CSA and Palm Springs’ ordinance. The court observed that the CSA did “not direct local governments to exercise their regulatory, licensing, zoning, or other power in any particular way,’ so exercise of those powers ‘with respect to the operation of medical marijuana dispensaries that meet state law requirements would not violate conflicting federal law.” (*Id.* at \*3[quoting *Qualified Patients Assn. v. City of Anaheim* (2010) 187 Cal.App.4<sup>th</sup> 734, 759.) Second, the court held that the ordinance was not an obstacle to enforcement of the CSA because a strong local regulatory program for medical marijuana “would tend to prevent” medical marijuana from contributing to recreational drug abuse and drug trafficking. (*Id.* at \*4.)

For now, *Luna Crest* should shield cities that allow medical marijuana land uses from federal preemption arguments. It is unlikely that a sensible marijuana advocate would want to make the federal preemption argument since the likely outcome of winning that argument is a complete ban on medical marijuana facilities.

### **IV. The Control, Regulate and Tax Adult Use of Marijuana Act**

It is widely anticipated that one or more recreational marijuana ballot measures will appear on the ballot in the November 2016 general election. There have been approximately 20 proposed recreational marijuana ballot measures circulated for signatures. Of these proposed initiatives, the most likely initiative to make it on the ballot is the Control, Regulate and Tax Adult Use of Marijuana Act. Some have referred to this as the Parker Initiative, because Sean Parker of Facebook has put his vast financial resources behind it. So far, it has garnered some high profile endorsements, including one from Lieutenant Governor Gavin Newsome. It is probable that marijuana advocates will consolidate their support behind this particular initiative rather than risk splitting the vote among competing measures.

In summary, the Adult Use of Marijuana Act would legalize and regulate recreational marijuana in California. Under the Act, individuals could possess up to one ounce of dried marijuana or grow up to six plants. The Act recognizes similar categories of marijuana

businesses as MMRSA and requires these businesses to obtain a state license in a manner very similar to MMRSA. The Act does not contain a dual licensing requirement; marijuana businesses can apply for a state license without having to show proof of compliance with local regulations. However, the Act contains an express provision preserving local control and states that nothing in the Act shall limit or supersede the authority of local jurisdictions “to completely prohibit the establishment or operation of one or more types of businesses licensed under” the Act. With regard to personal cultivation, the Act provides that local agencies can completely prohibit outdoor grows at private residences and can reasonably regulate indoor grows at private residences.

Cities and counties will need to keep a close eye on this initiative, as well as others that may qualify for the November election. The Act would clearly diminish local control, but not as much as some had feared from a ballot initiative sponsored by marijuana advocates.

#### **IV. CONCLUSION**

Court victories such as *Inland Empire* and the explicit local control language in MMRSA and the revised MMP provide local governments with a strong hand to deal with medical marijuana. This is a significant and positive development. If there is one certainty on the issue of medical marijuana, it is that marijuana advocates will continue to develop creative arguments to expand access and limit local control.

#### **APPENDIX – SAMPLE ORDINANCE**

##### 9-6.186 Medical Marijuana Facilities.

(a) Purpose. The purpose and intent of this section is to prohibit medical marijuana dispensaries, marijuana cultivation facilities, commercial cannabis activities, and medical marijuana deliveries, as defined below, within the city limits. It is recognized that it is a Federal violation under the Controlled Substances Act to possess or distribute marijuana even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with marijuana cultivation facilities and medical marijuana dispensaries and in connection with medical marijuana deliveries, which is contrary to policies that are intended to promote and maintain the public’s health, safety, and welfare.

##### (b) Definitions.

(1) “Commercial cannabis activity” shall have the meaning set forth in Business and Professions Code section 19300.5(k).

(2) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(3) "Marijuana" means all parts of the plant 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 resin. It includes marijuana infused in foodstuff, and concentrated cannabis and the separated resin, whether crude or petrified, obtained from marijuana. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant that are incapable of germination.

(4) "Medical marijuana" is marijuana used for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of acquired immune deficiency syndrome ("AIDS"), anorexia, arthritis, cancer, chronic pain, glaucoma, migraine, spasticity, or any other serious medical condition for which marijuana is deemed to provide relief as defined in subsection (h) of Health and Safety Code § 11362.7.

(6) "Marijuana cultivation facility" means any business, facility, use, establishment, property, or location where the cultivation of marijuana occurs.

(7) "Medical marijuana dispensary" means any business, facility, use, establishment, property, or location, whether fixed or mobile, where medical marijuana is sold, made available to, delivered to and/or distributed by or to three or more people. A "medical marijuana dispensary" does not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code § 11362.5 and following.

(c) Medical marijuana dispensaries, marijuana cultivation facilities, commercial cannabis activities, and medical marijuana deliveries prohibited.

(1) Medical marijuana dispensaries are prohibited in all zones in the city and shall not be established or operated anywhere in the city.

(2) Marijuana cultivation facilities are prohibited in all zones in the city and shall not be established or operated anywhere in the city. This prohibition shall not apply to a qualified patient, as defined by Health and Safety Code section 11362.7(f), who cultivates medical marijuana, either by himself or herself or with assistance from his or her primary caregiver, as defined by Health and Safety Code sections 11362.5(e) and 11362.7(d), provided that the qualified patient maintains no more than six mature or 12 immature marijuana plants and does not sell, distribute, donate, or provide marijuana to

any other person or entity, and the property on which the qualified patient is cultivating marijuana/cannabis has no more than 100 square feet devoted to the cultivation of marijuana /cannabis by any qualified patient or combination of qualified patients (the area used to cultivate marijuana/cannabis shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises)

(3) Commercial cannabis activities are prohibited in all zones in the city and shall not be established or operated anywhere in the city.

(4) No person may own, establish, open, operate, conduct, or manage a medical marijuana dispensary, marijuana cultivation facility, or commercial cannabis activity in the city, or be the lessor of property where a medical marijuana dispensary, marijuana cultivation facility, or commercial cannabis activity is located. No person may participate as an employee, contractor, agent, volunteer, or in any manner or capacity in any medical marijuana dispensary, marijuana cultivation facility, or commercial cannabis activity in the city.

(5) No person and/or entity may deliver or transport medical marijuana from any fixed or mobile location, either inside or outside the city, to any person in the city, except that a person may deliver or transport medical marijuana to a qualified patient or person with an identification card, as those terms are defined in Health and Safety Code section 11362.7, for whom he or she is the primary caregiver within the meaning of Health and Safety Code sections 11362.5 and 11362.7(d).

(6) Nothing contained in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

(d) Enforcement. The city may enforce this section in any manner permitted by law. The violation of this section shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.





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## MEMORANDUM<sup>1</sup>

To: League of California Cities' City Managers Department  
 League of California Cities' City Attorneys Department

From: League Staff

Date: September 26, 2016

Re: The Control, Regulate and Tax Adult Use of Marijuana Act

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA" or "Act") will come before California voters as Proposition 64. If passed, the AUMA will legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants. In addition, the AUMA will create a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products. The regulatory system governing these commercial marijuana activities largely mirrors the Medical Marijuana Regulation and Safety Act ("MMRSA"), but there are key differences. This memorandum will provide an overview of the AUMA, highlight the ways in which the AUMA differs from the MMRSA, and identify the issues that cities will need to take action on if the AUMA passes.

### **I. Overview of the AUMA**

#### **A. Personal Nonmedical Marijuana Use**

The AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of marijuana, or 8 grams of concentrated marijuana, including as contained in marijuana products; and (3) possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use.<sup>2</sup> The AUMA requires that marijuana in excess of 28.5 grams that is produced by plants kept pursuant to the personal cultivation provision of the Act be kept in a locked space on the grounds of a private residence that is not visible from a public place.<sup>3</sup>

Although persons 21 years of age or older may use and possess nonmedical marijuana under the Act, their ability to engage in these activities is not unfettered. The AUMA prohibits the smoking

<sup>1</sup> **DISCLAIMER:** These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.

<sup>2</sup> Health & Saf. Code § 11362.2(a).

<sup>3</sup> Health & Saf. Code § 11362.2(a)(2).

of marijuana: (1) in any public place, except where a local jurisdiction has authorized use on the premises of a retailer or microbusiness in accordance with Business and Professions Code section 26200; (2) where smoking tobacco is prohibited; (3) within 1,000 feet of a school, day care center, or youth center while children are present; and (3) while driving, or riding in the passenger seat of, any vehicle used for transportation.<sup>4</sup> Moreover, individuals cannot possess marijuana on school grounds, in day care centers, or in youth centers while children are present, or possess an open container of marijuana or marijuana products while driving, operating, or riding in any vehicle used for transportation.<sup>5</sup> The AUMA further provides that cities may prohibit possession and smoking in buildings owned, leased, or occupied by the city, and that employers, including cities, may maintain a drug and alcohol free workplace by prohibiting the use, consumption, possession, transfer, transportation, sale, display or growth of marijuana in the workplace.<sup>6</sup>

### **1. Personal Cultivation**

The AUMA provides that local governments can reasonably regulate, but cannot ban, personal indoor cultivation of up to six living marijuana plants within the person's private residence.<sup>7</sup> The Act defines private residence as "a house, an apartment unit, a mobile home, or other similar dwelling unit."<sup>8</sup> This includes cultivation in a greenhouse on the same property as the residence that is not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space.<sup>9</sup>

The AUMA completely protects the ability of local governments to regulate, and to ban, personal outdoor cultivation operations.<sup>10</sup> However, it purports to repeal any ordinance that bans outdoor cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.<sup>11</sup>

### **B. Commercial Nonmedical Marijuana Activity**

Under the AUMA, California will have a comprehensive state regulatory system for nonmedical marijuana that governs the industry from "seed to sale." The Bureau of Marijuana Control, currently the Bureau of Medical Cannabis Regulation, which is within the Department of Consumer Affairs, will have primary responsibility for administering and enforcing the AUMA.<sup>12</sup>

The AUMA divides state licensing and enforcement responsibilities among three agencies: (1) the Department of Consumer Affairs, which will issue licenses for marijuana the transportation,

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<sup>4</sup> Health & Saf. Code §§ 11362.3; 11362.4.

<sup>5</sup> Health & Saf. Code §§ 11362.3(3), 11362.3(4).

<sup>6</sup> Health & Saf. Code § 11362.45 (f)-(g).

<sup>7</sup> Health & Saf. Code §§ 11362.1(a)(3), 11362.2.

<sup>8</sup> Health & Saf. Code § 11362.2(5).

<sup>9</sup> Health & Saf. Code § 11362.2(a)(2).

<sup>10</sup> Health & Saf. Code § 11362.2(b)(3).

<sup>11</sup> Health & Saf. Code § 11362.2(b)(4).

<sup>12</sup> Bus. & Prof. Code § 26010.

storage, distribution, and sale of marijuana;<sup>13</sup> (2) the Department of Food and Agriculture will issue marijuana cultivation licenses, which will administer the provisions of the AUMA related to the cultivation of marijuana;<sup>14</sup> and (3) the Department of Public Health, which will issue licenses for marijuana manufacturers and testing laboratories.<sup>15</sup> Each of these state licensing authorities is responsible for creating regulations governing their respective areas of responsibility, and must begin issuing licenses by January 1, 2018.<sup>16</sup>

A state marijuana license will be valid for one year.<sup>17</sup> A separate state license is required for each commercial marijuana business location.<sup>18</sup> With the exception of testing facilities, any person or entity licensed under the AUMA may apply for and be issued more than one type of state license.<sup>19</sup>

## **1. Local Control**

All nonmedical marijuana businesses must have a state license.<sup>20</sup> A state license cannot issue to an applicant whose operations would violate the provisions of any local ordinance or regulation.<sup>21</sup> However a state applicant need not provide documentation that the applicant has a local license or permit.

The AUMA does not limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating or completely prohibiting state-licensed marijuana businesses.<sup>22</sup> Local jurisdictions may establish “standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections that exceed state standards.”<sup>23</sup>

## **2. Local Enforcement**

Like the MMRSA, the AUMA establishes a dual enforcement scheme for commercial marijuana activities that violate either state or local laws. The state licensing authorities will enforce state statutes and regulations. State authorities can suspend or revoke state licenses,<sup>24</sup> pursue civil penalties against violating businesses in an amount equal to three times the applicable licensing fee per violation,<sup>25</sup> or may prosecute violators criminally.<sup>26</sup> Local authorities will be responsible

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<sup>13</sup> Bus. & Prof. Code § 26012(a)(1).

<sup>14</sup> Bus. & Prof. Code § 26012(a)(2).

<sup>15</sup> Bus. & Prof. Code § 26012(3).

<sup>16</sup> Bus. & Prof. Code §§ 26012(c), 26013 (a).

<sup>17</sup> Bus. & Prof. Code § 26050(c).

<sup>18</sup> Bus. & Prof. Code § 26055(c).

<sup>19</sup> Bus. & Prof. Code § 26053.

<sup>20</sup> Bus. & Prof. Code § 26038.)

<sup>21</sup> Bus. & Prof. Code § 26055(e).

<sup>22</sup> Bus. & Prof. Code § 26200(a). But see, Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c) [prohibiting cities from preventing the use of public roads to lawfully transport or deliver nonmedical marijuana].

<sup>23</sup> Bus. & Prof. Code § 26201.

<sup>24</sup> Bus. & Prof. Code § 2603.

<sup>25</sup> Bus. & Prof. Code § 26038(a)

<sup>26</sup> Bus. & Prof. Code § 26038(c).

for enforcing local ordinances and regulations.<sup>27</sup> For state-licensed facilities operating within a city, a city may have authority to enforce state law and regulations “if delegated the power to do so by the [B]ureau [of Marijuana Control] or a licensing authority.”<sup>28</sup>

## **II. Key Differences Between the AUMA and MMRSA**

### **A. Licensing**

The MMRSA established dual licensing of medical marijuana businesses, requiring both local approval and a state license in order for a business to operate legally.<sup>29</sup> Specifically, the MMRSA requires applicants to provide the relevant state licensing entity with documentation proving their compliance with local ordinances and regulations.<sup>30</sup>

The AUMA does not require an applicant to provide evidence of local permission prior to being issued a state license.<sup>31</sup> Instead, the AUMA prohibits state licensing entities from approving licenses for activities that would violate local ordinances.<sup>32</sup> Thus, state licensing officials bear the onus of evaluating local regulatory compliance.

Under this system, the AUMA allows a nonmedical marijuana business licensed by the state to operate within city limits unless the city’s municipal code prohibits the use. Cities that wish to regulate or prohibit nonmedical marijuana businesses will need to do so before the State begins issuing licenses, either by enacting a nonmedical marijuana ordinance/regulation or by amending an existing medical marijuana ordinance/regulation to include nonmedical marijuana within its scope.

### **B. License Revocation**

Under the MMRSA, revocation of a local license or permit unilaterally terminates the ability of the medical marijuana business to operate in the jurisdiction issuing the permit, until such time as the local permitting entity reinstates it.<sup>33</sup>

Under the AUMA, if a local jurisdiction revokes a local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction, the Bureau of Marijuana Control must initiate proceedings to determine whether the state license issued should be suspended or revoked within ten days of being notified by the local jurisdiction of the local revocation.<sup>34</sup> Note, however, that, even if the state license is not suspended or revoked immediately, the business cannot operate within the local jurisdiction once local revocation occurs.

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<sup>27</sup> Bus. & Prof. Code § 26200 (b).

<sup>28</sup> Bus. & Prof. Code § 23202(a).

<sup>29</sup> Bus. & Prof. Code § 19320(b).

<sup>30</sup> Bus. & Prof. Code § 19322(a).

<sup>31</sup> Bus. & Prof. Code § 26056.

<sup>32</sup> Bus. & Prof. Code § 26055(e).

<sup>33</sup> Bus. & Prof. Code § 19320(d).

<sup>34</sup> Bus. & Prof. Code § 26200(c).

### **C. Personal, Indoor Cultivation**

Under the MMRSA, local governments possess the power to regulate and completely ban personal, indoor cultivation.<sup>35</sup> Under the AUMA local governments can “reasonably regulate” indoor cultivation of up to six marijuana plants for personal use, but cannot ban it.<sup>36</sup>

### **D. Personal Outdoor Cultivation**

Under the MMRSA local governments can prohibit all outdoor cultivation. Under the AUMA local governments can prohibit all outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law.<sup>37</sup> Upon such determination, the AUMA purports to repeal all local bans on outdoor cultivation.<sup>38</sup>

### **E. Amendment**

Any portion of the MMRSA can be amended at any time, if there is sufficient political support within the Legislature for making substantive changes to the regulatory structure. Under some circumstances, an amendment to the MMRSA by the Legislature might arguably violate The Compassionate Use Act of 1996 (adopted by the voters as Proposition 215), which decriminalized the personal use of medical marijuana.<sup>39</sup>

Under the AUMA, the Legislature may amend Sections 5 (relating to the use of medical marijuana for medical purposes) and 6 (relating to state licensing) and the provisions relating to penalties by majority vote. The Legislature may amend any other provision of the Act by a 2/3 vote. Any amendment must further the purposes and intent of the AUMA. The purpose and intent of the Act include allowing local governments to ban nonmedical marijuana businesses.

### **F. Taxation**

The AUMA imposes new state taxes on medical and nonmedical marijuana in the following manner:

- Effective January 1, 2018, the AUMA imposes an excise tax at the rate of 15% of gross retail sales receipts.<sup>40</sup>
  - This tax will be in addition to existing state and local sales tax.<sup>41</sup> Given that state and local sales taxes can range from 7-10%, the combined excise tax + sales tax at the retail level could approach 25%;

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<sup>35</sup> Health & Saf. Code § 11362.777(g); *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, 984; *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 969-970.

<sup>36</sup> Bus. & Prof. Code § 11362.2(b)(1).

<sup>37</sup> Bus. & Prof. Code § 11362.2(b)(4).

<sup>38</sup> Bus. & Prof. Code § 11362.2(b)(4).

<sup>39</sup> Health & Saf. Code § 11362.5.

<sup>40</sup> Rev. & Tax Code § 34011(a).

- Effective January 1, 2018, the AUMA imposes a separate cultivation tax on all harvested marijuana as follows:<sup>42</sup>
  - \$9.25 per dry-weight ounce on all marijuana flowers;
  - \$2.75 per dry-weight ounce on all marijuana leaves;
- The AUMA prohibits imposition of state and local sales taxes on medical marijuana.<sup>43</sup>
- The AUMA exempts marijuana cultivated for personal use from taxation.<sup>44</sup>

The AUMA does not pre-empt local taxation.<sup>45</sup> However, the AUMA’s estimated cumulative tax rate of nearly 35% on the purchase of nonmedical marijuana has potentially troubling implications for local governments. A high state tax rate by itself may depress sales and stimulate the black market. Any local taxation of marijuana should be governed by an awareness that a high retail sales tax rate, imposed on an industry that, until recently, has not been regulated at all, might stimulate black market activity and compromise the anticipated yield of revenue. In order to avoid such a result, cities might consider imposing an excise tax on discrete commercial nonmedical marijuana activities rather than on retail sales. New taxes on marijuana require compliance with Proposition 218.

## 1. Allocation of State Tax Revenues

After repaying certain state agencies for marijuana regulatory costs not covered by license fees, and making certain grants to universities for research and development and the Governor’s Office of Business and Economic Development, the AUMA distributes the remaining tax revenue as follows:

- 60% for youth programs, substance abuse education, prevention and treatment;
- 20% for environmental cleanup and remediation; and
- 20% for state and local programs that reduce DUI and grant programs designed to reduce negative health impacts resulting from marijuana legalization

## G. Deliveries

Under the MMRSA, medical marijuana deliveries can only be made from a state-licensed dispensary in a city, county, or city and county that does not explicitly prohibit it by local ordinance.<sup>46</sup> A delivery person must carry a copy of the dispensary’s state-issued license, a government ID, and a copy of the delivery request.<sup>47</sup> The patient or caregiver requesting the delivery must also maintain a copy of the delivery request.<sup>48</sup> Dispensaries and delivery people who comply with MMRSA are immune from prosecution for marijuana transportation.<sup>49</sup>

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<sup>41</sup> Rev. & Tax Code § 34011(d).

<sup>42</sup> Rev. & Tax Code § 34012.

<sup>43</sup> Rev. & Tax Code § 34011(g).

<sup>44</sup> Rev. & Tax Code § 34012(j).

<sup>45</sup> Rev. & Tax Code § 34021.

<sup>46</sup> Bus. & Prof. Code § 19340(a).

<sup>47</sup> Bus. & Prof. Code §§ 19340(b)(2), 19340(d).

<sup>48</sup> Bus. & Prof. Code § 19340(e).

<sup>49</sup> Bus. & Prof. Code § 19317(f).

Under the AUMA, deliveries can be made by a state-licensed retailer, microbusiness, or nonprofit unless they are prohibited by local ordinance.<sup>50</sup> Although the AUMA does require a customer requesting delivery to maintain a copy of the delivery request, there is no express requirement that delivery people carry or maintain any records.<sup>51</sup> Moreover, unlike the MMRSA, the AUMA does not require that deliveries come *from* a dispensary. Instead, it states that “Deliveries, as defined in this division, may only be made *by* a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.”<sup>52</sup> Thus, there is at least some question regarding whether deliveries may be made from non-retail locations by retail employees.

Under both the MMRSA and the AUMA, local jurisdictions can ban or regulate deliveries within their borders.<sup>53</sup> However, local jurisdictions cannot prevent a delivery service from using public roads to simply pass through its jurisdiction from a licensed dispensary to a delivery location outside of its boundaries.<sup>54</sup>

### **III. Local Regulatory Options**<sup>55</sup>

The AUMA preserves the authority of a city to adopt business regulations and land use regulations for nonmedical marijuana activities.<sup>56</sup>

#### **A. Personal Marijuana Cultivation**

Under the AUMA local governments can regulate or ban all personal, outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law. In addition, local governments can “reasonably regulate,” **but cannot ban**, personal, indoor cultivation. Nothing in the AUMA requires a city to enact an ordinance or regulation by a certain date. However, assuming that the AUMA passes, if a city does not have a ban or regulatory scheme governing personal, outdoor cultivation or a regulatory scheme governing personal, indoor cultivation in place before November 9, 2016, a person may legally engage in personal cultivation of up to six marijuana plants at his or her private residence.

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<sup>50</sup> Bus. & Prof. Code §26090(a).

<sup>51</sup> Bus. & Prof. Code §26090(b).

<sup>52</sup> Bus. & Prof. Code § 26090(a).

<sup>53</sup> Bus. & Prof. Code §§ 19340(a), 19316(a), 26200.

<sup>54</sup> Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c).

<sup>55</sup> For a thorough discussion of the various marijuana regulatory options that a city may consider, see McEwen, *Medical Marijuana-Revisited After New State Laws* (Spring 2016) <<http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2016/Spring-2016/5-2016-Spring-Medical-Marijuana-%E2%80%93Revisited-After>>. In addition, sample ordinances may be found on the League’s website, at: <http://www.cacities.org/Policy-Advocacy/Hot-Issues/Medical-Marijuana>. **But note:** the regulatory schemes discussed in the McEwen paper and posted on the League’s website pertain to medical marijuana businesses under the MMRSA and may need to be modified to comply with the requirements of the AUMA.

<sup>56</sup> Health & Saf. Code § 11362.2; Bus. & Prof. Code §§ 26201, 26200(a).

## **B. Nonmedical Marijuana Businesses**

The AUMA recognizes a range of businesses, including dispensaries, cultivators, manufacturers, distributors, transporters, and testing laboratories. Cities may expressly ban, adopt business regulations, or adopt land use regulations pertaining to any or all of these businesses.

Again, the AUMA does not require a city to enact a regulatory scheme or ban by a certain date. However, assuming that the AUMA passes in November, if a city wishes to regulate or ban marijuana businesses before marijuana businesses may legally operate within the city, the regulations or ban will need to take effect before the state begins issuing nonmedical marijuana business licenses. The League anticipates that cities have until January 1, 2018 to enact bans or regulations relating to nonmedical marijuana businesses, because: (1) nonmedical marijuana businesses cannot operate in any city without a state license;<sup>57</sup> (2) the state licensing agencies in charge of implementing the AUMA have stated that they anticipate that they will not begin issuing licenses under the MMRSA until January 2018, and it is unlikely that said agencies will be able to begin issuing licenses under the AUMA before they begin issuing licenses under the MMRSA; and (3) the AUMA does not require state agencies to issue licenses until January 1, 2018.<sup>58</sup> It is not the League's position that state licensing agencies cannot issue licenses before January 1, 2018, just that it is unlikely that they will do so.

## **C. Caution Against Use of Permissive Zoning**

Under a permissive zoning code, any use not enumerated in the code is presumptively prohibited, unless an authorized city official finds that the proposed use is substantially the same in character and intensity as those land uses listed in the code.<sup>59</sup> Although the MMRSA upheld a city's authority to rely on permissive zoning to prohibit medical marijuana land uses, it is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning under the AUMA. This is so because: (1) the statutory language in the AUMA regarding local control seems to anticipate that a city will adopt an ordinance explicitly prohibiting and/or regulating nonmedical marijuana businesses (rather than relying on the silence of its Code to argue for a prohibited use);<sup>60</sup> (2) the AUMA does not contain the same protective language as the

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<sup>57</sup> Bus. & Prof. Code § 26038.

<sup>58</sup> Bus. & Prof. Code § 26012 (c).

<sup>59</sup> See *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 433-436. See also *County of Los Angeles v. Hill* (2011) 192 Cal.App.4th 861, 871 [holding that "medical marijuana dispensaries and pharmacies are not 'similarly situated' for public health and safety purposes"]; *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1091 [holding that a medical marijuana dispensary was not substantially similar to the listed commercial use classifications for personal services, retail sales, pharmacies and medical supplies]; *County of Tulare v. Nunes* (2013) 215 Cal.App.4th 1188, 1205 [holding that a medical marijuana collective did not qualify as an "agricultural" land use because "marijuana is a controlled substance and is not treated as a mere crop or horticultural product under the law"].

<sup>60</sup> Bus. & Prof. Code § 26200 ["Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to *adopt* and *enforce* local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related



MMRSA with respect to permissive zoning;<sup>61</sup> and (3) the AUMA explicitly designates nonmedical marijuana as an agricultural product—thus if a city’s permissive zoning code authorizes agricultural uses, the city may be precluded from arguing that marijuana is prohibited.<sup>62</sup> Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

#### **IV. What actions need to be taken?**

At this time city officials should: (1) review the city’s municipal code; (2) consider whether they wish to regulate the personal cultivation of nonmedical marijuana indoors; (3) consider whether they wish to regulate or ban the personal cultivation of nonmedical marijuana outdoors; (4) consider whether they wish to enact business regulations of nonmedical marijuana businesses; (5) consider whether they wish to enact land use regulations of nonmedical marijuana businesses; (6) consider whether they wish to enact local taxes on marijuana; and (7) comply with Proposition 218 if they decide to enact local taxes on marijuana.

Cities should prioritize considering or enacting ordinances regulating personal nonmedical marijuana cultivation, because it will be legal under state law on November 9, 2016 if the AUMA passes, whereas nonmedical marijuana businesses will not be able to operate lawfully until the state licensing system becomes operational (likely in late 2017). **Although cultivation for personal use will be legal as of November 9, 2016 if the AUMA is approved by voters, local governments will not lose any regulatory authority if they do not have an ordinance in place addressing personal cultivation before the election. Locals will retain the ability to regulate personal cultivation and to enact related ordinances at any time after the election. The only change the AUMA will make in this area is to prohibit local bans of indoor cultivation for personal use. No ordinance enacted prior to the election can prevent this change in the law.**

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to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”] (emphasis added).

<sup>61</sup> Compare Health & Saf. Code § 11362.777(b)(3) [a “person or entity shall not submit an application for a state license . . . if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning”] with Bus. & Prof Code § 26205(e) [“Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.”].

<sup>62</sup> Bus. & Prof. Code § 26067(a).

November 22, 2016



## Frequently Asked Questions (FAQs)

### Adult Use of Marijuana Act<sup>1</sup>

#### Proposition 64

**Question #1:** When does the AUMA take effect?

**Answer:** The AUMA took effect November 9, 2016, the day after the election. But note, the AUMA requires a state license to engage in commercial nonmedical marijuana activity. Licensing authorities are required to begin issuing licenses by January 1, 2018 and the League anticipates that the issuance of licenses will not occur much in advance of January 1, 2018. Thus, the AUMA provisions legalizing commercial nonmedical marijuana activity will not become operational until the state begins issuing licenses (likely in late-2017). The AUMA provisions legalizing personal use and cultivation of nonmedical marijuana took effect November 9, 2016.

**Question #2:** Can private individuals cultivate nonmedical marijuana at home beginning November 9, 2016?

**Answer:** Yes, within a private residence by a person 21 years and older for personal use. The AUMA provides that local governments can reasonably regulate, but cannot ban the personal indoor cultivation of up to six nonmedical marijuana plants per private residence. This includes cultivation in a greenhouse that is on the property of the residence but not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space. Because this activity is not subject to state licensing requirements, individuals may engage in personal indoor cultivation beginning November 9, 2016, unless a city enacts an ordinance imposing a reasonable regulatory scheme that would preclude them from doing so before complying with the city's regulatory requirements.

Local governments may regulate or ban all personal outdoor cultivation. However, the AUMA includes language purporting to repeal any ordinance that bans personal outdoor

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<sup>1</sup> Please consult your City Attorney before taking action to implement the AUMA. The answers to these FAQs may be different in your city based upon your municipal code, regulations, and policies. The answers do not constitute legal advice from the League of California Cities®.

cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.

**Question #3:** Is there a limitation on the number of marijuana plants that can be cultivated within a single residence?

**Answer:** Yes. Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. A "residence" is defined as a house, an apartment unit, a mobile home, or other similar dwelling. No matter how many persons over 21 years of age are living in a "residence," only 6 living plants may be cultivated at one time. (Health & Safety § 11362.2(b)(3).)

**Question #4:** Can a landlord ban the cultivation/smoking of marijuana on his or her property?

**Answer:** Yes. An individual or private entity may prohibit or restrict personal possession, smoking, and cultivation of marijuana on the individual's or entity's privately owned property. A state or local government agency also may prohibit or restrict such activities on property owned, leased, or occupied by the state or local government. (Health & Safety §§ 11362.45(g) and (h).)

**Question # 5:** Can a city ban personal indoor cultivation in all leased or multi-unit residences within the city?

**Answer:** No. A city cannot prohibit personal indoor cultivation of marijuana in all leased or multi-unit residences within the city. However, because cities may reasonably regulate personal indoor cultivation, a city might be able to condition permit approval for personal indoor cultivation in a leased residence on the applicant receiving permission from his or her landlord.

**Question # 6:** Does a city's ban on commercial cultivation, personal outdoor cultivation, or retail sales of marijuana or marijuana products make it ineligible for state grant monies for law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Prop 64?

**Answer:** Yes. If a city bans commercial cultivation, or personal outdoor cultivation, or retail sales of marijuana or marijuana products, it is ineligible to receive state grant monies funded through the new state excise taxes that take effect on January 1, 2018. (Revenue and Taxation Code § 34019(e)(3)(D).)

**Question #7:** What does the AUMA say about possession, transporting, purchasing or giving away of non-medical marijuana?

**Answer:** A person 21 years of age or older may possess, process, transport, purchase or give away to persons 21 years of age or older not more than 28.5 grams of marijuana in the non-concentrated form and not more than 8 grams of marijuana in a concentrated

form including marijuana products. If the AUMA passes, these activities will be lawful under state law and cannot be prohibited under local law.

**Question #8:** Do cities that ban or regulate medical marijuana businesses need to update their ordinances to include nonmedical marijuana?

**Answer:** Yes. The AUMA prohibits state licensing authorities from issuing a license to a commercial nonmedical marijuana business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. This means that a city wishing to adopt business or land use regulations prohibiting or regulating commercial nonmedical marijuana businesses must adopt an ordinance prior to the date the state begins issuing licenses, which the League anticipates will be in late 2017.<sup>2</sup>

**Question #9:** Can cities be confident that a permissive zoning code, by itself, provides sufficient protection against nonmedical marijuana businesses setting up shop without local approval?

**Answer:** No. It is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning codes under the AUMA, because the AUMA does not contain the same protective language as the MMRSA with respect to permissive zoning. Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

**Question #10:** Are cities at risk of losing the opportunity to impose bans on personal outdoor cultivation if they don't act until after the November election?

**Answer:** No. A city may adopt an ordinance banning or regulating personal outdoor cultivation at any time.

**Question #11:** Are cities at risk of losing the opportunity to impose bans on nonmedical marijuana businesses, if they don't act until after the November election?

**Answer:** No. However, if a city does not adopt an ordinance expressly banning or regulating nonmedical marijuana businesses before the state begins issuing state licenses nonmedical businesses, a state-licensed nonmedical marijuana business will be able to operate within its jurisdiction without local permission or permitting. This is due to a provision in the AUMA that provides that state licenses cannot be issued where the activity would violate a local ordinance. If a jurisdiction has no ordinance regulating nonmedical marijuana businesses, then the local regulatory scheme is silent on that type of activity, and the state can unilaterally issue a license under terms fully compliant with the AUMA. Cities may adopt an ordinance expressly banning or regulating such operations after the state begins to issue licenses, but it will be difficult to terminate the state licensee's operations until the state license is up for renewal. Therefore, the best practice is to adopt an ordinance before the state begins issuing state licenses.

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<sup>2</sup> Please see Question #8 regarding the use of public roads for transportation and delivery.

**Question #12:** Can cities ban deliveries under the AUMA?

**Answer:** Yes. Cities can ban deliveries within their territorial limits. However, cities cannot prevent the use of public roads for the delivery of marijuana. For example, if a licensed delivery company located in City A must travel on public roads through City B to make an authorized delivery in City C, City B cannot prohibit the licensed delivery company from travelling on public roads in City B to get to City C. In addition, cities may not prevent the use of public roads within its jurisdiction to transport nonmedical marijuana.

**Question #13:** What is the best way for cities to notify the state licensing agencies of their local ordinances that regulate and/or prohibit commercial non-medical marijuana activities within their jurisdictions?

**Answer:** Unless the state licensing agencies indicate otherwise, cities should mail copies of their local ordinances that regulate or prohibit commercial nonmedical marijuana activities within their jurisdictions to the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. Cities should regularly check each Department's website to ensure that this practice complies with any regulations the Departments may pass regarding notice of local ordinances. In addition, Cities should ensure that any updates or amendments to local ordinances that regulate or prohibit commercial nonmedical marijuana activities are promptly submitted to each Department.

# Cannabis License Types

## Medical Cannabis Regulation and Safety Act (MCRSA) And Adult Use and Regulation Act (AUMA)

Both MCRSA and AUMA provide for six nearly identical license categories, although AUMA makes clear that licenses are required for both medical and recreational activities, even if for the same activity. Some of the differences include:

- Under MCRSA the retail sales permit is called “Dispensary” and under AUMA it is called “Retailer”;
- AUMA did not create a separate “Transporting” permit as MCRSA does, instead this activity is covered under the “Distribution” license;
- In September 2016, MCRSA was amended to add a “Specialty Cottage” cultivation license under Assembly Bill 2516 (aka “Cottage Cannabis Farmers Bill”), to accommodate “micro farmers”.
- AUMA created a category of cannabis businesses called “microbusinesses” which is not included under MCRSA. A microbusiness is defined as a small operator with cultivation space not exceeding 10,000 square feet. A microbusiness license would allow holders to cultivate cannabis and act as a licensed distributor, Level 1 manufacture (using either nonvolatile solvents or no solvents), and retailer all under one license.

### Medical Cannabis Regulation and Safety Act

MCRSA establishes 17 license types. There are restrictions to prevent vertical integration for licenses authorized by MCRA. In general, licensees can only hold licenses in up to two separate categories. Small cultivation licensee Types 1-2 may hold manufacturing or Type 10A retail licenses (limited to three dispensaries). Types 3-4 licensees can't apply for manufacturing licenses at all. However, Type 10A licensees can apply for both manufacturing and cultivation licenses, provided their total cultivation area doesn't exceed 4 acres. Also, facilities in jurisdictions that require or permit cultivation, manufacture and distribution to be integrated as of July 1, 2015 may continue to operate that way until Jan 1, 2026 (this provision does not apply to Santa Monica as there are no dispensaries that are currently operating).

### Adult Use and Regulation Act

AUMA established 19 license types. AUMA does not prohibit licensees from obtaining more than two license types, as MCRSA does. Only Type 5 license holders are precluded from obtaining distribution, testing or microbusiness license types under the AUMA. Type 5 licenses, will not be issued until January 1, 2023.

*Note: In creating the cultivation license Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4, AUMA defers to MCRSA to establish the size requirements specified in subdivision (g) of Section 19332 of Chapter 3.5 of Division 8.*

Following on the next two pages is a summary of the license types established by MCRSA and AUMA.

License Types		
Activity	MCRSA	AUMA
Cultivation*	Type 1 = Cultivation Specialty outdoor. Up to 5,000 square ft, or up to 50 noncontiguous plants	Type 1-NM = Cultivation Specialty outdoor; Small
	Type 1A = Cultivation Specialty indoor. Up to 5000 sq ft	Type 1A-NM = Cultivation Specialty indoor; Small
	Type 1B = Cultivation Specialty mixed-light. Using exclusively artificial lighting.	Type 1B-NM = Cultivation Specialty mixed-light; Small
	Type 1C = Specialty Cottage Indoor cultivation of 2,500 square feet or less for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less for indoor cultivation, on one premises	N/A
	Type 2 = Cultivation Outdoor. Up to 5000 sq ft, using a combination of artificial and natural lighting	Type 2-NM = Cultivation; Outdoor; Small
	Type 2A = Cultivation Indoor. 5001 -10,000 sq ft.	Type 2A-NM = Cultivation; Indoor; Small
	Type 2B = Cultivation Mixed-light. 5001 -10,000 sq ft	Type 2B-NM = Cultivation; Mixed-light; Small
	Type 3 = Cultivation Outdoor. 10,001 sq ft - 1 Acre	Type 3-NM = Cultivation; Outdoor; Medium
	Type 3A = Cultivation Indoor. 10,001 - 22,000 sq ft	Type 3A-NM = Cultivation; Indoor; Medium
	Type 3B = Cultivation Mixed-light. 10,001 - 22,000 sq ft	Type 3B-NM = Cultivation; Mixed-light; Medium
Type 4 = Cultivation Nursery. Produces clones, immature plants, seeds, and other agricultural products used for the planting, propagation, and cultivation of medical cannabis.	Type 4-NM = Cultivation; Nursery	

License Types		
Activity	MCRSA	AUMA
Cultivation (cont.)	N/A	Type 5-NM = Cultivation Outdoor; Large
		Type 5A-NM =Cultivation Indoor; Large, greater than 22,000 sq ft
		Type 5B = Cultivation Mixed-light. Large, greater than 22,000 sq ft
		<i>Note: Type 5 licenses, will not be issued until January 1, 2023.</i>
Manufacturing	Type 6 = Manufacturer 1 for products not using volatile solvents.	Type 6-NM = Manufacturer 1
	Type 7 = Manufacturer 2 for products using volatile solvents.	Type 7-NM = Manufacturer 2
Testing	Type 8 = Testing laboratory	Type 8-NM = Testing
Retail Sales	Type 10 = Dispensary; General	Type 10-NM = Retailer
	Type 10A = Producing Dispensary; No more than three retail sites	
Distribution	Type 11 = Distribution	Type 11 = Distributor (includes transporting)
Transporting	Type 12 = Transporter	N/A
Microbusiness	N/A	Type 12 =Microbusiness - small retailers with farms not exceeding 10,000 sq. ft. Permit holders to cultivate cannabis, and act as a licensed distributor, manufacturer (using either nonvolatile solvents or no solvents), and retailer.



## Other Relevant Legislation

The State has also adopted several other bills to augment MCRSA and AUMA and new legislation has been introduced that is currently pending in the legislation, including:

- Assembly Bill 21, signed by the Governor on February 3, 2016 to repeal a provision in the MCRSA that provided that if a jurisdiction did not have a land use ordinance or regulation prohibiting medical cannabis cultivation, either expressly or otherwise under principles of permissive zoning, or chose not to implement regulatory scheme, that commencing March 1, 2016 the State Department of Food and Agriculture (DFA) would become the sole licensing authority for cultivation in that jurisdiction
- Assembly Bill 2679, signed by the Governor on September 29, 2016 provides guidance for cannabis manufacturers currently operating in California and exempts collectives and cooperatives that manufacture cannabis products from certain criminal sanctions.
- Senate Bill 837, signed by the Governor on June 27, 2016 provided a number of provisions, among them amendments to certain areas of the MCRSA, which included changing references to “marijuana” to “cannabis”, a modification to the roles assigned to the various agencies responsible for the licensing and enforcement of MCRSA, grants agencies the authority to adopt emergency regulations to remain in effect for no longer than 180 days in order to implement and enforce MCRSA, makes changes to the various license types, and now excludes infused butters from the Milk Products Act of 1947. The bill also clarifies that, with some conditions, medical cannabis businesses operating in compliance with local laws on

January 1, 2018 can continue to operate until their state license application is either approved or denied.

- Assembly Bill 2516 (aka “Cottage Cannabis Farmers Bill”), signed by the Governor on September 29, 2016 created a new license Type 1 cultivation license for “micro farmers”. The new license is added as Type 1C and is available to farms with 2,500 square feet for indoor cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, with up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

As part of the continual evolution of cannabis regulations, on December 12, 2016, Assembly Bill 64 was introduced to reconcile MCRSA and AUMA and address concerns from the industry. As of January 4, 2017, when the bill was read for the first time, key provisions of the bill included:

- Assembly Bill 64. Commercial medical cannabis operations in California have protection from certain state criminal charges if they are organized as collectives or cooperatives and operate on a non-profit basis. In response to industry concerns that for-profit operations may not be allowed under the state law even after obtaining MCRSA licenses. Though that concern may be without basis in the existing statute, AB64 would make it abundantly clear that for-profit operations are allowed. AB64 would allow collectives and cooperatives to operate on a for-profit basis in the period until licensing under the MCRSA begins. AB64 would clarify that, after

receiving a MCRSA license, a medical cannabis operation could also operate on for-profit basis.

- Recognize Non-Store Front Dispensaries, which would allow for sales from locations that are not open to the public.
- Would expand and clarify restrictions on cannabis advertising and marketing. It would ban all cannabis advertising on interstates and state highways. AB64 would also impose some other restrictions, such as banning medical cannabis give-away promotions.
- Would allow state trademark and service mark protection for medical and adult-use cannabis products. California currently follows federal law and does not allow such protection.
- Would advance \$3 million to the California Highway Patrol for research on impaired driving.

Other cannabis related bills recently introduced:

- Assembly Bill 6, Driving under the influence drug testing. AB 6 would allow officers to require law enforcement to collect saliva samples. Law enforcement agencies in California that may currently use these do so with the permission of the person. AB 6 would expand existing laws that require a driver to submit to breath, blood, or urine tests to include “a preliminary oral fluid screening test that indicates the presence or concentration of a drug”. It is important to note that existing law, even after the passage of Proposition 64, does not establish a per se limit on THC or its metabolites in a driver’s bloodstream. An officer must decide what, if any, limit applies.

- Assembly Bill 76, Adult use marijuana marketing. Strengthens the provisions in Proposition 64 by specifically stating the Legislature’s intent to prohibit marketing adult-use cannabis to minors.
- Senate Bill 65, Vehicles, alcohol and marijuana penalties. The bill would prohibit “smoking or ingesting marijuana or marijuana products” while operating a vehicle. Similar laws already apply to alcohol. A violation would be charged as either an infraction or a misdemeanor, and offenders could be sentenced to drug or alcohol education and counseling classes in addition to criminal or civil penalties.

# COLORADO'S LEGALIZATION OF MARIJUANA AND THE IMPACT ON PUBLIC SAFETY:

## A Practical Guide for Law Enforcement



# **COLORADO'S LEGALIZATION OF MARIJUANA AND THE IMPACT ON PUBLIC SAFETY:**

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This report was prepared by the Police Foundation and the Colorado Association of Chiefs of Police.

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# Letter From President Jim Bueermann, Police Foundation

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Dear Colleagues,

This past spring, I was contacted by Chief Marc Vasquez of the Erie Police Department in Colorado to discuss the issues and challenges that Colorado law enforcement was experiencing as the state underwent the task of implementing the recent laws legalizing marijuana. In January 2014, after 14 years with legal medical marijuana use, Colorado became the first state to allow those over the age of 21 to grow and use recreational marijuana. State and law enforcement officials feared that this would lead to a huge increase in criminal behavior. Others predicted that the elimination of arrests for marijuana would bring a huge savings for police and the justice system.

To date, these predictions have not been borne out. It is early to tell what effect legalized marijuana will have on crime and public safety overall. Nonetheless, Colorado law enforcement officials have observed some concerning trends in drug use, most notably with youth and young adults. Law enforcement officials also say they are spending increased amounts of time and funds on the challenges of enforcing the new laws surrounding legal marijuana.

Both nationally and in Colorado, there is almost no significant research or data collection to determine the impact of legalized marijuana on public safety. We at the Police Foundation believe Colorado's experience and subsequent knowledge as they implement legalized marijuana will be beneficial to share with law enforcement officials and policy makers across the nation. Understanding that there are lessons to be learned and shared with the larger law enforcement community, the Police Foundation partnered with the Colorado Association of Chiefs of Police in publishing this guide - "Colorado's Legalization of Marijuana and the Impact on Public Safety: A Practical Guide for Law Enforcement."

Eighteen years ago, California became the first state to approve legalized medical marijuana. Since that time 22 other states have approved medical marijuana measures – nearly half of the nation. Four states and the District of Columbia have approved the legalization of recreational marijuana use. We are moving rapidly to a new era in how we manage marijuana sales and the larger industry growing underfoot, and we hope this guidebook can illustrate the challenges for local law enforcement and help those about to engage in this type of policy to learn from Colorado. Law enforcement is charged with ensuring public safety while enforcing the new regulations, which includes both the limitations and definitions under a new law. This guide is not a discussion on whether marijuana should be legalized, but rather a review of the challenges presented to Colorado law enforcement in the wake of legalized marijuana.

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Colorado law enforcement has been tasked to balance critical issues such as opposing state and federal marijuana laws; illegal trafficking of Colorado marijuana across state lines; ensuring public safety of growing operations and extraction businesses in residential areas; to name a few.

Resolving the issues resulting from legalized marijuana may benefit from a community policing approach – including partners from the medical, health, criminal justice, city and county government, and other marijuana stakeholders. The collective wisdom of these partnerships can potentially provide a consensus on policies and practices for ensuring safety.

The Police Foundation intends that this guide will assist not only Colorado police and sheriffs, but will contribute to the growing dialogue as law enforcement officials, state and local policy makers across the nation consider legalizing marijuana in their states and localities.

Sincerely,

A handwritten signature in blue ink that reads "Jim Bueermann". The signature is fluid and cursive, with the first name "Jim" being particularly prominent.

Jim Bueermann  
*President*

# Letter From Chief Marc Vasquez, Erie Police Department



Dear Colleagues,

Colorado's journey down the path of legalized marijuana took many of us in law enforcement by surprise – we simply did not think that it would ever happen here. Our understanding of the complex issues around marijuana legalization changes almost weekly as we continue to advance solutions for public safety under the Colorado constitution. It does not matter if we are for or against marijuana legalization. As law enforcement professionals, we must be prepared to tackle the implementation of public policies as we are faced with marijuana legalization nationally.

Legalized marijuana brings new challenges. Increased use of marijuana by both adults and youth will occur in communities where marijuana is legalized. With increased use, we can expect to see more driving under the influence of marijuana cases and an increased number of accidental overdoses from highly potent THC concentrates. We anticipate increased diversion of marijuana to juveniles and states that currently prohibit marijuana.

One of our greatest challenges is educating our communities, policy-makers and elected officials as to the risks of adding marijuana to already legal substances, such as alcohol and tobacco. Our ability to collect and analyze data regarding the impact of marijuana legalization remains a challenge. Another challenge is the conflict between state and federal law. As peace officers, we have pledged to uphold both the Colorado and United State's constitutions, which conflict regarding marijuana laws.

Like you, I am a strong community-policing advocate. Using the community policing model, I believe that we need to partner and problem-solve with our communities around the issues of marijuana legalization. Working with stakeholders who have an interest in marijuana legalization, either pro or con, provides the best opportunity to develop public policies that will be fair and effective for our communities. What works in Colorado may not work in your community so solutions to this complex issue must be crafted for your community.

This technical assistance guide will be updated as our understanding of the complex issues around marijuana legalization continues to evolve. For any police chief or sheriff who may be facing marijuana legalization in your state, I hope this guide provides at least a starting point for you. Feel free to contact the Colorado Association of Chiefs of Police (<http://www.colochiefs.org>) or the Police Foundation in Washington D.C. (<http://www.policefoundation.org>) if we can be of any assistance. It is an honor to be involved in the development of this technical assistance guide on marijuana legalization published by the Police Foundation.

Sincerely,

A handwritten signature in black ink that reads "Marc Vasquez".

Marc Vasquez, Chief  
Erie Police Department  
Erie, Colorado

# ACKNOWLEDGEMENTS

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This report was made possible by the support and assistance of the Colorado Association of Chiefs of Police and the president, Chief John Jackson of the Greenwood Village Police Department. We are indebted to Chief Marc Vasquez of the Erie Police Department, who is the Marijuana Issues Committee Chair for the Colorado Association of Chiefs of Police and formerly the Chief of Investigations for the Medical Marijuana Enforcement Division for the Colorado Department of Revenue. Chief Vasquez's contributions and leadership were invaluable.

The Police Foundation would like to express gratitude for the willingness of those who participated in the Colorado law enforcement focus groups and provided incredible insight into the on-the-ground challenges and trends for police and sheriffs managing the legalization issues.

Additionally, Police Foundation staff would like to recognize the following individuals. Without their support, cooperation and expertise, this report could not have been completed:

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Wheat Ridge (CO) Police Department: Daniel Brennan, Chief of Police.

The development of this guide and creation of this report were led by the Police Foundation's Senior Policy Analyst Mora L. Fielder, Creative Communications Manager Mary DeStefano, Project Associate Mary Sigler, and Communications Manager Jim Specht. Also involved were Vice President Blake Norton and President James Bueermann.

## ABOUT THE POLICE FOUNDATION

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The mission of the Police Foundation is “Advancing Policing Through Innovation & Science.” The Foundation is a national non-profit bipartisan organization that, consistent with its commitment to improve policing, has been on the cutting edge of police innovation for over 40 years. The professional staff at the Police Foundation works closely with law enforcement, judges, prosecutors, defense attorneys, and community-based organizations to develop research, comprehensive reports, policy briefs, model policies, and innovative programs that will support strong community-police partnerships. The Police Foundation conducts innovative research and provides on-the-ground technical assistance to police and sheriffs, as well as engaging practitioners from multiple systems (corrections, mental health, housing, etc.), and local, state, and federal jurisdictions on topics related to police research, policy, and practice. The Police Foundation also manages the National Law Enforcement Officer Near Miss Reporting System found at [www.LEOnearmiss.org](http://www.LEOnearmiss.org), and a site dedicated to learning from critical incidents found at [www.incidentreviews.org](http://www.incidentreviews.org)

## ABOUT THE COLORADO ASSOCIATION OF CHIEFS OF POLICE

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The Colorado Association of Chiefs of Police (CACP) is a professional organization committed to excellence in delivering quality service to our membership, the law enforcement community, and the citizens of Colorado. Through our leadership, we will provide education and training and promote the highest ethical standards. We are personally and professionally dedicated to preserving basic family values, which are essential for achieving a high quality of life.

# INTRODUCTION

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When voters made Colorado the first state in the nation to legalize recreational marijuana in 2012, law enforcement was presented with a new challenge: understanding and enforcing new laws that aim to regulate marijuana use, rather than enforcing laws that deem marijuana use to be illegal. Supporters of the new law claimed this would make things easier for police and save at least \$12 million<sup>1</sup> in taxpayer dollars on reduced law enforcement costs. Agencies across the state argue that has not been the case<sup>2</sup>. The legislation to enact the new laws has been vague, and consequently difficult to enforce. Unforeseen problems have arisen, ranging from how to determine when a driver is legally



under the influence of marijuana to how to deal with legal drug refining operations in residential neighborhoods. Some Colorado law enforcement agencies have at least one full-time officer dedicated to marijuana regulation and enforcement, but most agencies do not have this option and are struggling to deal with the additional workload brought by legalized marijuana. Many law enforcement leaders are frustrated by the conflict

between enforcing the new law and upholding federal statutes that continue to view marijuana use as illegal. The neighboring states of Nebraska and Oklahoma have filed suit in the U.S. Supreme Court<sup>3</sup> to overturn Colorado's Constitutional amendment legalizing recreational marijuana, claiming that they have been flooded with illegal marijuana from Colorado. Additionally, school resource officers and other law enforcement leaders interviewed by the Police Foundation said they worry that illicit drug use by young people is on the rise because of easy access to marijuana through a continuing black market and a "gray market" of semi-legal marijuana sold through unauthorized channels.

The Police Foundation and Colorado Association of Chiefs of Police have developed this guide to illustrate the challenges for law enforcement in Colorado. This guide will introduce some of the solutions that have been put into effect and outline problems that still need to be addressed.

The Colorado Association of Chiefs of Police and almost every law enforcement leader in the state opposed the passage of Amendment 64, which legalized the recreational use of marijuana. Many chiefs still express strong opposition and some want to work to repeal the law because they believe it will lead to more crime and possible increased drug addiction, especially for the youth population. However, this guide is not intended to address the complex political elements of marijuana legalization. It is designed to summarize the numerous challenges faced by law enforcement when enforcing the laws surrounding legalization, to document solutions that have been proposed and put into effect, and outline problems that still need to be addressed.

Colorado is only a year into the legalization of recreational marijuana and Colorado law enforcement agencies have already faced many challenges in enforcement and management of the legalization process, which lawmakers did not anticipate. Law enforcement will continue to address circumstances as they arise, and the Police Foundation and the Colorado Association of Chiefs of Police will continue to partner in relaying information on policies, procedures, and best practices in addressing crime and disorder related to legalized marijuana to law enforcement agencies nationwide.

## METHODOLOGY

The purpose of this review was to identify Colorado's public safety challenges, solutions, and unresolved issues with legalized medical marijuana and recreational marijuana. Very little hard data has been gathered on the effects of recreational marijuana sales in Colorado. There has been little rigorous, evidence-based research to draw any conclusions regarding the impact of legalized marijuana on law enforcement. Information gathered from interviews and focus groups with law enforcement officers and subject matter experts as well as official documents and news stories are presented in this guide to help all law enforcement who are facing the challenges of legalized marijuana.

## PARTICIPANTS

The Police Foundation convened two focus groups to obtain the thoughts and opinions of Colorado law enforcement executives, detectives, and officers on enforcing the marijuana laws. Participants were selected based on their experience and knowledge of marijuana legalization, as well as agency location and size, to get a broad representation.

One focus group had nine participants, with six police chiefs, one sheriff, and three officers representing large, mid-size, and small agencies, along the Front Range and in the Rocky Mountains. The chiefs of police and sheriff have been in policing from 23-40 years and the officers have been in policing 15 years or more.

The second focus group session included six officers, detectives, and marijuana regulatory officers. These officers and detectives serve in the capacity of monitoring marijuana regulations in their community and investigating violations of the marijuana laws. Their tour of duty was anywhere from approximately five to 25 years. These officers represented Front Range agencies from large, mid-size, and small agencies, as well as the mountain towns and ski resorts.

In addition to the focus groups, the Police Foundation conducted 23 individual interviews with Colorado law enforcement leaders and officers. A snowball sample was used to obtain names of subject matter experts.

Whenever possible, the focus groups and interviews have been supplemented by official documents illustrating legislation, court decisions, and law enforcement studies. Hundreds of media articles were surveyed to gain background on the issue, and some are used to illustrate points or historical background.



## PROCEDURES

Focus group participants were asked a series of questions on Amendment 20 (legalizing medical marijuana) and Amendment 64 (legalizing recreational marijuana) to determine how they worked with the community and municipal/county government to identify and address public safety concerns regarding: (1) crime and disorder, (2) youth related issues, (3) successful approaches to addressing crime or community issues, and (4) unanticipated consequences challenging public safety resources, strategies, policies, or procedures. Interviews were recorded whenever possible with the permission of the interviewee and then transcribed.

# I. OVERVIEW OF COLORADO'S MARIJUANA LEGISLATION

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The passage of Amendment 20 in November 2000 made Colorado the fifth state to legalize the medical use of marijuana. Twelve years later the state became one of the first two (along with Washington) to legalize recreational marijuana when Amendment 64 passed in November 2012. Because Colorado's law took effect immediately and Washington's was delayed until supporting legislation was passed, Colorado is considered the first state to have legal recreational marijuana.

The amendments conflict with the federal Controlled Substance Act of 1970, which classifies marijuana as a Schedule I controlled substance and states that it is illegal to sell, use or transport marijuana across state lines. Federal officials eventually granted some leeway to the states that have legalized marijuana, but the conflicts between state and federal law remain a significant challenge for law enforcement.

Amendment 20, *The Medical Use of Marijuana Act*, passed in 2000 with 53.3 percent of the voters approving the use of marijuana for debilitating medical conditions.

Under the act, individuals requesting medical marijuana for conditions such as cancer, glaucoma, cachexia, severe nausea, seizures, multiple sclerosis and chronic pain associated with a debilitating or medical condition, may register with the Colorado Department of Public Health and Environment (CDPHE) and obtain a registered medical marijuana patient card. Patients may also obtain a physician's evaluation and official recommendation for the number of medical marijuana plants they are allowed to grow. The law allows individual patients the right to possess two ounces of marijuana and six marijuana plants – and they can have more upon a physician's recommendation. Physicians can recommend any amount they deem necessary for the patient's anticipated treatment. Patients can grow the marijuana themselves or designate a caregiver to cultivate the plants and distribute the yield. A caregiver could have up to five patients and theoretically cultivate plants for each of them; the law also requires the caregiver to register with the CDPHE.

The implementation of Amendment 20 was uneventful for the first five years; however, three significant events occurred between 2005 and 2010, which changed the medical marijuana industry. (See Appendix 1 for a detailed history of Colorado's marijuana laws).

**From 2001 to 2008, there were a total of 4,819 approved patient licenses. In 2009, there were 41,039 approved medical marijuana registrations from CDPHE.**

Source: CDPHE

**The number of marijuana dispensaries went from zero in 2008 to 900 by mid-2010.**

Source: Department of Revenue, Marijuana Enforcement Division

- 2005: Denver voters approved the decriminalization of possession of small amounts of marijuana for recreational use. Voters in the town of Breckenridge approved a similar measure in 2009.
- 2009: Denver District Court Judge Naves threw out CDPHE’s definition for caregivers and instructed CDPHE to hold an open meeting and revise the caregiver language.<sup>4</sup> The department was unable to set a new definition, and so there was no regulatory language on how many medical marijuana patients a caregiver could supply until the General Assembly created new laws the following year.
- 2009: The U.S. Department of Justice released the “Ogden Memo,” providing guidance and clarification to the U.S. Attorneys in states with enacted medical marijuana laws. Deputy Attorney General David W. Ogden stated, among other things, the federal government would not prosecute anyone operating in clear and unambiguous compliance with the states’ marijuana laws.<sup>5</sup>

## The Growth of Medical Marijuana Centers

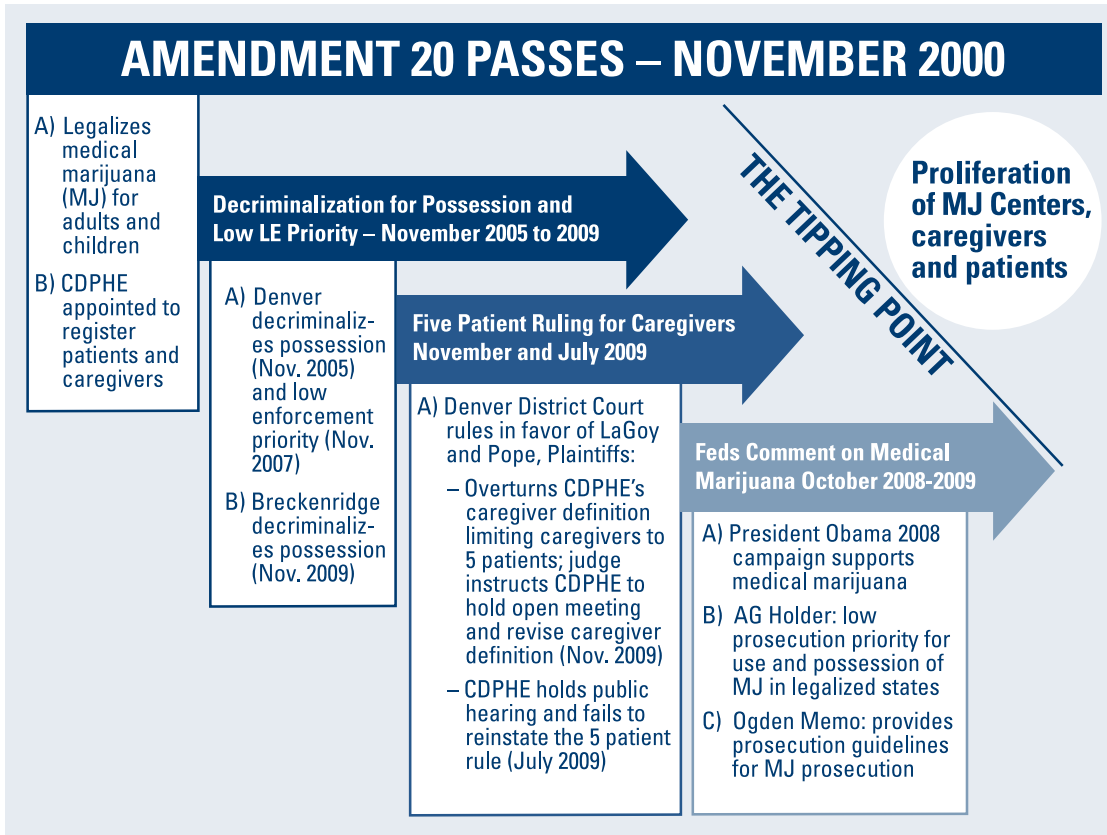
When CDPHE’s caregiver definition was overturned in court in 2009, there was no limit on the number of patients caregivers could serve. At the same time, there was a boom in the number of medical marijuana patients registering with CDPHE.

Some medical marijuana proponents decided to test the boundaries of the caregiver model after the definition was thrown out. This resulted in a proliferation of medical marijuana centers throughout the state. These centers grew large quantities of marijuana plants because they could claim to be the “caregivers” for any registered medical marijuana patient.

This was one of the first major unanticipated problems for law enforcement, according to members of the Police Foundation focus groups. Since there were no statutes or regulations, the medical marijuana centers had no restrictions on the number of patients to whom they could provide marijuana. This also led to patients “shopping” their doctor’s recommendation to as many medical marijuana centers as they wanted and as often as they wanted, focus group members said. As long as the patient had a “red card” and an authorized doctor’s recommendation, then that patient could go to countless medical marijuana centers as long as the patient only carried two ounces or less out of each one.

Because so many medical marijuana centers opened so quickly, state and local officials found it difficult to regulate them. The General Assembly did not craft regulations until 2010 to govern licensing fees, inventory tracking requirements, production of marijuana infused products, packaging and labeling requirements, and disposal of waste water from the processing of medical marijuana.

**Figure 1: Tipping Point for Opening Medical Marijuana Centers**



Source: Adapted from Chief Marc Vasquez

From June 1, 2001, to December 31, 2008, a total of 5,993 patients applied for a medical marijuana registration card (also known as a red card due to its color). Of those applicants, 4,819 were approved. After the opening of the medical marijuana centers, by December 31, 2009, there were 43,769 applications of which 41,039 were approved. This is an increase of 751.61% in approved registrations in just one year’s time. As of December 1, 2014, there were 116,287 medical marijuana patients registered with the state.

The Colorado legislature responded to these developments by passing legislation in the 2010 and 2011 sessions that created the Colorado Medical Marijuana Code. The primary bills creating the Code were HB 10-1284, SB 10-109 and HB 11-1043. They legalized medical marijuana centers and created a range of marijuana business-related regulations. Other parts of the code limited caregivers to provide for just five patients (although more could be approved under a waiver), and created a new regulatory body: the Medical Marijuana Enforcement Division under the state Department of Revenue. In addition to marijuana plants, the code allowed for “infused products” to be made and sold to patients.

The code requires centers to cultivate at least 70 percent of the marijuana they sell. The law created a “seed-to-sale” inventory tracking system which tracks all marijuana plants from cultivation to sale to the customer. The legislation allows local jurisdictions to set their own rules on whether to allow marijuana businesses to operate in their municipality or county, hours of operation and other rules – as long as the rules were stricter than state law. Of the state’s 64 counties, 22 agreed to allow new marijuana businesses in their jurisdictions, while 37 banned them outright. Others grandfathered in existing operators, and still others set further limits on the businesses.

The update to the code that passed in 2011 - HB 11-1043 - set stricter requirements on doctors providing recommendations for medical marijuana and provided for licensing of businesses manufacturing infused products.

In 2012 with the passage of Amendment 64, Colorado voters approved the recreational use of marijuana. The new law allows anyone 21 years of age or older to possess one ounce of marijuana or to grow six plants for personal use. It is illegal to provide recreational marijuana to anyone under the age of 21. Amendment 64 prohibits the consumption of marijuana in public or open places and defines driving under the influence. Regulations were also established on infused products – edibles that include marijuana oil – that could now be sold for recreational use. The amendment provided provisions for local governing bodies (i.e., City Council or County Commission) to determine whether to permit recreational marijuana stores, marijuana infused product businesses, or cultivations in their area, similar to provisions for medical marijuana providers. If approved locally, medical marijuana centers were allowed to sell recreational quantities. The amendment requires, among other things, operators of marijuana cultivation and sales facilities to undergo a criminal background check. Anyone with a felony conviction is barred from operating a cultivation and sales facility or working in the industry.

Both medical marijuana and recreational marijuana is subject to the state’s 2.9 percent sales tax, and recreational sales are also subject to a 10 percent excise tax. Local taxes may be added as well – in Denver, recreational marijuana is subject to a total 21.12 percent tax.

The Colorado legislature passed a series of bills (SB 13-283 and HB 13-1317) to implement the recreational marijuana provisions of Amendment 64. They limited non-Colorado residents to purchasing only one quarter of an ounce of marijuana after neighboring states expressed fears that marijuana “tourists” would transport large quantities home to sell illegally.

This history of overlapping medical and recreational marijuana laws has left law enforcement in Colorado with the challenge of both interpreting and enforcing the laws.

## The Four Models for Regulating Medical and Recreational Marijuana

As a result of the passage of Amendments 20 and 64, four types of marijuana regulation and oversight models emerged – caregiver/patient, medical commercial, recreational home-grown and recreational commercial (see Figure 2). Having different models and regulatory agencies providing oversight has created challenges. The first model began with the passage of Amendment 20: the caregiver/patient model for medical marijuana.

With the proliferation of medical marijuana centers the second model, medical commercial, was established for licensing and regulating the medical marijuana industry. When Amendment 64 was passed, the recreational models were established. The Marijuana Enforcement Division regulates the Medical and Recreational Commercial models, and systems are in place for monitoring the commercial industry.

The regulation by local law enforcement of the caregiver/patient and the recreational home-grown models is more challenging.

Local law enforcement agencies are not authorized to perform home checks. They are bound by the law and cannot investigate a home grow unless a complaint has been filed. Even then, the officer must have probable cause to believe a crime is being committed by residents of the home or the resident would have to consent to allow the officers into the home. Thus, officers could conduct “knock & talks” at a caregiver location, but they would need to establish probable cause to execute a criminal search if they believe crimes are being committed. Some municipalities are enacting ordinances that prohibit noxious odors and the number of plants allowed to grow, and local law enforcement can use those ordinances to address neighborhood complaints.<sup>6</sup>

**Figure 2 : Four Models Created through Amendments 20 and 64**

Medical Commercial	Recreational Commercial
<ul style="list-style-type: none"> <li>– Licensing for Businesses, Owners and Employees</li> <li>– Licensed by Department of Revenue, Marijuana Enforcement Division</li> <li>– Regulatory authority: Marijuana Enforcement Division</li> </ul>	<ul style="list-style-type: none"> <li>– Licensing for Businesses, Owners and Employees</li> <li>– Licensed by Department of Revenue, Marijuana Enforcement Division</li> <li>– Regulatory authority: Marijuana Enforcement Division</li> </ul>
Caregiver/Patient	Recreational Home Grows
<ul style="list-style-type: none"> <li>– Caregivers who can grow for up to 5 patients and themselves</li> <li>– Routinely see large grows</li> <li>– Patients are licensed by Colorado Department of Public Health and Environment</li> <li>– Caregiver Regulatory authority: Colorado Department of Public Health and Environment and local law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>– Anyone 21 years of age or older can grow up to 6 plants. Law enforcement is seeing “Co-op” cultivations where a number of adults over 21 grow their marijuana at one location. This scenario is challenging for law enforcement because officers are uncertain which area of Amendment 20 or 64 may apply to the cultivation.</li> <li>– No licensing required</li> <li>– Regulatory authority: local law enforcement</li> </ul>

Source: Adapted from Chief Marc Vasquez<sup>7</sup>

## II. MEASURING LEGALIZED MARIJUANA'S IMPACT ON INVESTIGATIONS, CRIME, AND DISORDER

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The legalization of marijuana in Colorado has created numerous challenges for law enforcement in conducting investigations, establishing probable cause, determining search and seizure procedures, and addressing public safety concerns with home growing operations.

In order to best assess the impact that the legalization of marijuana has had on crime, data must be gathered. Colorado authorities did not establish a data collection system when they began addressing the enforcement of the new laws; thus, law enforcement leaders who participated in the Police Foundation focus groups have urged that departments in other states facing laws on legalization move quickly to establish data collection systems and processes in preparation for the new challenges they will face.

Law enforcement leaders in focus groups convened by the Police Foundation warned that until there is a statewide data collection system, it will not be possible to fully understand the impact of legalized marijuana and related crime in the state of Colorado; however, they believe crime is increasing. Efforts are currently underway at the Colorado Department of Criminal Justice to develop statewide data collection systems. Given the time needed to create a statewide data system, it may be years before Colorado law enforcement can fully analyze the impacts of legalized marijuana.

In the meantime, local law enforcement and other related regulatory agencies and service providers are collecting data at the local level to understand the impact of marijuana-related crime. Collecting and analyzing this data is a challenge for smaller agencies including the majority of mountain towns, which are impacted by high volumes of out-of-state visitors.

Colorado law enforcement leaders in the Police Foundation focus groups have urged that departments in other states facing laws on legalization move quickly to establish data collection regarding the new challenges they face.

The Denver Police Department (DPD) has been one of the most active agencies in collecting data since legalization. Examining Denver's data provides some insight into the complexity of marijuana data collection at the local level.

**“The absence and lack of data is absolutely a killer to demonstrate whether there is going to be adverse consequences of marijuana on your community or not. So what every law enforcement agency in the country should do right now, today, is start collecting data, not just on marijuana but on all controlled substances to establish a baseline. Colorado has missed their opportunity to collect baseline data, but other states could be establishing their baselines now.”**

**– Sgt. Jim Gerhardt**

**Figure 3: Denver and State Comparisons for Marijuana Medical and Retail stores, Marijuana Cultivations, Marijuana Infused Product Producers and THC Inspection Laboratories**

Denver Licensed Medical	Statewide Licensed Medical	Denver Licensed Retail	Statewide Licensed Retail
Centers = 198	Centers = 501	Stores = 126	Stores = 306
Marijuana Infused Product-Making Facilities = 78	Marijuana Infused Product-Making Facilities = 158	Marijuana Infused Product-Making Facilities = 44	Marijuana Infused Product-Making Facilities = 92
Cultivations = 376	Cultivations = 739	Cultivations = 190	Cultivations = 375
		Labs Checking for THC Levels = 9	Labs Checking for THC Levels = 15

*Source: City of Denver data from Denver (CO) Police Department; state data from State of Colorado, Department of Revenue.*

The Denver Police Department collects marijuana crime data specifically for industry-related crimes (defined as offenses directly related to licensed marijuana facilities) and non-industry crimes (defined as marijuana taken during the commission of a crime that did not involve a licensed marijuana facility). Data from 2012 through September 2014 shows burglary as the most prevalent industry-related crime. Burglaries at licensed marijuana facilities are much higher than other retail outlets like liquor stores. Burglaries occurred at 13 percent of Denver’s licensed marijuana facilities in 2012 and 2013, compared with just 2 percent of liquor stores, according to Denver Police Department crime analyst, D. Kayser.

## KEY ISSUES

### Marijuana-Industry Related Homelessness Brings Challenges for Law Enforcement, Social Agencies

Denver officials say they are facing one unexpected result of legalization – a significant influx of homeless adults and juveniles are coming to Denver due to the availability of marijuana.<sup>8</sup> Although homelessness has been a persistent problem in Denver, police have seen an increase in the number of 18 to 26 year olds seeking homeless shelters because



they are hoping to find work in the cannabis industry. However, many have felony backgrounds and are ineligible to obtain work in the limited jobs in the industry. The St. Francis Center, a daytime homeless shelter, reported that “marijuana is the second most frequent volunteered reason for being in Colorado, after looking for work.”<sup>9</sup>

The issue of homelessness has spread to suburban neighborhoods because of the location of growing operations, police said. The Golden City Council voted in June 2014<sup>10</sup> to ban recreational marijuana sales and restricted medical marijuana operations to manufacturing areas.<sup>11</sup>

The council voted to only allow indoor marijuana cultivation. Any cultivation operation that attracts a high volume of foot or vehicular traffic can be shut down.



<http://www.click2houston.com/news/pot-draws-homeless-texans-to-colorado/28186888>

## Marijuana businesses are keeping too much cash on hand because of federal banking restrictions, creating targets for burglaries and robberies

The U.S. Department of Justice and the U.S. Treasury Department’s Financial Crimes Enforcement Network have issued guidelines<sup>12</sup> allowing banks to work with marijuana businesses that are in compliance with new state legalization laws. Even with the new Treasury guidelines, bank officials continue to be reluctant to do business with growers as they fear that they will still be subject to investigation<sup>13</sup> for accepting cash that drug-sniffing dogs can target as smelling of marijuana, according to news reports. Given that marijuana remains a Schedule I controlled substance under federal law, banks fear they could be prosecuted under money laundering laws for accepting funds from legalized businesses. To respond to the business need for financing, Colorado state regulators have approved the development of a credit union<sup>14</sup> to serve the industry, according to media reports. Nonetheless, most of the marijuana businesses remain cash-only, which will increase public safety risks and crime, Police Foundation focus group members said.

The dichotomy of federal and state law has led companies to turn to innovative strategies to resolve the cash problem. Entrepreneurs have developed armored car services for marijuana businesses<sup>15</sup> in which they collect the money, remove marijuana residue from the cash, and then transport the funds to the banks for deposit. Some law enforcement leaders believe this may be vulnerable to money laundering operations, while others say it is good policy.

This has resulted in many business owners choosing to operate solely using cash. Focus group members said that Colorado law enforcement officials have observed that criminals

are targeting centers, knowing they may have large sums of cash. According to focus group members, even couriers transporting marijuana from one location to another (e.g., transporting marijuana to an edible-infused business) are at risk and have been robbed.

A cash-only business also poses a challenge on the investigations side of enforcement. Criminal investigations can be hampered when there is no paper trail to determine cash flow. An all-cash business can potentially be used for money laundering activities, and it makes it more difficult to track the gray and black-market sales.



<https://www.youtube.com/watch?v=2J41ZyYYFil&feature=youtu.be>

## POINT FOR CONSIDERATION

- ***Law enforcement must develop policy, training and practices that take into account conflicting federal and state laws in relation to marijuana legalization in Colorado.***

Marijuana remains a Schedule I controlled substance under federal law. Law enforcement officials at all levels should review and follow the rules laid out in the memorandum issued by Attorney General Holder in April 2013 entitled “Guidance Regarding Marijuana Enforcement”<sup>16</sup> to ensure that the federal guidelines are taken into account by local law enforcement.

# III. IMPACT OF LEGALIZATION OF MARIJUANA ON LAW ENFORCEMENT PRACTICES

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The laws surrounding commercial, recreational, and medical marijuana have established stringent reporting requirements, but medical marijuana caregivers were “grandfathered” under much less strict rules. The lack of clarity in the laws affecting medical and recreational marijuana has created significant challenges for Colorado law enforcement to investigate potential abuses and build a case for illegal marijuana growing operations.

According to HB 11-1043, a “primary caregiver” cultivating for medical marijuana patients must register the location of the cultivation operation with the Marijuana Enforcement Division and provide the registry ID for each patient. However, the law does not set a punishment for the caregiver who does not register. In addition, police cannot access patient information because of privacy laws, and so they cannot ascertain whether the “caregivers” are growing the amount specified in a doctor’s recommendation or whether the caregiver is indeed still the caregiver for a given patient. Amendment 20 – which made medical marijuana legal in the state - mandates that patients must carry a medical marijuana registry card, whereas caregivers have no cards and no punitive sanctions from law enforcement if they have not registered.

**“From the probable cause point of view, every situation has to be looked at from the totality of the circumstances that are present. Specifically, intelligence information, calls for service, neighborhood complaints, what you see, smell and hear, and any other information that would lead you to establish reasonable suspicion and/or probable cause.”**

**– Lieutenant Ernie Martinez,  
Director-at-large, National Narcotics  
Officers Association Coalition**

## Investigations and Probable Cause – How to Track Inventory

Colorado’s laws established a “seed-to-sale” registry that has been praised for keeping track of every plant cultivated in the state. However, an audit by the Colorado State Auditor in 2013 found that the registry was failing in its mandate to monitor<sup>17</sup> medical marijuana dispensaries. Investigators for the Colorado Department of Revenue, Marijuana Enforcement Division, found in 2014 that some retail outlets they visited had discrepancies between the registry and the inventory on site. When queried, retailers could not articulate the reason for the discrepancies in inventory.

Members of the focus groups convened by the Police Foundation believe that the state registry officials are improving as funding increases to establish benchmarks for monitoring the supply. Law enforcement also noted that the lack of coherent data and inventory information means that police must rely on standard investigative techniques to ascertain whether a grower or sales outlet is engaging in illegal underground activity on the side.

## Searches and Seizures and Prosecution Under Legalization

Colorado police officials interviewed by the Police Foundation said one of the biggest concerns for law enforcement is attempting to establish probable cause for a search warrant under the conflicting laws regulating medical and recreational marijuana. “It is often difficult for law enforcement to develop probable cause because of vague language in the constitutional amendments and (that inhibits) the issuance of search warrants,” said Chief Marc Vasquez of the Erie Police Department.

District attorneys have become cautious about warrants because juries have often found in favor of defendants who are medical marijuana users, said Matthew Durkin, Deputy Attorney General: “The same confusion and ambiguity in the legal landscape that hinders law enforcement, presents significant obstacles to a successful prosecution. The overly complex legal framework for marijuana not only makes developing evidence very challenging, but it also allows defendants to retroactively manipulate evidence.”

Law enforcement is also caught in the middle when it comes to seizing and returning marijuana evidence because of conflicting state and federal laws. “We have changed our seizure policies several times over the past few years due to court findings,” said Deputy Chief Vince Ninski of the Colorado Springs Police Department. “We received a legal opinion from our city attorney’s office that since marijuana is still federally illegal, we would seize marijuana plants and harvested products when we believed the grower was violating state law. When a defendant was acquitted of his or her charges, the Colorado Springs P.D. was ordered to return the marijuana back to the defendant. The U.S. Attorney advises police that to return it would be in violation of federal law. Our hands are tied.”

Even dealing with seized evidence has presented new challenges. Police departments confiscate marijuana plants but are challenged in securing the evidence and caring for the plants properly. Some departments have taken pictures of the plants but left the actual evidence with the person charged for operating illegally. Other agencies have confiscated the plants and let them die. In a case brought by a grower whose confiscated plants had died, the Colorado Court of Appeals upheld a ruling by District Court Judge Dave Williams that the Larimer County Sheriff’s Office did not have to pay damages to the plaintiff in part because federal law did not recognize marijuana as property subject to search and seizure rules (see case at <http://www.cobar.org/opinions/opinion.cfm?opinionid=9505&courtid=1>).

## KEY ISSUE

### Drug-Sniffing Canines May Have To Be Retrained or Replaced

Canines trained to detect marijuana introduce a conundrum for officers in conducting drug searches. Drug dogs are usually trained to alert on all drug scents; therefore, it is not clear to an officer which drug a canine has detected. If a police dog detects drugs in a car, for example, it is not clear under the new laws if the officer has probable cause for a search since the officer does not know which drug the canine is detecting. If the driver has legal amounts of marijuana in the car, the search might be deemed inadmissible even if other drugs were found. Officers have been advised to ask whether there is marijuana in the car and can continue with the search if the suspect says there is none. The practices surrounding the use of drug-detecting canines will continue to evolve, with new training necessary both for officers and possibly for the dogs themselves.



<http://www.thedenverchannel.com/news/local-news/marijuana/legalization-of-marijuana-presents-a-potential-problem-for-police-departments-using-drug-dogs>

## POINTS FOR CONSIDERATION

- ***New standards need to be established by law enforcement to be able to determine the difference between a legal and an illegal marijuana growing operation.***

Law enforcement leaders, district and city attorneys and policymakers should form working groups to clarify the criteria for determining an illegal marijuana growing operation.

- ***Law enforcement, working with state level leadership, needs to revise and update search warrant procedures for conducting searches as they relate to the newly passed legalized marijuana statutes.***

Officers and deputies need uniform guidance on how to establish probable cause to gain a warrant to search and seize illegal marijuana operations. A “Law Officer’s Marijuana Handbook” – similar to the Colorado handbook created for liquor enforcement - should be available to inform patrol officers on policies, procedures, protection gear, and other important information regarding marijuana searches and seizures.

## POINT FOR CONSIDERATION

- ***Law enforcement leaders, criminal justice officials, and policymakers should determine if there are any ramifications for using the current cadre of drug dogs for general drug searches.***

Drug-sniffing dogs in Colorado (and in other states) are currently trained to target all drugs, including marijuana. Law enforcement leaders should assess the current practice of using drug dogs in the field and determine if new training and protocols need to be adopted as a result of legalized marijuana. Newly trained drug-sniffing dogs may be required in states where marijuana has been legalized.

## IV. ILLEGAL MARIJUANA: BLACK AND GRAY MARKETS

When Colorado state regulators commissioned a look at the new legalized industry in mid-2014, the study<sup>19</sup> conducted by the Marijuana Policy Group for the Colorado Department of Revenue's Marijuana Enforcement Division, entitled "Market Size and Demand for Marijuana in Colorado," turned up some unexpected numbers: Demand for marijuana through 2014 was estimated at 130 metric tons but legal supplies could only account for 77 metric tons. The rest, according to a widely quoted Washington Post article,<sup>20</sup> was coming through continuing illegal sales – either by criminals in a black market, or by legal cultivators selling under the table in a growing "gray" market.

Colorado law enforcement officials interviewed by the Police Foundation are convinced that the black and the gray markets are thriving in Colorado primarily through unregulated grows, large quantities of marijuana stashed in homes, and by undercutting the price of legitimate marijuana sales. In fact, police have stated that legalized marijuana may have increased the illegal drug trade. Low-level drug dealers, looking to profit from access to an abundance of marijuana, have an open market to grow illegal amounts of marijuana and sell through the black market. Or they can purchase excess marijuana from caregivers growing marijuana for patients but divert their excess crop illegally – the gray market.

It is difficult for Colorado law enforcement to prove when a marijuana cultivation site is producing for the gray market. Medical marijuana growers may have a license, but



Colorado's commercial marijuana is grown indoors. The operation at LivWell in Denver, at 120,000 square feet, dwarfs the competition. Credit: Lawrence Downes

ensuring that all of their plants are registered can be time-consuming and difficult to accomplish without a warrant and can be costly in staff time to check hundreds of plants. Focus group members said that recreational growers may also have an easy means of growing off-market plants. A resident might grow their limit of six marijuana plants, but could conceivably grow additional plants for family members, friends, and neighbors who are all over twenty-one. With the passage of Amendment 64, there is an increasing trend toward co-op growing, which state officials have suggested has created a shortage of warehouse space<sup>21</sup>

in Denver. This practice has become popular as growers have found they can save on operating costs such as rent and utilities when they section off the warehouse for their cultivation space. The presence of multiple growers sharing one facility has created a time-consuming challenge to law enforcement agencies trying to track down illegal marijuana growers, focus group members said.

The challenge of locating and shutting down illegal growers has spread to residential neighborhoods as well, law enforcement officials said. Growers have rented homes solely

## Inside Colorado's flourishing, segregated black market for pot

By Tina Grigolo July 30 [Follow @tgrigolo](#)



<http://www.washingtonpost.com/news/storyline/wp/2014/07/30/inside-colorados-flourishing-segregated-black-market-for-pot/>

observations made by Colorado law enforcement officials. When police challenge the legality of the growing operation, it is difficult to file criminal charges. Media reports<sup>23</sup> have shown that caregivers can have numerous grow locations for the same five patients, leaving excess marijuana to be diverted through the gray market. A physician verifying a patient's medical needs for medical marijuana can recommend any number of plants for the patient. Regulators cracking down on shoddy prescribers discovered one doctor had given out thousands of medical marijuana recommendations<sup>24</sup> without even seeing the patients.

## How Many Joints Would It Take To Smoke A Year's Supply Of Medical Marijuana?

Posted: 11/08/2013 1:41 pm EST | Updated: 11/10/2013 12:05 pm EST



[http://www.huffingtonpost.com/2013/11/07/how-many-joints\\_n\\_4236586.html](http://www.huffingtonpost.com/2013/11/07/how-many-joints_n_4236586.html)

to grow marijuana,<sup>22</sup> according to media reports, destroying the interior of the home as every room is converted to the growing operation.

Colorado law enforcement officials have also faced continuing challenges when trying to ensure that medical marijuana caregivers are not feeding the gray market, focus group members said. Caregivers are required by Amendment 20 to register their cultivation operations with the Marijuana Enforcement Division. Many do not register their operations; however, according to

**"A typical joint in the United States contains just under half a gram of marijuana, and a single intake of smoke, or "hit," is about 1/20th of a gram. A joint of commercial-grade cannabis might get a recreational user high for up to three hours; one-third as much premium-priced sinsemilla might produce the same effect. A heavy user might use upwards of three grams of marijuana a day. The development of tolerance means that frequent users need more of the drug to get to a given level of intoxication."**

Source: Jonathan P. Caulkins, Marijuana Legalization: What Everyone Needs to Know.



## Diversion of marijuana through the mail

According to Rocky Mountain High Intensity Drug Trafficking Area, the number of marijuana packages mailed out-of-state has increased from zero parcels in 2009 to 207 parcels in 2013. The poundage of marijuana seized increased annually beginning with zero pounds in 2009 and then increased to 57.20 pounds in 2010, 68.20 pounds in 2011, and 262 pounds in 2012, all during the time of legalized medical marijuana.

Then in 2013, when recreational marijuana became legal, the postal service seized 493.05 pounds and the top five states intercepting these marijuana parcels were Florida, Maryland, Illinois, Missouri, and Virginia. These numbers are most likely conservative since not all packages mailed are intercepted.

When officers try to verify a caregiver's quota of plants, they are often faced with growers who do not have documentation on hand, according to members of the Police Foundation focus groups. Due to privacy and confidentiality laws, officers cannot call CDPHE to verify the patient-caregiver information.

## Taxation may be fueling gray and black markets

The state's tax structure mainly affects recreational marijuana. Medical marijuana buyers must only pay a 2.9 percent state sales tax. In addition to the sales tax, recreational marijuana faces a 15 percent excise tax plus a 10 percent special state sales tax. The proceeds of this are divided, with 85 percent going into the state marijuana tax cash fund and 15 percent to local governments that allow retail marijuana sales. Licensed cultivation centers pay the state excise sales tax of 15 percent on the average market wholesale price of recreational marijuana. Local taxes are also applied to the retail marijuana shops.

Denver's 2014 local retail marijuana tax is 7.12 percent, plus 1 percent for the Regional Transportation District (RTD) and .1 percent for the Cultural Facilities District. When this is added to the state retail marijuana tax of 12.9 percent, a marijuana consumer would be paying 21.2 percent in taxes.<sup>25</sup> Medical marijuana is taxed in Denver at a rate of 3.62 percent sales tax, 1 percent for RTD and .1 percent for Cultural Facilities District, which is added to the state tax of 2.9 percent.<sup>26</sup>

Police estimate that marijuana purchased on the street ranges from \$160 to about \$300 an ounce.<sup>27</sup> The average price per ounce for medical marijuana is \$200 per ounce and average retail marijuana is \$225/ounce and an average of \$320/ounce in the mountain towns.<sup>28</sup> With taxes added in, a recreational consumer will pay a total of \$242 for an ounce priced at \$200 in Denver. Medical marijuana users will pay \$215.24 for the same ounce. Regulators suggested this major tax burden might have caused an increase in the past year in patients seeking medical marijuana red cards, even as overall tax revenues fell short.<sup>29</sup>

## KEY ISSUE

### Bordering States Feel the Effects of Colorado's Legalization of Marijuana

Colorado's legalized marijuana laws are impacting<sup>30</sup> neighboring Nebraska, Arizona, Kansas, New Mexico, Oklahoma, Utah, and Wyoming. States bordering Colorado are concerned with the amount of time, resources, and expenses required in arresting and prosecuting offenders for the diversion of marijuana. In its report on the effects of legalized marijuana, the Rocky Mountain HIDTA<sup>31</sup> noted that cartel operations and other criminals may be using the thriving black market to stage illegal shipments to other states.

The states of Nebraska and Oklahoma in December 2014 filed suit in the U.S. Supreme Court,<sup>32</sup> asking that the court find Colorado's recreational marijuana law in violation of the U.S. Constitution. The states claim that Colorado has violated federal laws that criminalize marijuana use and sales and that it has caused significant crime and hardship for law enforcement in the two states because of criminals illegally transporting Colorado marijuana across state lines.

The Federal El Paso Intelligence Center reported that law enforcement agencies across the country seized three and a half tons of Colorado marijuana destined for other states in 2012.<sup>33</sup> That's up more than 300 percent from 2009 when there was slightly over three-quarters of a ton of Colorado marijuana seized.<sup>34</sup> In Kansas, there was a 61 percent increase in marijuana seizures from Colorado.<sup>35</sup>

In response to the additional law enforcement costs in bordering states, Colorado legislators introduced a bill to share surplus revenue with bordering states' law enforcement agencies to further prevent out-of-state marijuana diversion; however, the bill died in the 2014 legislative session.<sup>36</sup>



<http://www.cbsnews.com/videos/colorados-neighbors-deal-with-marijuana-trafficking/>

## POINTS FOR CONSIDERATION

- ***Law enforcement should work with policymakers to bring clarity and transparency to the medical marijuana patient and caregiver identification system.***

Current law is vague about the identification required for a medical marijuana caregiver and about the penalties for not producing the ID when requested by law enforcement. Law enforcement officials have called for registration of caregivers with pictured licensed cards, along with the necessary enforcement resources and penalties. They have also urged creation of a patient registration system that would ensure that a caregiver is growing the correct number of plants, and would stop patients from buying from more than one caregiver. Local jurisdictions should consider ordinances that require a business license for anyone growing more than six marijuana plants, which would provide law enforcement with a tool for inspecting growing operations.

- ***Increase cooperation with bordering states regarding the illegal transportation of Colorado marijuana across state lines.***

Law enforcement agencies in neighboring states have reported arrests involving possession of marijuana that was produced in Colorado. Officials in the other states have raised alarms over their concerns of the potential for problems, and are currently attempting to track the data to identify trends. A regional working group should be established to follow up on any diversions of marijuana to other states with the aim of detecting the source of the marijuana and disrupting any further illegal transportation across state lines.

## V. INCREASED PUBLIC HEALTH AND SAFETY IMPACTS

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Marijuana connoisseurs are using enhanced science and technology to breed plants for various characteristics, especially plants that produce stronger compounds. Chemical extractions pose serious public safety risks. The chemical solvents, most often butane gas, create fumes that are highly flammable and can lead to explosions and fire that are similar to the extremely dangerous methamphetamine labs that have long plagued police and firefighters.

There are 483 compounds in a marijuana plant; the most well-known are tetrahydrocannabinol (THC) and cannabidiol (CBD).<sup>37</sup> THC is known to be a mild analgesic and is therefore used for medicinal purposes. It is also known to stimulate a person's appetite.<sup>38</sup> THC produces psychoactive chemical compounds and when extracted it becomes a resin used in hashish, tinctures, edibles, and ointments.<sup>39</sup>

A liquid process is used to extract THC.<sup>40</sup> Cannabinoids are not water soluble, which means the extraction businesses use a solvent to remove the resin from the plant. Chemical solvents, such as butane, hexane, isopropyl alcohol, or methanol are the most popular because higher levels of THC can be extracted and the process is much faster. Chemical extractions can obtain THC levels as high as 90 percent.

### KEY ISSUES

#### Threat of Explosion and Fire

A hash oil explosion not only puts the lives of people inside the home at risk, it can quickly spread to nearby homes. While meth labs tend to be located in remote areas because of their illegal nature, hash oil operations are often conducted in residential neighborhoods by homeowners using legally grown marijuana. While consumers can purchase hash oil or by-products of hash oil from a marijuana retail store, many residents attempt to make their own hash oil because it is cheaper. Commercial extractions have the necessary equipment to safely extract hash oil. Denver experienced nine hash oil explosions from January 1 to September 15, 2014.

The City and County of Denver recently passed an ordinance that will restrict unlicensed hash oil extractions. One of the exceptions is that the extraction use alcohol, and not a fuel-fired or electrified source. The accepted process can use no more than 16 ounces of alcohol or ethanol for each extraction.<sup>41</sup>

## Impact on Medical Facilities

The Burn-Trauma Intensive Care Unit at the University of Colorado Hospital is the primary burn center for Colorado. They report caring for only one patient from 2010 through 2012 from hash oil extraction burns. Since then it has significantly increased to 11 patients in 2013 and to 10 patients from January through May 2014.<sup>42</sup> Camy Boyle, associate nurse manager for CU's burn ICU, collected data on hash oil burn patients and found that the hash oil burn patients were almost always men in their 30s, on average had severe burns over 10 percent of their bodies (primarily hands and face), and stayed in the hospital an average of nine days.<sup>43</sup>

## Lack of Regulations for Edibles Related to Increased Overdoses

The growing industry of injecting hash oil into candy, cookies and other "edibles" has raised concerns among health officials and police because it is unclear to most who ingest them what the potency levels are. Although there are legal limits to the total amount of THC allowed in individual edibles, the portions are not well regulated. Purchasers may not understand that eating several cookies or pieces of candy could result in toxic levels of THC. Due to the increased toxicity, medical and police professionals have seen an increase in adult psychotic episodes resulting in hospitalizations and deaths by suicide or homicide. For example, a student from Northwest College, in Wyoming, visiting Denver for vacation jumped over the railing of a hotel, falling to his death, after consuming an entire marijuana cookie. An autopsy revealed that there was no other drug, nor alcohol, in his body except marijuana.



<http://denver.cbslocal.com/2014/09/15/ordinance-would-ban-denverites-from-making-hash-oil-at-home/>



[https://www.youtube.com/watch?v=3P\\_CEXRt010](https://www.youtube.com/watch?v=3P_CEXRt010)



<http://kdvr.com/2014/04/02/student-fell-to-death-after-eating-marijuana-cookie-denver-coroner-says/>

Often the marijuana edibles are packaged and look just like over-the-counter candy and food purchases. This is of particular concern when it comes to youth. According to the Children's Hospital Colorado,<sup>44</sup> children are at a significant risk when they ingest marijuana edibles, innocently believing it is candy.

The concerns over packaging and labeling have led the Department of Revenue, Marijuana Enforcement Division (MED), to call for a new panel<sup>45</sup> to determine how edibles can be made safer. Colorado law gives the MED powers to enforce packaging and sales practices by recreational marijuana operations similar to those granted over liquor products and stores.

Informational labeling requirements have been established by the MED.<sup>46</sup> The labels are required to list the batch number or marijuana plant or plants contained in the container that were harvested and a list of solvents and chemicals used in the creation of the medical marijuana concentrate. In addition, medical marijuana-infused products must be designed and constructed to be difficult for children under five years of age to open, as well as have print on the label saying, "Medicinal product – keep out of reach of children."

## Marijuana Tourism: Impacts on Public Safety

Marijuana tourism began almost immediately after the passage of Amendment 64, and it has grown to become a significant factor in the administration of the law. Visitors from out of state can only buy  $\frac{1}{4}$  of an ounce at a time (compared to an ounce at a time for residents). Nearly 90 percent of the recreational marijuana sold at ski resorts was to tourists.<sup>47</sup> The annualized marijuana demand for tourists visiting mountain communities is between 2.15 and 2.54 tons of marijuana, and it is expected to grow in 2014 to be between 4.3 and 5.1 metric tons of marijuana.<sup>48</sup>

Law enforcement agencies have found novice users, such as tourists, pose a particular problem because they often do not understand the potency of the marijuana and marijuana infused products, often resulting in overdoses. Hospitalizations related to marijuana have steadily increased<sup>49</sup> from 2000 to 2013 resulting in a 218% increase (see graph below taken from Rocky Mountain HIDTA report).<sup>50</sup> Many patients go to the emergency room reporting that they feel like they are dying because they feel their heart pounding in their chest.<sup>51</sup>

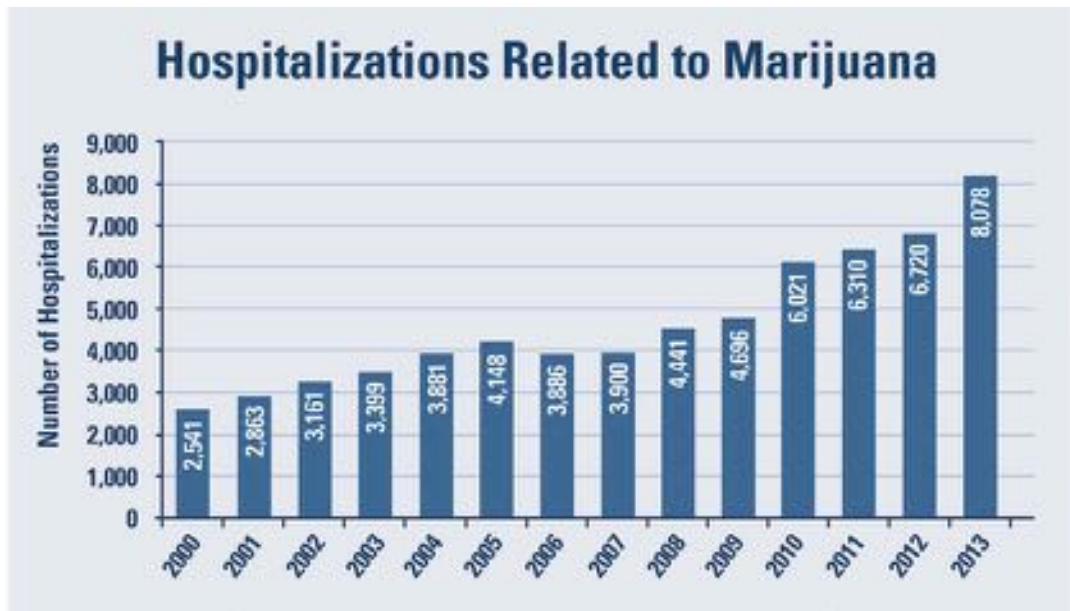


<http://www.mrctv.org/videos/cbs-wakes-dangers-edible-pot>



A marijuana-infused gummy bear next to a regular one. source: International Business Times - <http://www.ibtimes.com/marijuana-edibles-colorado-officials-want-ban-some-strict-regulations-others-1707957>

To deal with the problem of educating tourists, police departments have asked hotels and visitors' bureaus to include literature on marijuana safety. The Breckenridge Police Department has prepared literature for tourists and asked it to be distributed by recreational marijuana shops. The department has prepared a separate brochure warning hotel workers to be cautious of edibles left in the rooms by departing tourists.



SOURCE: Colorado Hospital Association, Emergency Department Visit Dataset. Statistics Prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment (CDPHE). Reprinted from the Rocky Mountain High Intensity Drug Trafficking Area report on the "Legalization of Marijuana in Colorado, The Impact." August 2014.

Tourists are occasionally stopped at airports with marijuana "leftovers" in their bags. Others have left marijuana inside hotel rooms and rental cars. One hotel worker found marijuana edibles left in a room and thought it was candy. Upon returning home the worker innocently gave it to children.

## Residential grows pose safety risks for first responders

There are many public safety hazards with homegrown marijuana. First responders entering a home growing operation need to be aware of the types of dangers and the importance of using personal protective equipment before entering. Just like methamphetamine houses, marijuana houses contain numerous health and safety hazards that require special practices.

Growing marijuana requires high-intensity lighting for the growing and flowering season, increased carbon dioxide levels, high humidity levels, and heat. Law enforcement officials working with National Jewish Health in Denver issued a checklist of potential hazards for officers entering a growing operation<sup>52</sup>:

- Toxic mold, which grows in constant wet conditions, can be dangerous even in small quantities for some people.
- When removing illegal growing operations, officers should be wary of THC levels in the air, on the surfaces of the home, and on the hands of the investigating officers. Therefore, officers should use gloves and possibly surgical masks when handling plants.
- Growers have been known to disconnect the vent system for the furnace and hot water heater, to enhance plant growth. This creates high carbon dioxide levels and a potential for carbon monoxide poisoning.
- Fertilizers and pesticides can pose a hazard if improperly handled.



Denver Rental Grow  
source: Chief Marc Vasquez

Law enforcement officials said that one of the most dangerous factors for residents extracting their own THC is the potential for a hash oil explosion. Because growing operations can include a rudimentary THC hash oil refinery, officers are urged to take precautions similar to those used in a methamphetamine laboratory operation. When dealing with hash oil refineries, officers are recommended to follow PPE guidelines as provided by the American Industrial Hygiene Association in 2010:

- Chemical resistant boots with slip and puncture protection;
- Eye and face protection;
- Tactical ballistic helmet;
- Tear and fire resistant outer garment;
- Chemical resistant gloves;
- Tyvek and/or chemical resistant coveralls;
- For unknown atmospheres – a self-contained breathing apparatus (SCBA);
- For known atmospheres – a Powered air purifying respirator (PAPR) or air purifying respirator with a P-100 cartridges.<sup>53</sup>

Residential growing operations can contain fire risks including overloaded electrical circuits and bypassed electrical meters. An additional hazard is the presence of carbon dioxide cylinders, which can explode due to electrical arcing.<sup>54</sup>



Beyond the risk to investigating officers, law enforcement officials in the Police Foundation focus groups said they are concerned about the potential danger for children living in homes with marijuana growing operations. The Colorado legislature had considered legislation to define drug endangerment, but no laws have passed. Officers asked to investigate child endangerment in growing operations must rely on current safety laws during the investigation.



Residential Electrical Rewiring  
source: Chief Marc Vasquez.

## KEY ISSUE

### Legalization of Marijuana Will Bring Changes to Hiring Practices

The conflicts between drug-free workplace laws and patients' rights are currently being debated in Colorado's courts. The language of Amendment 64 stated that it did not require any employer to accommodate the use of medical marijuana in the workplace. But the Colorado Supreme Court is weighing an appeal by a worker<sup>55</sup> – left a quadriplegic in an auto crash - who was fired for having THC in his system, although he did not use marijuana at work.

Even without a legal requirement to allow officers to use medical marijuana when recommended, departments in states with legalized marijuana laws may soon be faced with the need to rethink hiring practices that ban any admitted use of marijuana. Public safety agencies are seeing more job applicants admitting to using marijuana just prior to applying. The pool of applicants is shrinking because of this, which has made it more difficult to fill openings in a timely manner.<sup>56</sup>

The Attorney General's Office has supported a zero tolerance stance for all employees, including peace officers and firefighters, for use of marijuana even when off duty.

## POINTS FOR CONSIDERATION

- ***Co-ordinated planning and outreach are needed to ensure the safe operation of marijuana businesses.***

Officers and deputies are called when citizens are concerned about potential nuisance and safety violations caused by marijuana operations in their neighborhoods. Law enforcement is often faced with the necessity of both interpreting and enforcing vague laws and regulations regarding marijuana cultivation and extraction operations. Law enforcement leaders should develop partnerships with city or county code inspectors, planners, city or county attorneys, district attorney's offices, and any other city or county agency that can play a role in establishing ordinances or inspecting, regulating, and prosecuting public safety violations.

- ***Law enforcement leaders should form a statewide working group to assess current challenges and practice on marijuana enforcement in order to inform state and local practices and policies.***

Under Colorado law, every local jurisdiction can establish its own regulations on marijuana businesses, but many of the challenges facing law enforcement are similar throughout the state. Police Foundation focus group members called for statewide information sharing sessions to share best practices and emerging issues, as well as ensuring the dissemination of criminal intelligence and information on illegal marijuana trafficking.

- ***The state medical association should develop standardized physician criteria for writing medical marijuana recommendations and share the criteria with law enforcement and the public.***

Law enforcement faces a challenge in determining whether medical marijuana growers are producing excess product that could be sold on the black market. Additionally, a physician has been sanctioned<sup>57</sup> for writing thousands of recommendations without even meeting patients. A standardized state system could provide guidance in planning enforcement efforts.

- ***Law enforcement leaders and state tourism officials should develop and distribute educational materials about Colorado's marijuana laws and safety information.***

Tourists coming from out-of-state often do not know the basics of Colorado's marijuana laws, such as no public consumption or no consumption while driving. Medical center emergency rooms have also reported seeing an increasing number of out-of-state patients who overdosed because they were not aware of the potency of the product they ingested. Educational materials should be available in hotels, tourism outlets, and marijuana retail businesses to provide legal and safety information.

- ***Require hospitals and emergency care centers to collect data on the number and nature of emergency room visits involving marijuana.***

The health care industry and law enforcement agencies should create a statewide database to inform practices and policies regarding marijuana overdose and what on-the-scene measures might help lessen the trauma.

## VI. MARIJUANA'S EFFECT ON YOUTH – ISSUES FOR PUBLIC EDUCATION AND FUTURE LAW ENFORCEMENT CHALLENGES

A widely-cited article in the *Lancet Psychiatry Journal*<sup>58</sup> stated that studies have shown that those who use marijuana daily before age 17 are 60 percent less likely to finish high school or college, seven times more likely to commit suicide and eight times more likely to use addictive drugs later in life.

Amendment 64 clearly states that no one under the age of 21 can possess recreational marijuana. Legal marijuana retail stores face the same enforcement and oversight as liquor stores when it comes to selling to minors.

Ben Cort, Business Development Manager, University of Colorado Center for Dependency, Addiction and Rehabilitation, said that studies have shown that many young people with substance abuse problems have easy access to marijuana through patients with a medical marijuana card. In addition, many teenagers have followed the debate regarding legalized marijuana and have been swayed by the proponents' arguments that marijuana is much safer than alcohol, he said.

**“We won’t know the extent of the damage legalized marijuana has caused for our youth until 5 to 10 years down the road. Unfortunately, we’ve used our kids to understand the impacts in this great social experiment.”**

**– Ben Cort,  
Business Development Manager,  
University of Colorado**

**“I am very concerned about the effect of marijuana on the developing brains of our youth. I believe we can and must do a better job addressing this issue in Colorado... Our success with the student-led/adult-facilitated ‘Drive Smart Campaign’ has been highly successful in terms of reducing teen driving accidents and fatalities. I would like to see a similar approach to addressing the issue of teen drug use.”**

**– Officer David Pratt,  
School Resource Officer, Colorado  
Springs (CO) Police Department**

Cort told the Colorado Juvenile Council meeting in November 2014 that the dangers to youth from marijuana have increased under legalization.

Colorado has seen the greatest percentage of youth marijuana use in 10 years, based on the latest National Survey on Drug Use and Health (2011-2012). Youth, ages 12-17, reported using marijuana in the past month at a rate almost 40 percent higher than the national average.

Marijuana use by homeless juveniles is a growing concern, according to Police Foundation focus group members.

As with the general homeless population, many turn to panhandling and theft to support themselves, focus group members said.

No studies are available to measure the effects of juvenile marijuana use on future criminal



<https://www.youtube.com/watch?v=jtVJMjpavyw>

behavior. Police Foundation focus group members expressed concern that the high dropout rate and emotional setbacks faced by such teens are common indicators of the potential for future criminal activity. They worry that the increased availability of high-potency marijuana and an increasingly positive public reaction to marijuana use will mean difficult challenges ahead for youth education on these dangers.

## POINTS FOR CONSIDERATION

- ***Public education campaigns to prevent juvenile marijuana use should be revised to emphasize the health dangers of regular marijuana use by youth.***

Colorado law restricts recreational marijuana possession to people over the age of 21, but law enforcement officials said they have observed an increase in marijuana use among teenagers since legalization. Public education campaigns must emphasize scientific studies that have raised health alarms over juvenile marijuana use to counter the public perception that marijuana is safer to use than alcohol.

- ***Increased training and tools should be provided to school resource officers to ensure that youth receive factual information on the dangers of marijuana use.***

State health and research officials should intensify studies on the effects of marijuana on education, employment, health, and mental illness.

## VII. FIELD TESTS ARE A CHALLENGE TO MEASURE DRIVING UNDER THE INFLUENCE OF MARIJUANA

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As stated in Amendment 64, recreational marijuana use is subject to the same standards of public behavior as alcohol. Consumption of marijuana is prohibited in all public places, and standards of public intoxication can be similarly applied. Consumption of marijuana while driving is prohibited, and driving under the influence of marijuana is treated similarly to driving under the influence of alcohol.<sup>59</sup>

However, police have found that putting these new enforcement measures into effect is a major challenge.

Colorado has established a blood level of five or more nanograms per milliliter of THC as the limit for driving while impaired. One of the biggest challenges is determining the legal limit of driving while impaired when marijuana is combined with alcohol or other drugs. Using marijuana with alcohol will produce more impairment than if either drug was used alone.<sup>60</sup>

Detection of this level of impairment has required an entirely new testing system and complete retraining for law enforcement officers in Colorado.

The initial procedures for driving under the influence of alcohol or marijuana are the same, law enforcement officials said. The officer will look for indications of impairment like bloodshot eyes, slurred speech, and abnormal responses to questions. If the officer suspects that a driver is impaired, a field sobriety test can be performed to measure balance and other factors.

If the driver fails that test, or refuses it, the officer must decide whether to require a blood test to determine the level of THC. These tests require medical personnel, either a paramedic at the scene or a hospital emergency room to draw the blood sample. The test results can take from one day to six weeks.

Police Foundation focus group members said law enforcement is facing a tremendous cost increase for testing for driving under the influence of marijuana. A blood test for alcohol costs approximately \$25 to \$35, while the drug panel that includes marijuana can cost \$250-\$300.

There is emerging technology that allows for the testing of oral fluids for drugs, such as THC. The State of Colorado is currently examining this technology to see if it is effective. This alternative technology tests for the presence of drugs based on saliva, known as the Oral Fluid Test. Although the method is quicker and easier than taking blood samples, the evaluation period to show whether drugs are in the system is about the same.

There is currently no technology available to do a marijuana “breathalyzer” test, which has significantly shortened the time involved for DUI testing for alcohol. Researchers at Washington State University have reported progress in developing a portable breathalyzer that could provide an initial reading to aid in decision-making on driving under the influence. Testing on the device is expected to begin in spring 2015.

The additional law enforcement training for sobriety testing and drug detection will cost about \$1.24 million in the coming year, according to the Colorado Association of Chiefs of Police (CACP). Those funds will include officer training on Advanced Roadside Impaired Driving Enforcement (ARIDE), legal updates, train-the-trainers, Drug Recognition Expert (DRE) trainings, and DUID classes.

There are a series of trainings offered which will assist law enforcement officers to better detect drivers who are impaired by substances, such as marijuana. As an example, officers can receive training on the basic Standardized Field Sobriety Test (SFST). A more intense training course is called ARIDE, which is a sixteen-hour class to train law enforcement officers on how to detect drug-impaired drivers and is given after the SFST training. The National Highway Safety Administration (NHTSA) developed training materials for these courses. Finally, if an officer wishes to become an expert in roadside detection, then the officer would become a drug recognition expert (DRE). The DRE training, which has been in existence since the 1970s, trains law enforcement officers to detect and identify drivers who may be impaired on a variety of substances. This detection is very important because research has shown that drivers are often impaired by more than one substance.

Observing drug-impaired driving is not a new situation for most officers, but legal experts have warned that more training and better equipment is essential in order to provide adequate resources for prosecution under the new laws of marijuana legalization. While in the past simply having evidence of marijuana in the system could lead to conviction of drivers, many judges and juries will be more demanding of proof that the case meets the legal criteria of impairment.

## POINT FOR CONSIDERATION

- ***Field Sobriety testing for marijuana users should be funded to ensure that all officers in Colorado are trained to recognize the difference between drivers who are under the influence of marijuana versus alcohol.***

Marijuana is being ruled a factor in an increasing number of highway deaths<sup>63</sup> in Colorado according to data gathered by the Rocky Mountain High Intensity Drug Trafficking Area task force, and patrol officers must be given the tools to discern whether drivers are impaired by marijuana ingestion. Currently the state has not fully funded the training program for officers to determine if those stopped are driving under the influence of marijuana.

# CONCLUSION

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Legalization of marijuana is a complex issue and many unanticipated consequences have challenged Colorado law enforcement. Until there is more clarification and stiffer sanctions for law violations, law enforcement is working at a deficit in trying to reduce the black and gray markets. Law enforcement leaders are just beginning to understand the related crime and disorder issues associated with legalized marijuana, and how to reduce them through ordinances, codes, policies, and partnerships.

Establishing partnerships with city agencies, such as code enforcement, building inspectors, fire, and zoning is currently one of the best strategies in addressing the problems. Local ordinances addressing neighborhood complaints, such as noxious odors, building and code violations, and land use codes, have been found to be effective in regulating non-commercial marijuana cultivation. Marijuana odors emitted from households growing marijuana, child endangerment, THC distillation processes, dangerous electrical wiring, and furnace reconstruction to recover dangerous carbon monoxide fumes for plant growth are just a few examples of how law enforcement can work with city and county agencies to reduce these public risks.

Officer safety is paramount when going into marijuana cultivations, especially houses where toxic black mold is in the house growing marijuana. These homes may pose similar health dangers as methamphetamine homes. Policies should be established outlining procedures for officers using personal protective equipment when entering these homes or at any grow location where there is risk of toxic black mold.

The conflict between federal and state laws regarding the legalization of marijuana has put law enforcement in a difficult situation. This has impacted public safety regarding unavailability of banking services and the challenges to officer integrity for those who have taken an oath to uphold both federal and state constitutions, but are now trying to uphold conflicting laws.

The Police Foundation and the Colorado Association of Chiefs of Police believe sharing challenges, lessons learned, and points for consideration will provide a launching point for increased national discussions and will help identify strategies to resolve the conflicts and challenges for states passing legalized marijuana laws. As the states neighboring Colorado have discovered, marijuana has become a complicated and pressing issue, even where it has not been legalized.

The Colorado Association of Chiefs of Police and individual departments around the state worked tirelessly to ensure that legislation enacting the rules and regulations in Amendment 64 provided adequate enforcement measures. Those efforts were rushed, however, by the short period between the passage of the amendment and enactment of the legislation.<sup>64</sup> They remain concerned that state officials have not allocated adequate resources to meet the new challenges brought by the law. Their message to law enforcement officials in states where voters are considering legalization: Develop a legislative and statewide funding plan before the measure passes and be ready to make the case for proper enforcement in the name of public safety.

# ENDNOTES

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- <sup>1</sup> Stiffler, C. (2013, August 16). Amendment 64 would produce \$60 million in new revenue and savings for Colorado. Colorado Center on Law and Policy. Retrieved from [http://cclponline.org/wp-content/uploads/2013/11/amendment\\_64\\_analysis\\_final.pdf](http://cclponline.org/wp-content/uploads/2013/11/amendment_64_analysis_final.pdf)
- <sup>2</sup> Ticer, R.L. (2014, March 3). Letter to the Honorable John Hickenlooper. TS.
- <sup>3</sup> States of Nebraska and Oklahoma v. State of Colorado, 28 U.S.C. § 1251(a) (2014).
- <sup>4</sup> Ingold, J. (2009, November 10). Judge tosses out health board decision on medical pot. The Denver Post. Retrieved from <http://www.denverpost.com/>
- <sup>5</sup> Ogden, D.W. (2009). *Investigations and prosecutions in States authorizing the medical use of marijuana* [Memorandum] Washington, DC: Department of Justice.
- <sup>6</sup> Vasquez, Marco, Interview December 3, 2014.
- <sup>7</sup> Vasquez, Marco, "Marijuana in Colorado," PowerPoint presentation at Metro State University, October 2014.
- <sup>8</sup> McGhee, T. (2014, July 25). Legal pot blamed for some of the influx of homeless in Denver this summer. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>9</sup> Pot is blamed for influx of homeless kids in Denver. (2014, July 26). *The Associated Press*. Retrieved from <http://nj1015.com/pot-is-blamed-for-influx-of-homeless-kids-in-denver/>.
- <sup>10</sup> Klemaier, J. (2014, June 5). Golden city council votes to ban marijuana sales. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>11</sup> Golden, Colorado, Municipal Code § 4.94.110.
- <sup>12</sup> Department of Treasury Financial Crimes Enforcement Network. (2014, February 14). BSA expectations regarding marijuana-related businesses. Retrieved from [http://www.fincen.gov/statutes\\_regs/guidance/pdf/FIN-2014-G001.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-G001.pdf)
- <sup>13</sup> Kuntz, K. (2014, December 8) Feds connecting legal marijuana transactions with suspicious activities. *Rocky Mountain PBS News*. Retrieved from <http://inewsnetwork.org/2014/12/08/feds-connecting-legal-marijuana-transactions-with-suspicious-activities/>
- <sup>14</sup> Migoya, D. (2014, November 20). Colorado pot credit union could be open by Jan. 1 under state charter. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>15</sup> Hughes, T. (2014, July 13). Pots of marijuana cash cause security concerns. *USA Today*. Retrieved from <http://www.usatoday.com/>
- <sup>16</sup> Cole, J.D. (2013, August 29). Guidance regarding marijuana enforcement. Washington, DC: Department of Justice.
- <sup>17</sup> Department of Revenue Department of Public Health and Environment. (2013). Medical marijuana regulatory system- Part 1. Retrieved from [http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1B-B1CBF38E313A1587257B320079E543/\\$FILE/2194A%20MedicalMarijuanaRegSys%20031813.pdf](http://www.leg.state.co.us/OSA/coauditor1.nsf/All/1B-B1CBF38E313A1587257B320079E543/$FILE/2194A%20MedicalMarijuanaRegSys%20031813.pdf)
- <sup>18</sup> Gurman, S. (2014, June 29). Police growing cautious of seizing marijuana plants. *The Boston Globe*. Retrieved from <http://www.bostonglobe.com/>



# ENDNOTES

---

- <sup>19</sup> Light, M.K., Orens, A., Lewandowski, B., & Pickton, T. (2014). Market size and demand for marijuana in Colorado: Prepared for the Colorado Department of Revenue. The Marijuana Policy Group. Retrieved from <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.
- <sup>20</sup> Griego, T. (2014, July 30). Inside Colorado's flourishing, segregated black market for pot. *The Washington Post*. <http://www.washingtonpost.com/>
- <sup>21</sup> Nicks, D. (2014, March 11). Pot growers are snatching up warehouse space in Denver. *Time*. Retrieved from [www.time.com](http://www.time.com)
- <sup>22</sup> Griego, T. (2014, July 30). Inside Colorado's flourishing, segregated black market for pot. *The Washington Post*. <http://www.washingtonpost.com/>
- <sup>23</sup> Griego, T. (2014, July 30). Inside Colorado's flourishing, segregated black market for pot. *The Washington Post*. <http://www.washingtonpost.com/>
- <sup>24</sup> *Sujdak v State of Colorado*, No 2012-003919-B (May 23, 2014).
- <sup>25</sup> Denver Combined Tax Rates. (2013). Retrieved on December 23, 2014, from <http://www.denvergov.org/Portals/571/documents/Tax%20Rates%20effective%201-1-2014.pdf>.
- <sup>26</sup> *Ibid.*, <http://www.denvergov.org/Portals/571/documents/Tax%20Rates%20effective%201-1-2014.pdf>.
- <sup>27</sup> Davidson, J. (2014, July 8). Price war heats up between legal marijuana and the black market. *Time-Money*. Retrieved from <http://time.com/money/>
- <sup>28</sup> Light, M.K., Orens, A., Lewandowski, B., & Pickton, T. (2014). Market size and demand for marijuana in Colorado: Prepared for the Colorado Department of Revenue. The Marijuana Policy Group. Retrieved from <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.
- <sup>29</sup> Lee, K. (2014, August 12). In Colorado, tax revenue from recreation pot lower than expected. *LA Times*. Retrieved from <http://www.latimes.com/>
- <sup>30</sup> Hegeman, R. (2013, August, 27). Kansas at crossroads of marijuana trafficking. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>31</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org) .
- <sup>32</sup> *States of Nebraska and Oklahoma v. State of Colorado*, 28 U.S.C. § 1251(a) (2014).
- <sup>33</sup> Ingold, J, & Gorski, E. (2013, September 3). More Colorado pot is flowing to neighboring states, officials say. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>34</sup> Ingold, J, & Gorski, E. (2013, September 3). More Colorado pot is flowing to neighboring states, officials say. *The Denver Post*. Retrieved from <http://www.denverpost.com/>
- <sup>35</sup> Horwitz, S. (2014, April 30). DEA Chief says marijuana- trafficking spiking in states near Colorado. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/>
- <sup>36</sup> Kost, A. & Kovalski, J. (2014, May 25). Colorado weed blamed for increasing law enforcement costs in Nebraska. *ABC7 Denver News*. Retrieved <http://www.thedenverchannel.com/>.

## ENDNOTES

---

- <sup>37</sup> Learn about Marijuana: Science based information for the public. (n.d.) National Cannabis Prevention and Information Centre. Retrieved from <http://learnaboutmarijuanawa.org/factsheets/cannabinoids.htm>
- <sup>38</sup> Ibid., <http://learnaboutmarijuanawa.org/factsheets/cannabinoids.htm>
- <sup>39</sup> Ibid., <http://learnaboutmarijuanawa.org/factsheets/cannabinoids.htm>
- <sup>40</sup> Silva, R. (2014, April 28). Hash oil cause of explosion in Colorado Home. HNGN News. Retrieved from <http://www.hngn.com/articles/29844/20140428/hash-oil-cause-of-explosion-in-colorado-home.htm>.
- <sup>41</sup> Watts, L. (2014, November 10). Dad prompts Denver to change hash oil ban; Some production now allowed for medical purposes. *7 News Denver*. Retrieved from <http://www.thedenverchannel.com>; Murray, J. (2014, September 4). Denver joins cities seeking to crack down on risky hash oil extraction. *The Denver Post*. Retrieved <http://www.denverpost.com/news>.
- <sup>42</sup> McCrimmon, K.K. (2014, June 4). Colorado epicenter for hash oil fires, severe burns. *Health News Colorado*. Retrieved from <http://www.healthnewscolorado.org/2014/06/04/colorado-epicenter-for-hash-oil-fires-severe-burns/>.
- <sup>43</sup> Ibid., <http://www.healthnewscolorado.org/2014/06/04/colorado-epicenter-for-hash-oil-fires-severe-burns/>.
- <sup>44</sup> Marijuana Safety in the Home. (n.d.) Retrieved December 23, 2014, from <http://www.childrenscolorado.org/wellness-safety/parent-resources/marijuana-what-parents-need-to-know/safety>
- <sup>45</sup> Wyatt, K. (2014, November 16). APNewsBreak: Pot treats may face Colorado scrutiny. *Associated Press*. Retrieved from <http://bigstory.ap.org/article/a43d5d4c9a534b139a867cdc88d516f8/apnewsbreak-pot-treats-may-face-colorado-scrutiny>
- <sup>46</sup> Retail Marijuana Code of 2014, C.R.S. 24-43.4-101 -et. seq.
- <sup>47</sup> Light, M.K., Orens, A., Lewandowski, B., & Pickton, T. (2014). Market size and demand for marijuana in Colorado: Prepared for the Colorado Department of Revenue. The Marijuana Policy Group. Retrieved from <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.
- <sup>48</sup> Ibid., p.24, <https://www.colorado.gov/pacific/sites/default/files/Market%20Size%20and%20Demand%20Study,%20July%209,%202014%5B1%5D.pdf>.
- <sup>49</sup> Dukakis, A. (2014, April 29). Denver emergency room doctor seeing more patients for marijuana edibles. *Colorado Public Radio*. Retrieved from <http://www.cpr.org/>
- <sup>50</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org) .
- <sup>51</sup> Hughes, T. (2014, May 8\_ Marijuana 'edibles' pack a wallop. *USA TODAY*. Retrieved from <http://www.usatoday.com/>
- <sup>52</sup> Martyny, J.W., Van Dyke, M.V., Schaefer, J., & Serrano, K. (2010). Health effective associated with indoor marijuana grow operations. U.S. Department of Justice, Bureau of Justice Assistance

## ENDNOTES

---

- <sup>53</sup> Martyny, J.W., Van Dyke, M.V., Schaefer, J., & Serrano, K. (2010). Health effective associated with indoor marijuana grow operations. U.S. Department of Justice, Bureau of Justice Assistance
- <sup>54</sup> Jelinek, C. (2009, December). Indoor marijuana cultivation fire risk reduction. Eureka Fire Department, Eureka California. Retrieved from <http://www.usfa.fema.gov/pdf/efop/efo44164.pdf>.
- <sup>55</sup> Campbell, G. (2014, October 6). Colorado high court weighs landmark medical marijuana case. *The Daily Caller*. Retrieved from <http://dailycaller.com/2014/10/06/colorado-high-court-weighs-landmark-medical-marijuana-case/>.
- <sup>56</sup> Interview with Deputy Chief Vince Niski, December 2, 2014.
- <sup>57</sup> *Sujdak v State of Colorado*, No 2012-003919-B (May 23, 2014).
- <sup>58</sup> Silins, E., Horwood, L.J., Patton, G.C., Fergusson, D.M., Olsson, C.A., Hutchinson, D.M., . . . Mattick, R.P. (2014). Young adult sequelae of adolescent cannabis use: An intergrative analysis. *The Lancet Psychiatry*, 1(4), 286-293. doi: [http://dx.doi.org/10.1016/S2215-0366\(14\)70307-4](http://dx.doi.org/10.1016/S2215-0366(14)70307-4)
- <sup>59</sup> Title 42- Vehicles and Traffic, C.R.S. 42-4-1301 (2014).
- <sup>60</sup> Sewell, R.A., Poling, J., & Sofuoglu, M. (2009). The effect of cannabis compared with alcohol on driving. *The American Journal on Addictions*, 18(3), 185-19. doi: 10.1080/10550490902786934
- <sup>61</sup> Santos, M. (2014, November 28). Breath test to detect pot is being developed at WSU. *The News Tribune*. Retrieved from <http://www.thenewstribune.com/>
- <sup>62</sup> Interview with Chris Haslor, Understanding Legal Marijuana, L.L.C., Law Office of Chris Haslor, former Traffic Safety Resource Prosecutor for Colorado District Attorneys' Council.
- <sup>63</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org) .
- <sup>64</sup> Sybrandy, H. (2013, April 30). Police leaders sound alarm, say legislature dropped ball on marijuana regulation. *Fox 31 Denver*. Retrieved from <http://kdvr.com/>

# APPENDIX 1: COLORADO'S LEGISLATIVE HISTORY REGARDING THE LEGALIZATION OF MARIJUANA

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## INTRODUCTION

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Understanding Colorado's legislative and political history provides important perspective for appreciating Colorado law enforcement's experience with addressing the legalization of marijuana.

There were two notable elements of the legislation that legalized marijuana in the state of Colorado: first, marijuana became legal through an amendment to the Colorado's constitution; and second, the legislative language was ambiguous and broad. This has placed Colorado law enforcement in the position of both interpreting and enforcing the law. It is further complicated by the fact that, at the federal level, marijuana is still an illegal drug under the Controlled Substance Act of 1970<sup>1</sup>, which classified marijuana as a Schedule I controlled substance.<sup>2</sup>

## AMENDMENT 20: NOVEMBER 2000 MEDICAL MARIJUANA BALLOT MEASURE

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### Overview of Colorado Amendment 20

The shift toward legalized marijuana use began with the passage of Amendment 20, *The Medical Use of Marijuana Act*, which passed with the support of 53.3 percent of Colorado voters in November 2000.<sup>3</sup>

The amendment to the Colorado Constitution made the following legal under state law:

- Using marijuana with a physician's recommendation for debilitating medical conditions defined as chronic pain, severe nausea, persistent muscle spasms (i.e. multiple sclerosis), cancer, glaucoma, cachexia, seizures (e.g., epilepsy), and HIV;
- Possessing no more than two ounces and up to six marijuana plants, with no more than three being mature flowering plants that produce usable marijuana;
- An exemption from criminal prosecution and an affirmative defense for patients from some state criminal marijuana penalties;
- Tasking the Colorado Department of Public Health and Environment (CDPHE) with establishing a confidential registry for patients and primary caregivers;
- Allowing children access to medical marijuana with parents' permission; and,
- Making law enforcement economically liable for the value of marijuana should a criminal case not be filed, dismissed, or results in an acquittal.

## 2000 TO 2008: LEGISLATION AND NOTABLE EVENTS FOLLOWING THE PASSAGE OF AMENDMENT 20

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Following the passage of Amendment 20, registrations for medical marijuana started on June 1, 2001. By December 31, 2008, there were 4,819 total medical marijuana patients registered with CDPHE and receiving marijuana drug treatment.<sup>4</sup> Registered caregivers with CDPHE cultivated marijuana plants and distributed the drug to their patients.

A series of events led to a massive number of people registering for medical marijuana cards and the proliferation of medical dispensaries opening in a very short period of time. By December 31, 2009, there were 41,039 patients who possessed a valid registration card from CDPHE.<sup>5</sup> The rapid increase created a concern among public safety and public health officials.

### Decriminalization of Possession and Low Enforcement Priority for Marijuana

In November 2005, the City and County of Denver voters passed a ballot initiative decriminalizing possession of small amounts of marijuana. In 2007, Denver voters approved Ballot Question 100, which directed law enforcement to make arrest or citation of adult cannabis users the lowest priority.<sup>6</sup> The town of Breckenridge, a mountain town near ski resorts, also decriminalized marijuana possession and allowed citizens to carry small amounts in 2009.<sup>7</sup>

### Lawsuit Against CDPHE's Five Patient Rule

The Colorado Court of Appeals ruled in October 2009 that caregivers must know the patients who use the marijuana they grow. The ruling upheld a verdict against Stacy Clendenin who had been found guilty of illegally growing marijuana in her home. Clendenin claimed that she was a caregiver who was growing marijuana for patients. However, the Court of Appeals ruled, "Simply knowing that the end user of marijuana is a patient is not enough." The court said, "A care-giver [sic] authorized to grow marijuana must actually know the patients who use it."<sup>8</sup>

Responding to the court's ruling, The Colorado Department of Public Health and Environment's Board of Health created a policy, during a closed meeting, called the "Five Patient Policy" limiting caregivers to providing medical marijuana to no more than five patients.<sup>9</sup>

The Board of Health's process for establishing the Five Patient Policy was challenged in a 2007 lawsuit filed on behalf of David "Damien" LaGoy, a registered marijuana patient with life-threatening symptoms resulting from HIV/AIDs and Hepatitis C. LaGoy's lawsuit claimed that CDPHE: (1) violated the Open Meetings Act,<sup>10</sup> (2) violated the Administrative Procedures Act<sup>11</sup> by deeming the meeting as an emergency, and (3) decreased LaGoy's access to medical marijuana, increased the confusion of his registered caregiver, Daniel, as to his responsibilities due to the policy defining the caregiver as one who is "significantly respon-

sible for the well-being of a patient,” and therefore caused an “immediate and irreparable injury.”<sup>12</sup> The plaintiffs requested that CDPHE hold a public meeting to define the term “caregiver” and to invalidate their current policy because it was adopted in an arbitrary manner. Additionally, they asked the courts for a temporary and permanent injunction ordering the defendants to cease and desist from the enforcement of the regulatory change.<sup>13</sup>

Denver District Court Judge Dave Naves granted a temporary injunction, and after further review, permanently overturned CDPHE’s definition for caregivers. Naves required the CDPHE to hold an open meeting and revise the caregiver language.<sup>14</sup>

The CDPHE held public hearings according to Naves’ ruling but did not reinstate the “Five Patient Policy.”<sup>15</sup>

## The Federal Government’s Position on Marijuana Enforcement

The first national statement regarding legalizing medical marijuana came from President Barack Obama during his campaign in 2008.

Attorney General Eric Holder, in October 2009, laid out medical marijuana guidelines for federal prosecutors in accordance with the Controlled Substance Act (CSA).<sup>16</sup> A memorandum from Deputy Attorney General David W. Ogden provided guidance and clarification to U.S. Attorneys in those states that have enacted medical marijuana laws. This became known as “The Ogden Memo.”<sup>17</sup>

The Ogden Memo provides uniform guidance but does not allow medical marijuana to be a legal defense to the violation of federal law, including the Controlled Substances Act. (<http://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-marijuana.pdf>).<sup>18</sup>



<https://www.youtube.com/watch?v=LvUziSfMwAw>

Specifically, the Ogden Memo directs that prosecutors should place a low priority on cases involving individuals with medical conditions and who are in “clear and unambiguous compliance” with state laws. The federal government continues to pursue illegal drug trafficking activity as well as the unauthorized production or distribution of medical marijuana by the state when the following situations are present:

- Unlawful possession or unlawful use of firearms;
- Violence;

- Sales to minors;
- Financial and marketing activities inconsistent with state law, including money laundering, financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law;
- Illegal possession or sale of other controlled substances; or
- Ties to other criminal enterprises.

## 2009: THE GROWTH OF MEDICAL MARIJUANA CENTERS

When CDPHE's caregiver definition was overturned in 2009, there was no limit on the number of patients caregivers could serve. At the same time, there was a boom in the number of medical marijuana patients registering with CDPHE.<sup>a</sup>

Some medical marijuana proponents decided to test the boundaries of the caregiver model as a result of the LaGoy-Pope Case. This resulted in a proliferation of medical marijuana dispensaries opening in a relatively short time period of time throughout the state. These centers grew large quantities of marijuana plants because they could now claim to be the "caregivers" for an unlimited number of registered medical marijuana patients.

**From 2001 to 2008, there were a total of 4,819 approved patient licenses. In 2009, there were 41,039 approved medical marijuana registrations from CDPHE.**

Source: CDPHE

**The number of marijuana dispensaries went from zero in 2008 to 900 by mid-2010.**

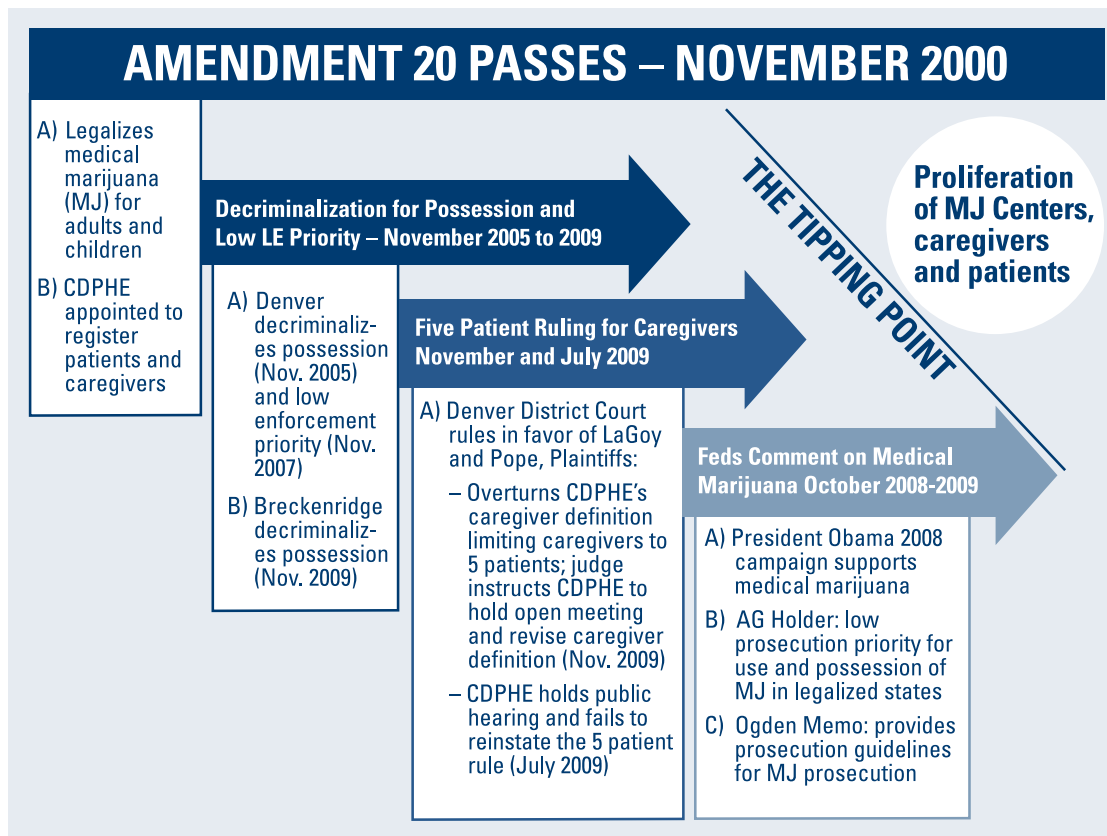
Source: Department of Revenue, Marijuana Enforcement Division

This was one of the first major unanticipated problems for law enforcement, according to members of the Police Foundation focus groups. Since there were no statutes or regulations, the medical marijuana centers had no restrictions to the number of plants they could grow and the number of patients they served. This also led to patients "shopping" their doctor's recommendation to as many medical marijuana centers as they wanted and as often as they wanted, focus group members said. As long as the patient had a medical marijuana licence and an authorized doctor's certification, then that patient could go to many medical marijuana centers as long as they only carried two ounces out of each center.

a. This has led to another challenge in regulation. CDPHE registers medical marijuana patients and caregivers; however, they do not regulate or monitor the caregiver marijuana grows. Beginning in 2010 (?), the Colorado Department of Revenue, Medical Marijuana Enforcement Division (MMED), now entitled the Marijuana Enforcement Division (MED), is responsible for monitoring the caregiver grows. Caregivers are required to register their grow locations with the MED. However, there is no way to cross-verify if this is occurring since CDPHE cannot release the names of the patients and their caregivers due to the Health Insurance Portability and Accountability Act (HIPAA). As a result, enforcing caregiver cultivations is challenging on many different levels such as locations of cultivations, number of plants authorized to grow per patient, illegal cultivations in multiple locations for the same set of patients, and detecting gray market illegal sells to adults and minors.

Because so many medical marijuana centers opened so quickly, state and local officials found it difficult to regulate them. The Colorado General Assembly had not crafted regulations governing licensing fees, inventory tracking requirements, production of marijuana infused products, packaging and labeling requirements, and disposal of waste water produced during the processing of medical marijuana.

**Figure 1: Tipping Point for Opening Medical Marijuana Centers**



From June 1, 2001, to December 31, 2008, a total of 5,993 patients applied for a medical marijuana registration card (also known as a red card due to its color, shown in Figure 2). Of those applicants, 4,819 were approved. After the opening of the medical marijuana centers, by December 31, 2009, there were 43,769 applications, of which 41,039 were approved. This is an increase of 751.61% approved registrations in just one year’s time. As of December 1, 2014, there were 116,287 medical marijuana patients registered with the state.<sup>c</sup>

c. Lower-than-projected revenues from recreational marijuana, combined with higher revenues from medical marijuana and a high proportion of out of state recreational marijuana customers provide a strong indication that many have elected to obtain red cards because it is less expensive to purchase medical marijuana because of the higher tax structure on recreational marijuana.

d. The number of medical conditions does not add to 100% because patients can have more than one debilitating condition.

e. The number of medical conditions does not add to 100% because patients can have more than one debilitating condition.

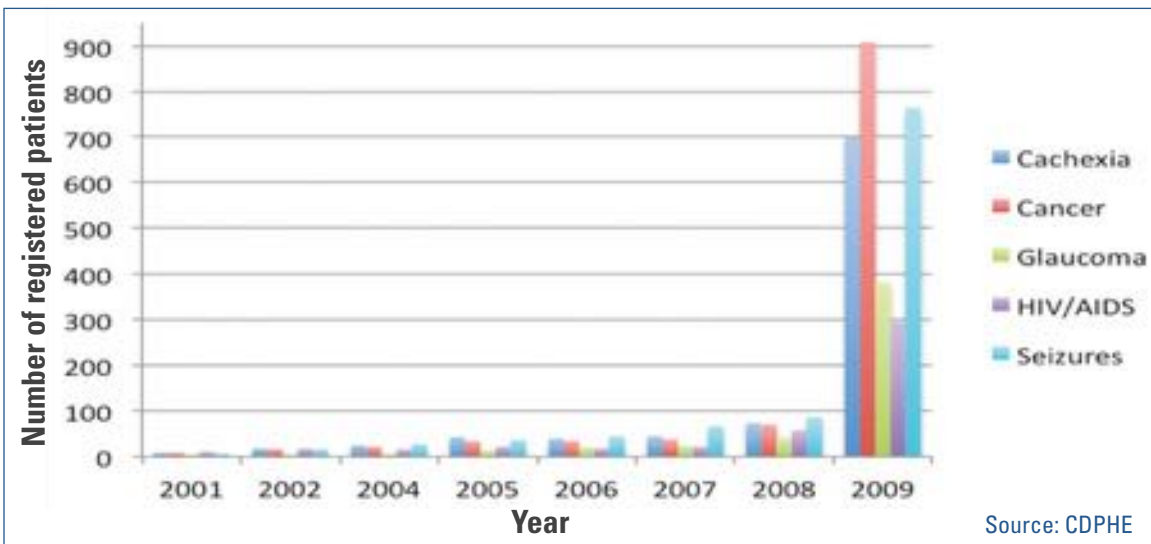


**Figure 2: Example of Colorado Medical Marijuana Patient Registry Card**



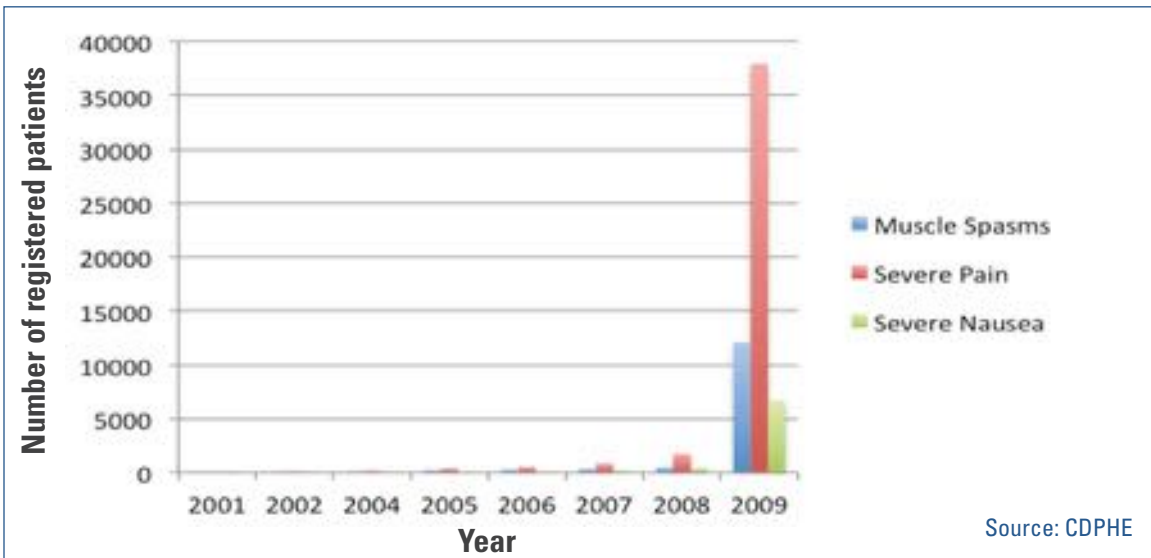
Source: Chief Marc Vasquez<sup>9</sup>

**Figure 3: Number of Registered Patients and Five Illness Reasons from 2001-2009<sup>d</sup>**



Source: CDPHE

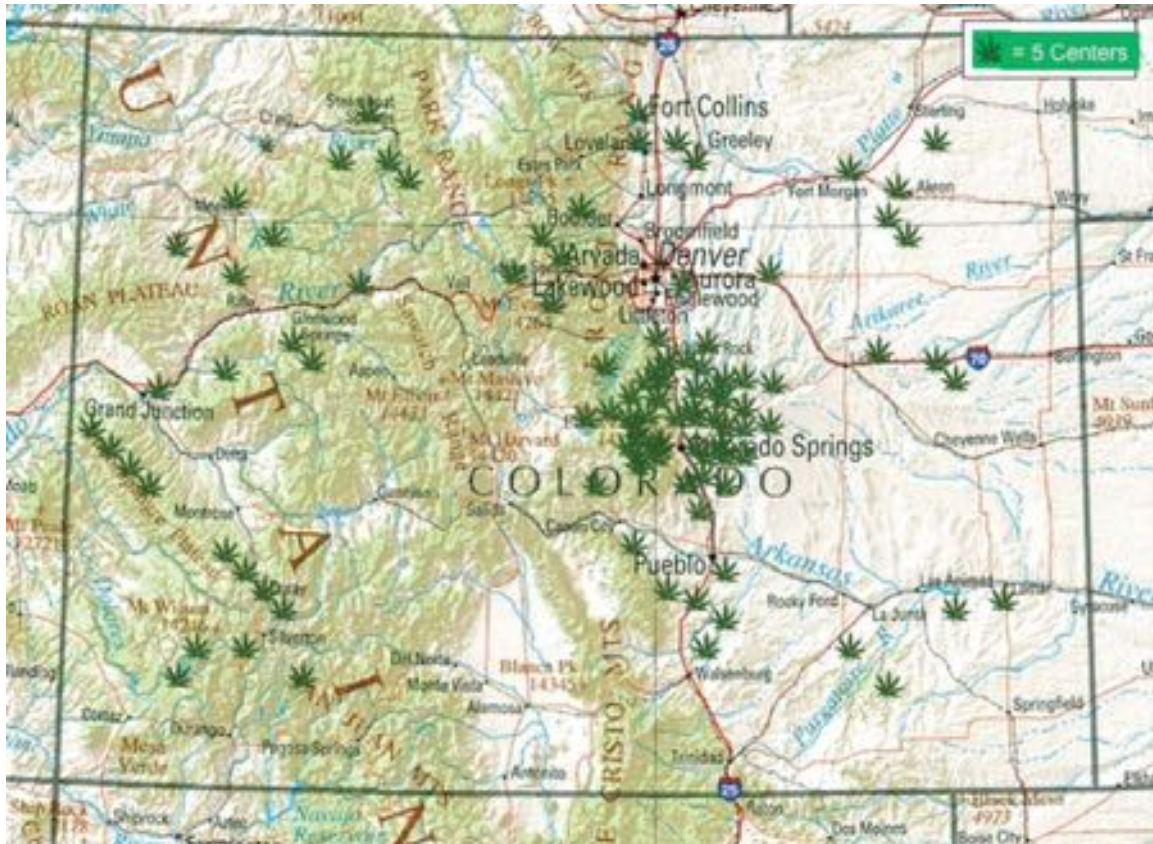
**Figure 4: Number of Registered Patients and Three Illness Reasons from 2001-2009<sup>e</sup>**



Source: CDPHE

There were no medical marijuana centers before 2009. In that year alone, 250 were opened. As of December 1, 2014, there were 501 state licensed medical marijuana centers with 23 pending applications (see Figure 5 for a map of dispensary locations).<sup>22</sup>

**Figure 5: Colorado Map with Medical Marijuana Dispensary Locations**



Source: Lt. Ernie Martinez, Director At-Large for the National Narcotics Officers Association Coalition<sup>23</sup>, for illustration purposes

## LEGISLATION SUPPORTING AMENDMENT 20 IN 2010 AND 2011

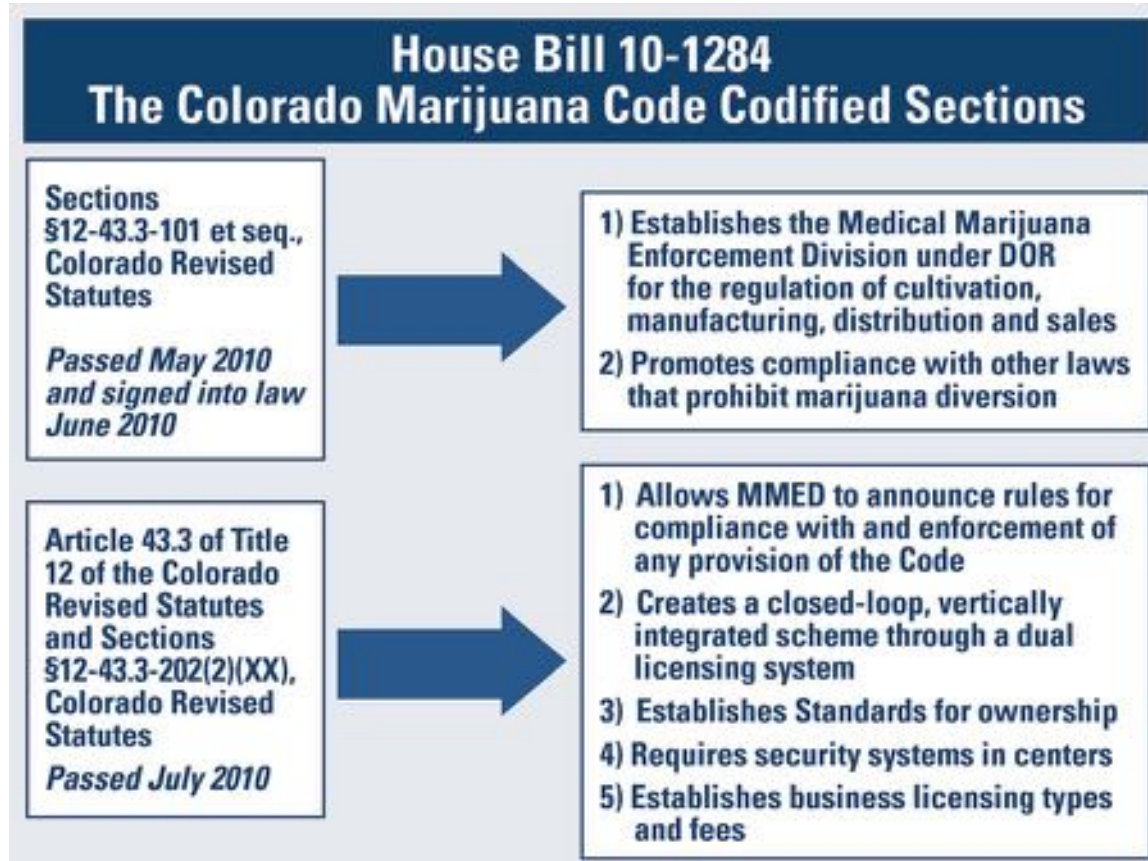
The Colorado Legislature in 2010 and 2011 passed a series of bills to address the unanticipated consequences of Amendment 20.

### 2010: Legislation Regulating Medical Marijuana Centers

During the 2010 legislative session, the issues of medical marijuana centers and the regulation of cultivation and sales of medical marijuana were addressed through two significant bills: House Bill (HB) 10-1284, establishing the medical marijuana code, and Senate Bill (SB) 10-109, establishing the physician-patient relationship.

## HB 10-1284: Colorado Medical Marijuana Code

Figure 6: Overview of HB 10-1284



Source: Adapted from State of Colorado, Amendment 64 Legislation<sup>27</sup>

HB 10-1284, known as the Colorado Medical Marijuana Code, codifies sections §12-43.3-101 et seq., Colorado Revised Statutes (C.R.S.), and was passed in May 2010 and signed into law on June 2010. This bill established legalized medical marijuana centers and other business-related regulations. Additionally, it designated the Colorado Department of Revenue (DOR) as the state licensing authority as well as local licensing authorities throughout the state. This legislation also established the Medical Marijuana Enforcement Division (MMED) within the Department of Revenue to regulate the cultivation, manufacture, distribution and sale of medical marijuana and promote compliance with other laws that prohibit illegal trafficking. It also provided regulations for:

- Medical marijuana business owners;
- Local government;
- Physicians;
- Caregivers and patients; and
- The Colorado Department of Public Health and Environment (CDPHE).

According to HB 10-1284, an owner interested in opening a medical marijuana business was required to obtain approval first from their local licensing authorities. Once approved, the owner could apply to obtain a state license from the Department of Revenue. The law gave the MMED the authority to establish an application fee structure to cover the state and local licensing authorities' operating costs.

All existing center or manufacturer owners, or owners who had applied to a local government for operations by July 2010, were allowed to continue to operate as long as they registered with the Department Revenue and paid their license fee. They also had to certify that they were cultivating at least 70 percent of the marijuana necessary for their operations by September 2010.

Provisions were established for local licensing authorities which allowed local government to adopt a resolution or ordinance to license, regulate, or prohibit the cultivation and sale of medical marijuana. This needed to be completed by July 1, 2011. HB 10-1284 also allowed local licensing authorities to establish limitations on marijuana centers such as restricting the number and location of centers. If they did not establish local limitations, the ordinances defaulted to the requirements established in HB 10-1284 which are as follows:

- The center cannot be located within 1,000 feet of a school.
- Hours of operation must fall between 8:00 a.m. to 7:00 p.m. no matter which day(s) of the week.
- The cultivator may sell no more than six immature plants to a patient and cannot exceed more than half of the recommended plant count to a patient, primary caregiver, another medical marijuana cultivator, or to a marijuana infused products manufacturer. In other words, if patients grow their own medical marijuana, they can purchase up to six immature plants from a medical marijuana center. If a physician has recommended more than six plants, the patient can only receive half of the additional amount of immature plants at one time. So if a patient were allotted 20 plants, he or she could only purchase 10 of those immature plants at one time.
- The law prohibits physicians, minors, and law enforcement members from operating a dispensary. It prohibits certain individuals, including felons convicted of possession, distribution or use of a controlled substance, from obtaining medical marijuana center licenses.
- Licenses are valid for up to two years.
- Violations of the medical marijuana code are class 2 misdemeanors.<sup>25</sup>

The legislation required that physicians must have a "bona fide" relationship with a patient, keep records of all patients that are certified by the registry, cannot have an economic interest in marijuana centers, and are required to hold a doctor of medicine or doctor of osteopathic medicine degree from an accredited medical school, as well as meet certain educational and professional requirements.

It required caregivers to register with CDPHE for each patient they provide services up to five patients at any time. In addition, patients may only have one caregiver. Patients must

obtain registry cards and have them in their possession whenever they possess medical marijuana. CDPHE's responsibilities include keeping a confidential registry for caregivers and patients and issue medical marijuana registry cards.

HB 10-1284 created a vertically integrated, closed-loop commercial medical marijuana regulatory scheme. Cultivating, processing, and manufacturing marijuana as well as retail sales had to be a common enterprise under common ownership.<sup>26</sup>

The vertical integration model also requires that medical marijuana businesses must cultivate at least 70 percent of the medical marijuana needed for the operation of their business. The remaining 30 percent may be purchased from another licensed medical marijuana center. No more than 500 plants can be cultivated unless the Director of the Medical Marijuana Enforcement Division grants a waiver. If a facility cultivates more marijuana than it needs for its operation, it can sell the excess to other licensed facilities.

The vertical integration model also required that medical marijuana businesses must cultivate at least 70 percent of the medical marijuana needed for the operation of their business. The remaining 30 percent may be purchased from another licensed medical marijuana center. For Optional Premises Centers (OPC), no more than 500 plants may be cultivated unless the director of the Medical Marijuana Enforcement Division grants a waiver. If a facility cultivates more marijuana than it needs for its operation, it can sell the excess to other licensed facilities.

The legislation established rules for ownership including that the applicant must have been a Colorado resident for two years prior to filing the application. Applicants are fingerprinted, and the MMED investigates the qualifications of an applicant or licensee. The MMED checks character references, criminal histories, possible prior rehabilitation and educational achievements.<sup>f</sup>

Article 43.3 also establishes the types of licenses for the cultivation, manufacture, distribution and sale of medical marijuana. This article is the foundation for licensing requirements by the Marijuana Enforcement Division or Medical Marijuana Enforcement Division.

A significant provision in HB 10-1284 was the option for cities and counties to allow or prohibit any or all medical marijuana businesses such as medical marijuana centers and production of marijuana infused products. If a local municipality or county wished to exercise this option, it had to be done either by a special election or by a majority of the governing board (i.e., city council or county commissioners). A local governing board had until July 1, 2011, to vote to prohibit medical marijuana centers.

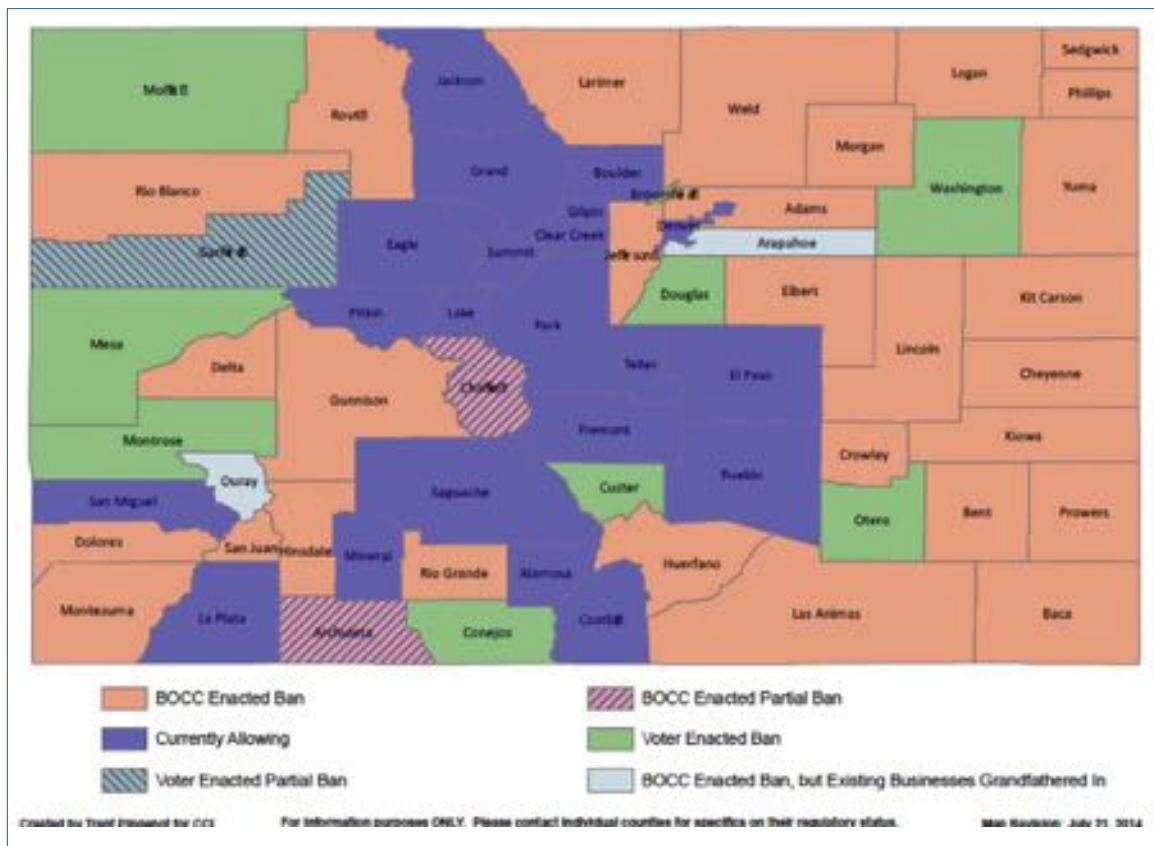
There are 64 counties in the state of Colorado. Denver and Broomfield have consolidated their city and county governments. In Figure 3, the counties' decisions for or against having medical marijuana centers is shown. Of those counties, 29 of the state's county board of commissioners voted to ban medical marijuana centers (peach shaded areas). Medical

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f. If a person has a past felony drug conviction then that person cannot apply for medical marijuana center ownership. For all other felonies, a person can apply for an ownership license five years after the conviction. If someone with a past felony drug conviction applies for ownership of a retail marijuana store, then they must apply 10 years after all felonies. The Marijuana Enforcement Division also applies a moral character test when determining status of licensing.

marijuana centers are allowed by 22 counties (purple shaded areas). Voters enacted a ban in eight counties (green shaded areas). Two counties banned new centers but grandfathered in existing centers. In another two counties (pink and purple striped areas), the boards of county commissioners enacted a partial ban meaning they authorize only specific types of medical marijuana facilities within their jurisdiction, and in one county (grey and purple striped area), voters elected for a partial ban.

**Figure 7: Medical Marijuana Centers – Regulatory Status**



Source: Colorado Department of Revenue, Medical Marijuana Enforcement Division

The Colorado Medical Marijuana Code was amended in 2011 to provide for an “infused products manufacturing license.”

As of December 1, 2014, statewide there were:

- 501 medical marijuana centers (dispensaries)
- 729 medical marijuana cultivation operations
- 149 medical marijuana infused product factories<sup>28</sup>

Patients must apply annually for a medical marijuana card. In January 2009, CDPHE registered 41,039 patients and in December 2014, there were 116,180 patients holding medical marijuana cards, resulting in a 183.1% increase in the number of registered marijuana patients.<sup>29</sup> As of January 31, 2014, the reported conditions for obtaining a medical marijuana card were:

- 94% for severe pain by 103,918 patients
- 13% for muscle spasms by 14,632 patients
- 10% for severe nausea by 10,904 patients
- 3% for cancer by 3,118 patients
- 2% for seizures by 2,111 patients
- 1% for glaucoma by 1,133 patients
- 1% for cachexia by 1,126 patients
- 1% for HIV/AIDS by 668 patients<sup>30</sup>

### **SB 10-209: Regulation of the Physician–Patient Relationships for Medical Marijuana Patients**

SB 10-209 required CDPHE to establish new rules for issuing registry identification cards, documentation for physicians who prescribe medical marijuana, and sanctions for physicians who violate the law.<sup>31</sup> The law outlines the following requirements for a physician:

- Must have a bona fide physician-patient relationship;
- Must provide consultation with patient regarding patient’s debilitating medical condition;
- Must provide follow-up care and treatment to the patient to establish efficacy of the use of medical marijuana;
- Must be licensed and in good standing with the Colorado Medical Board;
- Holds a doctor of medicine or doctor of osteopathic medicine degree from an accredited medical school; and
- Has not had his or her U.S. Department of Justice federal drug enforcement administration controlled substances registration suspended or revoked at any time.

A physician cannot:

- Offer a discount or any other thing of value to use as a particular primary caregiver, distributor, or other provider of medical marijuana to procure medical marijuana;
- Diagnose a debilitating condition at a location where medical marijuana is sold; or
- Hold an economic interest in an enterprise that provides or distributes medical marijuana.

The legislation established a marijuana review board and will review requests by patients under 21 years of age who are not veterans or military service and are seeking to be placed on the state’s confidential registry for the use of medical marijuana.

## 2011: LEGISLATION REGULATING MEDICAL MARIJUANA CENTERS

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HB11-1043 established rules for the purpose of cultivation, manufacture or sale of medical marijuana or medical marijuana-infused products. Within the law, it sets forth the powers and duties for MMED in reviewing marijuana industry applications and granting licenses.

This bill also requires primary caregivers who cultivate medical marijuana for their patients to register their cultivation location with the MMED.

## 2012: FEDERAL RESPONSE TO THE COLORADO MEDICAL MARIJUANA LAW

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### U.S. Attorney's Office Issues Warning Letters and Closes Businesses

John Walsh, the United States Attorney for the District of Colorado, issued three waves of letters to medical marijuana businesses who were deemed to be in violation of federal law. On January 12, 2012, 23 letters were issued to medical marijuana centers in Colorado advising them they were within 1,000 feet of schools and gave the businesses 45 days to close down before facing potential civil and criminal action.<sup>33</sup> By February 2012, all 23 businesses were shut down.

In March 23, 2012, the U.S. Attorney's Office issued a second wave of warning letters to another 25 medical marijuana centers and by May 8, 2012, they all were closed. The third and last wave of letters were sent on August 3, 2012, to another 10 businesses because they were operating within 1,000 feet of schools; these businesses subsequently closed.<sup>34</sup>

### Medical Marijuana Enforcement Division Budget Shortfalls and Staff Reduction

The original Medical Marijuana Code licensing model was a "dual-licensing" model, which required that the local licensing authority issue the local license before the state licensing authority could issue the state license. There was a moratorium in place which would not allow any new applicants to apply for licenses until July 1st of 2011. It was decided by the state legislators (with the agreement of the DOR and other stakeholders such as the Colorado Municipal League) to extend the moratorium for another year to July 1, 2012. There were reasons why extending the moratorium made sense at that time such as the tremendous workload the MMED had with limited staff and infrastructure. The MMED was in the process of conducting background investigations (over 4,500 investigations) into the individuals and businesses seeking licenses from the state licensing authority with a limited staff. Also, many local licensing authorities had not adopted rules and had not issued local licenses by this time. It had been anticipated that once the moratorium had been lifted, a new round of applications and licenses would be issued. The MED was to obtain operating revenue from licensing and application fees as required through legislation. However, marijuana industries wanting to start up a business had to seek local



approval first. Local jurisdictions did not approve the applications as quickly as expected, and there was no “second wave” of renewal applications. Because of this delayed approval process, the revenue into MMED was significantly lower than anticipated.

The MMED created numerous positions in its first year. The MMED had been approved to hire approximately 55 full time employees (FTEs). During this time frame, the MMED had hired 38 FTEs only to discover they had to significantly reduce their staff due to the lack of income. As a result, many of the FTEs hired were either relocated to other agencies in the Department of Revenue or laid off. The impact of this staff reduction was not having the personnel needed to conduct the regulation oversight of a significant number of medical marijuana centers already in operation.

## 2012: RECREATIONAL MARIJUANA LEGISLATION PASSES

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In February 2012, the initiative for the legalization of recreational marijuana was certified as having the more than 86,000 signatures required to be placed as an amendment on the November 2012 ballot, making Colorado the first in the nation to legalize recreational marijuana if passed.<sup>35</sup> The ballot measure read:

“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?”<sup>36</sup>

### Voter Turnout

The citizens of Colorado passed Amendment 64 on November 6, 2012, adding to the state constitution the legalization of marijuana for personal use.<sup>37</sup> With a voter turnout of 69%, the amendment passed with 55% of voters approving (see Figure 4).

Figure 8: Map of Counties Passing Amendment 64



Source: Rocky Mountain PBS News

## Amendment 64: Use and Regulations of Marijuana

The law provides for regulation to be similar to that of alcohol regulation. Specifically, only individuals 21 years or older have the ability to:

- Possess, use, display, purchase, or transport marijuana accessories or one ounce or less of marijuana;
- Possess, grow, process, or transport no more than six marijuana plants, with three or fewer immature and three mature cannabis plants (i.e., flowering plants) on the premises where the plants are grown. These plants must be in an enclosed, locked space; and cultivation is not conducted openly or publicly, and is not made available for sale;
- Transfer one ounce or less of marijuana without payment to a person who is 21 years or older; and
- Assist another person, 21 years or older, in any of the above acts.
- Also, consumption of marijuana is prohibited in open and public areas or in a manner that endangers others.

It makes it lawful for people 21 years or older to:

- Manufacture, possess, or purchase marijuana accessories or sell marijuana accessories to a person 21 years or older;
- Possess, display, or transport marijuana or marijuana products;
- Purchase marijuana or marijuana products from a marijuana cultivation facility;
- Sell marijuana or marijuana products to consumers if the person has 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 marijuana store;
- Cultivate, harvest, process, package, transport, display, or possess marijuana;
- Deliver or transfer marijuana to a marijuana testing facility;
- Sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility or a retail marijuana store if the person conducting the activities 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;
- Package, process, transport, manufacture, display or possess marijuana or marijuana products, delivery to marijuana testing facility, purchase from a marijuana cultivation facility or manufacturing facility if they are acting as an owner, employee, or agency of a licensed marijuana product manufacturing facility; and
- Lease or allow 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 the above regulations.

Marijuana legalization will be regulated by MED, which had to adopt regulations necessary for implementation of recreational marijuana no later than July 1, 2013. Additional requirements include

- Application, licensing, and renewal fees shall not exceed \$5,000, with the upper limits adjusted for inflation;
- Licensure is for the operation of marijuana establishments;
- Security requirements for marijuana establishments;
- Requirements to prevent the sale or diversion of marijuana and marijuana products to individuals under the age of 21;
- Label requirements for marijuana and marijuana infused products;
- Health and safety regulations and standards for the manufacture of marijuana products and the cultivation of marijuana;
- Restrictions on the advertising and display of marijuana and marijuana products;
- Civil penalties for failure to comply with regulations established by DOR;

- Tax levy not to exceed 15 percent prior to January 1, 2017, at which time the General Assembly will determine a rate to apply thereafter; the first \$40 million in revenue raised annually from excise tax will be credited to the Public School Capital Construction Assistance Fund; and a competitive application process which will consider whether the applicant has:
  - Prior experience producing or distributing marijuana or marijuana products in the locality in which the applicant seeks to operate a marijuana establishment, and
  - Complied consistently with the Colorado Medical Marijuana Code.

Local ordinances or regulations specifying the entity within the locality that is responsible for processing applications submitted for licenses to operate a marijuana establishment within the boundaries of the locality had to be enacted no later than October 1, 2013. Local government could enact ordinances or regulations that are not in conflict with the existing law that determine:

- Time, place, manner and number of marijuana establishments;
- Procedures for the issuance, suspension, and revocation of a license issues by the locality;
- Schedule of annual operating, licensing, and application fees for marijuana establishments;
- Civil penalties for violation of an ordinance or regulation government the time, place, and manner of marijuana establishment operations; and
- Opting in or out of allowing marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through ordinance by the local governing authority (i.e., city council or board of commissioners) or if through public vote, on a general election ballot during an even numbered year. Local governing authorities can remove or approve marijuana establishments any time or as many times as they deem is in the best interest of their community.

An employer is not required to permit or accommodate the use, consumption, possession, transfer, display, transportation sale or growing of marijuana in the workplace. Employers may have policies restricting the use of marijuana by employees. A person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns, or controls a property may prohibit or regulate the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.

In addition, the law addresses hemp<sup>40</sup> as follows:

- Industrial hemp should be regulated separately from strains of cannabis with higher delta-9-tetrahydrocannabinol (THC) concentrations that do not exceed three-tenths percent on a dry weight basis; and
- Not later than July 1, 2014, the General Assembly will enact legislation governing the cultivation, processing and sale of industrial hemp.<sup>9</sup>

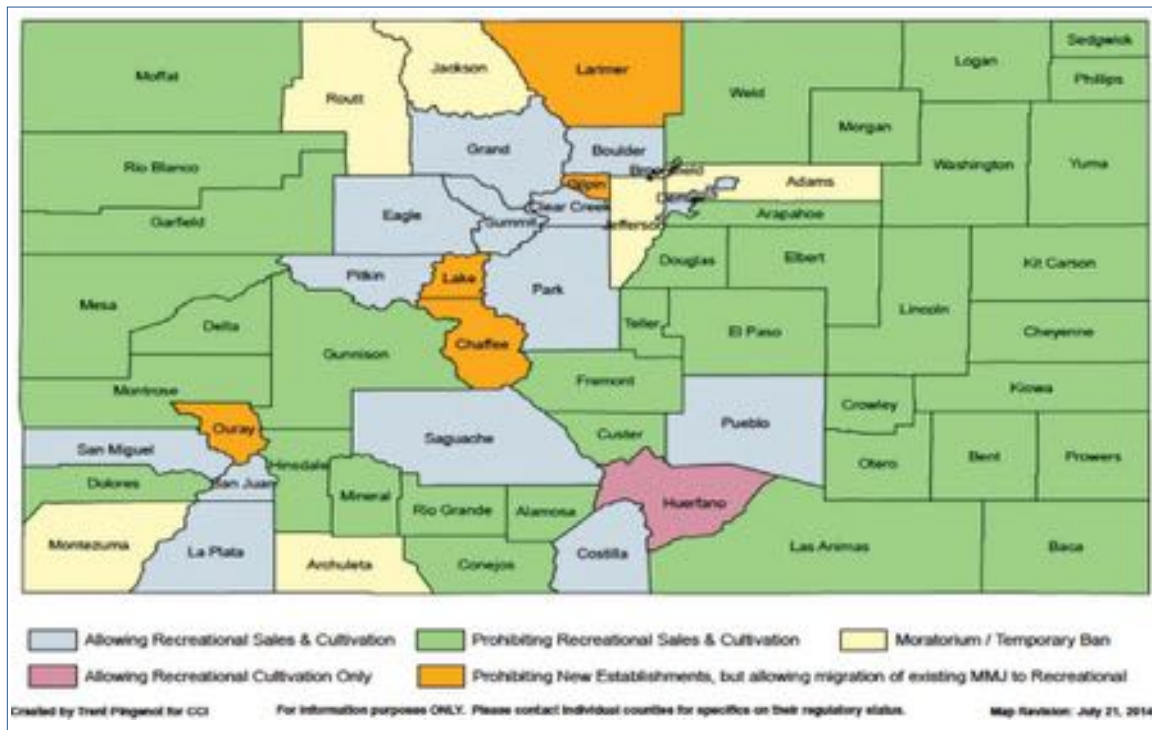
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g. The Industrial Hemp Regulatory Program Act was passed through the Hemp Act of 2014, Title 35 Agriculture, Article 61, Industrial Hemp Regulatory Program, C.R.S. 35-61-109. The Colorado Department of Agriculture is responsible for oversight; rules pertaining to the administration and enforcement of this act is established through 8 CCR 1203-23.

## 2014: RECREATIONAL MARIJUANA STORES OPEN FOR BUSINESS

Recreational marijuana stores opened for business on January 1, 2014. Thirty-seven cities and towns have opted out of allowing recreational marijuana stores (see Figure 5), including Colorado Springs, the state's second largest city, and Greeley, the third largest city. Fifteen cities and towns have allowed the recreational sales and cultivation, including Denver, the largest city in Colorado. Six counties have a moratorium on allowing stores, five counties have allowed the existing medical marijuana centers to also sell for recreational purposes, and one county allows recreational cultivation only.

**Figure 9: Locations for Towns and Cities Opting out of Recreational Retail Stores**



Source: Colorado Department of Revenue, Marijuana Enforcement Division<sup>41</sup>

As of December 2014, there are:

- 300 Medical Marijuana Centers in Denver
- 496 Medical Marijuana Centers statewide
- 212 retail stores
- 279 cultivation operations
- 63 infused product factories
- 8 laboratory testing facilities<sup>42</sup>

# BANKING CHALLENGES FOR COLORADO MARIJUANA INDUSTRY

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## The Cole Memorandum on Marijuana Related Financial Crimes

As medical marijuana centers began making money, opening a bank account was not possible since banks, which are federally regulated, cannot receive funds obtained illegally under federal law. According to law enforcement officials in the Police Foundation focus groups, these business owners pay for everything in cash and have to store their revenue in their own safes. This has posed a safety risk for the owner, employees, and patrons who are at risk of being robbed either at the business, in the parking lot, or while being followed to another location.

In response to the banking problem, Deputy U.S. Attorney General James M. Cole released a memorandum on February 14, 2014, titled “Guidance Regarding Marijuana Related Financial Crimes.” Besides reiterating the enforcement of the Controlled Substance Act, Cole outlined the expectations of the Department of Treasury’s Financial Crimes Enforcement Network (FinCEN) for financial institutions providing services to marijuana-related businesses.<sup>43</sup> Cole’s memo reiterated the eight federal priorities in enforcing the Controlled Substance Act Enforcement:

- Distribution of marijuana to minors;
- Revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Diversion of marijuana from states where it is legal under state law in some form to other states;
- State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Violence and the use of firearms in the cultivation and distribution of marijuana;
- Drugged driving and the exacerbation of other adverse public health consequences associates with marijuana use;
- Growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Marijuana possession or use on federal property.

Cole further summarized statutes for prosecuting financial institutions that accept money from the marijuana industry, specifically related to:

- Money laundering statutes (18 U.S.C. §§ 1956 and 1957), making it unlawful to engage in financial and monetary transactions with the proceeds from, among other things, marijuana-related violations of the Controlled Substance Act.
- Unlicensed money transmitter statute (18 U.S.C. § 1960), which makes it illegal to engage in any transactions by or through a money transmitting business involving funds “derived from” marijuana-related conduct

- Record keeping in accordance to the Business Secrecy Act of 1970 so the U.S. government can detect and prevent money laundering, tax evasion, or other criminal activities.<sup>44</sup>

The U.S. Department of the Treasury Financial Crimes Enforcement Network (FinCEN) released, on the same day as the Cole memo, their expectations regarding marijuana-related business.<sup>45</sup>

## The Four Models for Regulating Medical and Recreational Marijuana

As a result of the passages of Amendments 20 and 64, four types of marijuana regulation and oversight models emerged (see Figure 6). Having different models and regulatory agencies providing oversight has created challenges. The first model began with the passage of Amendment 20: the caregiver/patient model for medical marijuana.

The first model began with the passage of Amendment 20: the caregiver/patient model for medical marijuana. W. Lewis Koski, Director of the Marijuana Enforcement Division, wrote that “the affirmative defense (in Amendment 20) was narrowly tailored to patients who were suffering from debilitating medical conditions provided they could prove that a doctor was recommending the use of cannabis to help treat the condition (Colorado Constitution, Art. XVII, § 14). . . . This model was not intended to take on the tone of a commercial market and it was my understanding that the fear of federal intervention kept most of the caregivers operating underground. Since this was relatively unique public policy at the time, it stands to reason that cultivators/caregivers were unwilling to come from out of the shadows and make themselves known to law enforcement since after all, the cultivating, manufacturing, distribution and possession of any marijuana was still criminal under federal law (Controlled Substances Act). It remains so today.”<sup>46</sup>

With the proliferation of medical marijuana centers, the second model, Medical Commercial, was established for licensing and regulating the medical marijuana industry. When Amendment 64 was passed, the recreational models were established. The Medical and Recreational Commercial models are regulated by the MED and systems are in place for monitoring the commercial industry.

The regulation by local law enforcement of the Caregiver/Patient and the Recreational Home Grows models is more challenging. Local law enforcement agencies are not authorized to randomly perform home checks. They are bound by the law and cannot investigate a home grow unless a complaint has been filed or if the officer has some probable cause and the resident willingly allows the officer to enter the home. There is nothing that would allow or prohibit local law enforcement to conduct “knock & talks” at a caregiver location, but they would need to establish probable cause to execute a criminal search if they believe crimes are being committed. Some municipalities are enacting ordinances which prohibit noxious odors and the number of plants allowed to be grown residentially, and local law enforcement can use those ordinances to address neighborhood complaints.<sup>47</sup>

**Figure 10: Four Models Created through Amendments 20 and 64**

Medical Commercial	Recreational Commercial
<ul style="list-style-type: none"> <li>– Licensing for businesses, owners and employees</li> <li>– Licensed by Department of Revenue, Marijuana Enforcement Division</li> <li>– Regulatory authority: Marijuana Enforcement Division</li> </ul>	<ul style="list-style-type: none"> <li>– Licensing for businesses, owners and employees</li> <li>– Licensed by Department of Revenue, Marijuana Enforcement Division</li> <li>– Regulatory authority: Marijuana Enforcement Division</li> </ul>
Caregiver/Patient	Recreational Home Grows
<ul style="list-style-type: none"> <li>– Caregivers who can grow for up to 5 patients and themselves</li> <li>– Routinely see large grows</li> <li>– Patients are licensed by Colorado Department of Public Health and Environment</li> <li>– Caregiver regulatory authority: Colorado Department of Health and Environment and local law enforcement</li> </ul>	<ul style="list-style-type: none"> <li>– Anyone 21 years of age or older can grow up to 6 plants</li> <li>– No licensing required</li> <li>– Regulatory authority: local law enforcement</li> </ul>

Source: Adapted from Chief Marc Vasquez<sup>48</sup>



# ENDNOTES FOR APPENDIX 1

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- <sup>1</sup> Comprehensive Drug Abuse Prevention and Control Act § Statute 84 (1970)
- <sup>2</sup> Note: According to the Controlled Substances Act of 1970, a Schedule I controlled substance is defined as, (A) The drug or other substance has a high potential for abuse; (B) The drug or other substances has no currently accepted medical use in treatment in the United States; and (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.
- <sup>3</sup> A Guide to Drug-Related State Ballot Initiatives. (n.d.). *Colorado Amendment 20*. Retrieved January 1, 2015 from <http://www.nationalfamilies.org/guide/colorado20.html>; Vasquez, Marc, "Marijuana in Colorado," PowerPoint presentation to Metro State University, October 2014.
- <sup>4</sup> "Medical Marijuana Registry Program Update (as of December 31, 2008)," Colorado Department of Public Health and Environment.
- <sup>5</sup> "Medical Marijuana Registry Program Update (as of December 31, 2009), Colorado Department of Public Health and Environment.
- <sup>6</sup> Denver Marijuana Initiative Winning Again: Question 100 Makes Pot Enforcement Low Priority. (2007, November 7). *The Denver Channel*. Retrieved from <http://www.thedenverchannel.com>
- <sup>7</sup> Colorado Ski Town Votes to Legalize Marijuana. (2009, November 4). *NBC NEWS*. Retrieved from [www.nbcnews.com](http://www.nbcnews.com)
- <sup>8</sup> People v. Clendenin, No. 08CA0624, Col App 2009.; Colorado appeals court: "Caregiver" must do more than grow pot. (2009, October 29). *The Denver Post*. Retrieved from [www.denverpost.com](http://www.denverpost.com)
- <sup>9</sup> People v. Clendenin, No. 08CA0624, Col App 2009.
- <sup>10</sup> The Open Meetings Act, C.R.S. § 24-6-402 <http://www.rcfp.org/colorado-open-government-guide/i-statute-basic-application/d-what-constitutes-meeting-subject-law/2->.
- <sup>11</sup> The Colorado State Administrative Procedures Act, C.R.S. § 24-4-101 et seq. [http://www.sos.state.co.us/pubs/info\\_center/laws/Title24Article4.html#24-4-103](http://www.sos.state.co.us/pubs/info_center/laws/Title24Article4.html#24-4-103)
- <sup>12</sup> People v. Clendenin, No. 08CA0624, Col App 2009.
- <sup>13</sup> People v. Clendenin, No. 08CA0624, Col App 2009.
- <sup>14</sup> Ingold, J. (2009, November 10). Judge Tosses Out Health Board Decision on Medical Pot. *The Denver Post*. Retrieved from [www.denverpost.com](http://www.denverpost.com)
- <sup>15</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org) .
- <sup>16</sup> Eric Holder Says DOJ will let Washington, Colorado Marijuana Laws Go into Effect. (2013, August 29). *Huffington Post*. Retrieved from <http://www.huffingtonpost.com>
- <sup>17</sup> Ogden, D.W. (2009). Investigations and prosecutions in States authorizing the medical use of marijuana [Memorandum] Washington, DC: Department of Justice.

- <sup>18</sup> Ogden, D.W. (2009). Investigations and prosecutions in States authorizing the medical use of marijuana [Memorandum] Washington, DC: Department of Justice.
- <sup>19</sup> Chief Marc Vasquez, Chief of Police, Erie, CO.
- <sup>20</sup> Colorado Department of Health and Environment, Medical Marijuana Registry Program Update reports for 2001, 2003, 2004, 2005, 2006, 2007, 2008 and 2009, <https://www.colorado.gov/>.
- <sup>21</sup> Ibid., <https://www.colorado.gov/>.
- <sup>22</sup> Department of Revenue, Marijuana Enforcement Division.
- <sup>23</sup> Map created by Lt. Ernie Martinez, Director-At-Large for the National Narcotic Officers' Associations' Coalition.
- <sup>24</sup> Regulation of Medical Marijuana Act § 10-0773.02.
- <sup>25</sup> Kelty, K. (2010, August 11). Colorado's Medical Marijuana Law. Colorado Legislative Council Staff, Issue Brief retrieved from <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application/pdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251649691480&ssbinary=true>
- <sup>26</sup> Finlaw, J., & Brohl, B. (2003, March). Task Force Report on the Implementation of Amendment 64. Retrieved from <http://www.colorado.gov/>
- <sup>27</sup> Finlaw, J., & Brohl, B. (2003, March). Task Force Report on the Implementation of Amendment 64. Retrieved from <http://www.colorado.gov/>
- <sup>28</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org).
- <sup>29</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org).
- <sup>30</sup> Light, M.K., Orens, A., Lewandowski, B., & Pickton, T. (2014). Market size and demand for marijuana in Colorado: Prepared for the Colorado Department of Revenue. The Marijuana Policy Group. Retrieved from <https://www.colorado.gov/>
- <sup>31</sup> State of Colorado, Senate Bill 10-209
- <sup>32</sup> State of Colorado, House Bill 11-1043
- <sup>33</sup> Marc Vasquez, Chief of Police, Erie, CO, PowerPoint presentation at Metro State College, October 2014; 25 Colorado Medical Marijuana Dispensaries Close after Warning. (2012, May 9). The Denver Post. Retrieved from [www.denverpost.com](http://www.denverpost.com)
- <sup>34</sup> U.S. Department of Justice, Drug Enforcement Administration. (2011, September 25). Third Wave of Warning Letters Results in Closure of all 10 Targeted Marijuana Dispensaries within 1,00 Feet of a School. Retrieved from <http://www.dea.gov/divisions/den/2012/den092512.shtml>.

- <sup>35</sup> Ingold, J. (2012, February 27). Initiative to Legalize Marijuana Makes Ballot in Colorado. *The Denver Post*. Retrieved from [www.denverpost.com](http://www.denverpost.com)
- <sup>36</sup> "Amendment 64: Use and Regulation of Marijuana," Legislation State of Colorado, accessed November 3, 2014, [http://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/\\$FILE/Amendment%2064%20-%20Use%20&%20Regulation%20of%20Marijuana.pdf](http://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/$FILE/Amendment%2064%20-%20Use%20&%20Regulation%20of%20Marijuana.pdf).
- <sup>37</sup> State of Colorado, [http://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/\\$FILE/Amendment%2064%20-%20Use%20&%20Regulation%20of%20Marijuana.pdf](http://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/$FILE/Amendment%2064%20-%20Use%20&%20Regulation%20of%20Marijuana.pdf)
- <sup>38</sup> Vaughan, K. & Hubbard, B. (2012, November 7). Election 2012: Colorado Counties, Presidential, Marijuana Results. PBS News. Retrieved from <http://newsnetwork.org/2012/11/07/election-2012-colorado-counties-presidential-medical-marijuana-results/#files>.
- <sup>39</sup> Colorado Department of Agriculture. (n.d.). *Industrial Hemp*. Retrieved from [http://www.colorado.gov/cs/Satellite/ag\\_Plants/CBON/1251644613180](http://www.colorado.gov/cs/Satellite/ag_Plants/CBON/1251644613180)
- <sup>40</sup> Colorado Department of Agriculture. (n.d.). *Industrial Hemp*. Retrieved from [http://www.colorado.gov/cs/Satellite/ag\\_Plants/CBON/1251644613180](http://www.colorado.gov/cs/Satellite/ag_Plants/CBON/1251644613180)
- <sup>41</sup> Colorado Department of Revenue, Medical Marijuana Enforcement Division.
- <sup>42</sup> Rocky Mountain High Intensity Drug Trafficking Area. (2014, August). The legalization of marijuana in Colorado: The Impact. Retrieved from [www.rmhidta.org](http://www.rmhidta.org).
- <sup>43</sup> Cole, J.M. (2013, August 29). Guidance regarding marijuana enforcement [Memorandum], Washington, DC: U.S. Department of Justice.
- <sup>44</sup> "Financial Crimes Enforcement Network (FinCEN's) Mandate from Congress," 31.U.S.C. 310, accessed October 29, 2014, [http://www.fincen.gov/statutes\\_regs/bsa/](http://www.fincen.gov/statutes_regs/bsa/).
- <sup>45</sup> Department of Treasury Financial Crimes Enforcement Network. (2014, February 14). BSA expectations regarding marijuana-related businesses. Retrieved from [http://www.fincen.gov/statutes\\_regs/guidance/pdf/FIN-2014-G001.pdf](http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-G001.pdf)
- <sup>46</sup> Koski, W. Lewis, 2014, excerpt from doctoral research for Walden University.
- <sup>47</sup> Vasquez, Marco, Interview December 3, 2014.

## APPENDIX 2: GLOSSARY OF TERMS

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This glossary contains terms frequently used in the discussion of the new medical marijuana and recreational marijuana laws approved by Colorado voters in Amendment 20 and Amendment 64. It also includes a number of terms frequently used by and about Colorado law enforcement and their involvement in the new legal marijuana laws. The intent of this glossary is to assist the reader with terms used in this report that may not be familiar to those outside of the field. These terms are frequently used in the marijuana industry and law enforcement when discussing marijuana.

**Amendment 20** – Colorado voters passed “Medical Use of Marijuana 2000,” allowing persons suffering from debilitating medical conditions to legally grow and use marijuana under strict registry guidelines. This amended Article XVIII of the Colorado Constitution.

**Amendment 64** – Citizens of Colorado passed the “Use and Regulation of Marijuana” amendment in 2013, allowing the recreational use of marijuana and licensing for cultivation facilities, product manufacturing facilities, testing facilities, and retail stores. This amended Article XVIII of the Colorado Constitution.

**Black Market** – The sale or illegal trade of consumer goods that are scarce or heavily taxed. Black market marijuana is considered controlled by criminals and drug cartels. <http://www.businessdictionary.com/definition/black-market.html>

**Caregiver** – A person managing the well being of a patient with a debilitating health condition. This person cannot only deliver medical marijuana or marijuana paraphernalia, but must also provide other patient care (i.e., transportation, housekeeping, meal preparation, shopping, and arranging access to medical care). The person providing care must be 18 years of age or older; cannot be the patient or the patient’s physician; and cannot have a primary caregiver of their own. <https://www.colorado.gov/pacific/cdphe/medical-marijuana-caregiver-eligibility-and-responsibilities>

**Colorado Department of Public Health and Environment (CDPHE)** – Legislative appointed agency that registers medical marijuana patients and caregivers.

**Concentrates** – Extracted from marijuana, it usually has higher levels of THC through a chemical solvent process (most widely using butane). Depending upon what is done during the extraction process, it can produce different forms of the THC product, such as oil, wax, and shatter. These concentrates are used in marijuana-infused products, such as food and drink products. These concentrates can also be smoked, dabbed, or used in oils or tinctures.

**Diversion** – Is delivering, distributing, or dispensing of a drug illegally. <http://www.deadiversion.usdoj.gov>

**Drug Cartel** – A criminal organization involved in drug trafficking operations.

**Edibles** – Marijuana infused products in the forms of food or drinks, such as butter, pizza, snacks, candies, soda pop, and cakes.

**Extraction Processes** – The distillation process to extract THC resin from the marijuana plant using a liquid-to-liquid process through water or chemical solvents. Chemical solvents are more popular for extractions (i.e., butane, hexane, isopropyl alcohol, or methanol) because a higher chemical extraction of THC can be obtained. Chemical extraction processes are more dangerous if not done in a professional and controlled environment because gas fumes from the process can ignite on fire and explode.

**Gray Market** – A market of semi-legal marijuana produced by caregivers and anybody over 21 who grows their own marijuana. The marijuana in the gray may be legal or grown in legal operations, but its sale circumvents authorized channels of distribution.

**Hashish and Hash Oil** – To obtain higher levels of THC, the flower from the Cannabis sativa is concentrated through distraction processes, which results in a resin called hashish or a sticky, black liquid called hash oil. Bubble hash is produced through a water process.

**Industry-related Crime** – Offenses directly related to licensed marijuana facilities.

**Marijuana** – This is the dried leaves, flowers, stems, and seeds from the cannabis plant. It is usually smoked in hand-rolled cigarettes (also called joints) or in pipes or water pipes (also known a bong). It can also be mixed in food. When smoked or ingested, it alters perceptions and mood; impairs coordination; and creates difficulty with thinking and problem solving and disrupts learning and memory. <http://www.drugabuse.gov/publications/drugfacts/marijuana>). Long-term use can contribute to respiratory infection, impaired memory, and exposure to cancer-causing compounds (<http://www.samhsa.gov/disorders/substance-use>).

**Marijuana Cultivations** – This is the propagation of cannabis plants beginning with cuttings from other cannabis plants or from seed. In Colorado, all plants must be started from cuttings.

**Marijuana Infused Products** – Foods, oils, and tinctures containing THC available for consumer purchase.

**Marijuana Product Manufacturers** – A licensed business through the Department of Revenue, Medical Marijuana Division, that produces and sells concentrates, topicals (e.g., massage oils and lip balms), and edibles (e.g., cakes, cookies, candies, butters, meals, and beverages).

**Medical Marijuana** – The use of cannabis for the purposes of helping to alleviate symptoms of those persons suffering from chronic and debilitating medical conditions.

### **Medical Marijuana Center (Centers) and Medical Marijuana Dispensaries**

**(Dispensaries)** – The reference to medical marijuana businesses that sell to registered patients has interchangeably been called ‘medical marijuana *dispensaries*’ and ‘medical marijuana *centers*.’ Dispensaries connote a doctor’s prescription to receive medication.

Colorado doctors do not prescribe medical marijuana, they simply make a certification that recommends the number of plants a patient needs. Since a prescription is associated with dispensaries, the reference to medical marijuana businesses as centers has become the preferable terminology. The medical marijuana businesses are the “center” of a financial transaction between patient and the grow facility.

**Medical Marijuana Conditions** – A person wanting to register for a medical marijuana card must have one of the following debilitating or chronic conditions: cancer, glaucoma, HIV or AIDS Positive, Cachexia (also known as wasting syndrome in which weight loss, muscle atrophy, fatigue, weakness and significant loss of appetite), persistent muscle spasms, seizures, severe nausea, and severe pain. [https://www.colorado.gov/pacific/sites/default/files/CHEIS\\_MMJ\\_Debilitating-Medical-Conditions.pdf](https://www.colorado.gov/pacific/sites/default/files/CHEIS_MMJ_Debilitating-Medical-Conditions.pdf)

**Medical Marijuana Division (MED)** – Located in the Colorado Department of Revenue, the MED licenses and regulates medical and retail marijuana industries. The MED implements legislation, develops rules, conducts background investigations, issues business licenses and enforces compliance mandates. <https://www.colorado.gov/enforcement/marijuanaenforcement>

**Non-industry Crime** – Marijuana taken during the commission of a crime that did not involve a licensed marijuana facility

**Patient Medical Marijuana Registration Card** – After a patient’s application is submitted, reviewed, and approved by the Colorado Department of Public Health and Environment, the patient receives a red license card to be presented to registered Medical Marijuana Centers for purchasing marijuana. The patient must renew annually to remain with the registry. <https://www.colorado.gov/pacific/cdphe/renew-your-medical-marijuana-registration-card>

**Physician’s Recommendation** – Physicians must qualify to write patient recommendations for medical marijuana. These qualifications include having a bona fide physician-patient relationship and a good standing with the medical licensing board. Physicians must certify annually with the Colorado Department of Public and Health Environment in order to assist people wanting to receive medical marijuana. Physicians do not *prescribe* marijuana, but rather provide a marijuana *plant count recommendation* for the patient based on the severity of the patient’s condition. A physician is not limited in the number of plants recommended in a year for a patient. If a physician does not select a marijuana plant count option, then the patient will receive the standard 6-plants/2 ounces of useable marijuana as defined through legislation. [https://www.colorado.gov/pacific/sites/default/files/Medical-Marijuana-Registry\\_Physician-Newsletter\\_Mar2012.pdf](https://www.colorado.gov/pacific/sites/default/files/Medical-Marijuana-Registry_Physician-Newsletter_Mar2012.pdf)

**Probable Cause** – A reasonable and factual basis for believing a crime has been committed in order to make an arrest, conduct a search, or obtain a warrant.

**Recreational marijuana** – The use of cannabis as a pastime to alter a person’s state of consciousness.

**Red Card** – This is slang for a patient medical marijuana registration card because the license color is red.

**Registered Medical Marijuana Patient** – Someone who has gone through the approval process and obtains a licensed medical marijuana patient card from the Colorado Department of Public Health and Environment.

**Retail marijuana stores** – Licensed stores that can sell marijuana, paraphernalia, and marijuana infused-products.

**Seed-to-sale** – The tracking process for medical marijuana from either the seed or immature plant stage until the medical marijuana or medical infused-product is sold to a customer at a medical marijuana center or is destroyed. This tracking system is used by the Department of Revenue, Marijuana Enforcement Division, to monitor licensed marijuana businesses inventory. [https://www.colorado.gov/pacific/sites/default/files/Retail%20Marijuana%20Rules,%20Adopted%20090913,%20Effective%20101513%5B1%5D\\_0.pdf](https://www.colorado.gov/pacific/sites/default/files/Retail%20Marijuana%20Rules,%20Adopted%20090913,%20Effective%20101513%5B1%5D_0.pdf)

**Schedule I Controlled Substances** – These drugs, substances or chemicals are not currently accepted for medical use and have a high potential for drug abuse as defined in the Substance Control Act of 1970. These are the most dangerous drugs that can potentially cause severe psychological or physical dependency. Drugs in this category include: heroin, LSD, marijuana, ecstasy, methaqualone, and peyote. <http://www.dea.gov/druginfo/ds.shtml>

**Substance Control Act of 1970** – This law regulates the manufacturing and distribution of narcotics, stimulants, depressants, hallucinogens, anabolic steroids, and illicit production of controlled substances. These drugs are placed within one of the five schedules based on medicinal value, harmfulness, and potential for abuse or addiction.

**THC (Tetrahydrocannabinol)** – THC is the mind-altering chemical found in the Cannabis sativa plant (which is one species of the hemp), specifically in the leaves, flowers, stems, and seeds.

**Vape Pens** – A battery operated heating element that vaporizes liquid marijuana oils.

# APPENDIX 3: COLORADO ASSOCIATION OF CHIEFS OF POLICE MARIJUANA POSITION PAPER

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Colorado Association of Chiefs of Police, Inc.

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Marijuana Position Paper  
March 13, 2014

## Philosophy and Position:

The Colorado Association of Chiefs of Police (CACP) recognizes that Amendment 20 and Amendment 64 of the Colorado Constitution were passed by voters in 2000 and 2012 respectively. The Colorado General Assembly has enacted legislation which legalized the cultivation, distribution, possession and non-public consumption of small amounts of medical and recreational marijuana. In 2013, the Colorado General Assembly enacted legislation which legalized and regulated the commercial, retail cultivation and sale of small amounts of marijuana. The statutes which address medical and recreational marijuana cultivation, sale and possession have been passed by the Colorado General Assembly and signed into law by the Governor. The CACP 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.

- It is the position of the Colorado Association Chiefs of Police that a primary mission and focus of Colorado law enforcement officers represented by the CACP is the prevention and reduction of crime and disorder. Marijuana legalization will negatively impact traffic safety and safety in Colorado communities. The CACP is committed to research and the implementation of practices and strategies which will maintain safety in our communities.
- It is recognized that Colorado peace officers have a duty and responsibility to uphold the Colorado Constitution and amendments to that 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 as soon as possible.
- The Colorado Association of Chiefs of Police is concerned that widespread marijuana use has the potential to adversely affect the safety, health and welfare of Colorado residents, businesses and visitors. There are concerns that marijuana use will adversely affect traffic safety on our highways and roadways and that marijuana legalization will result in an increase in marijuana and overall drug use in our schools.
- The Colorado Association of Chiefs of Police 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 CACP requests that adequate funding be provided for the development and delivery of community and youth education.

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## Colorado Association of Chiefs of Police, Inc.

- The Colorado Association of Chiefs of Police is concerned for the safety of the motoring public and passengers as it pertains to driving under the influence of drugs. Since the scientific evidence constituting impairment has not yet been clearly defined, the presumptive inference standard of impairment at 5 nanograms should be considered a starting point with additional concerns expressed for the combination of alcohol and marijuana in a person's system while operating a motor vehicle.
  - The CACP strongly supports Colorado peace officers being 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 state-wide.
  - The CACP 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 CACP supports additional legislation or changes in current law to enhance the seriousness of offenses when drivers are found to be impaired by both alcohol and marijuana and/or other drugs.
- The Colorado Governor impaneled an Amendment 64 Implementation task force. The Colorado Association Chiefs of Police were represented on this task force and numerous recommendations were ultimately made by the task force. The Amendment 64 Implementation Task Force had several Guiding Principles. Two of those Guiding Principles which focus on law enforcement include:
  - Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable.
  - Ensure that our streets, schools, and communities remain safe.
- There were numerous recommendations, which received consensus approval by the Amendment 64 task force, which focus on the two outlined principles and it is the position of the CACP that those recommendations should be implemented without delay.



## Colorado Association of Chiefs of Police, Inc.

- The CACP conducted a survey regarding funding priorities for law enforcement. This survey was sent to members of the CACP Legislative Subcommittee and the survey results identified seven priorities:
  - Priority One:
    - Funding for ARIDE (Advanced Roadside Impaired Driving Enforcement) and Drug Recognition Expert (DRE) training.
  - Priority Two:
    - Provide immediate funding for the purchase of oral fluid testing equipment for local agencies. Also provide funding for training on use of equipment, etc.
  - Priority Three:
    - Funding for patrol officer and investigator training development and implementation in Colorado Marijuana Code. Overtime funding for trainers and students (similar to POST regional training scholarships).
  - Priority Four (Four Programs/Initiatives Tied):
    - Funding to support the creation of a state-wide database on marijuana crimes
    - Funding to support Drug Task Force Operations if investigation is focused on criminal organizations involved in marijuana trafficking.
    - Provide funding for local agencies to fund marijuana compliance officers. Those officers would focus on the Colorado Marijuana Code and local ordinances, both commercial/retail and home cultivation. Would be somewhat like a municipal inspector who is well-versed in fire codes, health codes, etc.; may be sworn or non-sworn.
    - Funding to implement DUI/DUID check points and conduct presumptive testing on marijuana and other drugs.
- CACP is concerned with the conflicts which exist between Amendment 20 and Amendment 64. The CACP supports legislation which will clearly define and outline legal vs. illegal marijuana cultivation and distribution under both Colorado constitutional amendment 20 and 64.
- The CACP has concerns regarding the lack of oversight of plant count recommendations made by doctors for medical marijuana patients. As an example, the Colorado Department of Public Health and Environment (CDPHE) routinely receives recommendations for allowable plant counts far in excess of the six plant limit without any justification as to why additional plants are necessary.

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## Colorado Association of Chiefs of Police, Inc.

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- The CACP supports an effective and robust regulatory system, which can regulate the retail-commercial distribution of medical and recreational marijuana.
- The CACP is concerned with the lack of regulatory oversight of non-commercial caregiver and recreational cultivations, which are commonly referred to as "Home Grows". The CACP believes there is great potential for an increase in violent crime and the potential for diversion of marijuana produced in non-commercial, licensed cultivations.
- The CACP is concerned there is a lack of prosecution of marijuana-related cases which are outside the parameters of legal marijuana cultivation and distribution in Colorado. The CACP supports prosecution of behavior which is illegal under Colorado constitution, statutes and municipal & county ordinances. It is of paramount importance that what is legal vs. what is illegal be clearly defined and a bright line between legal and illegal behavior be established.
- Diversion of marijuana from non-commercial marijuana cultivations remains a major source of marijuana to youth and to buyers who live outside the State of Colorado.
- The CACP acknowledges great concern for the diversion of marijuana outside the state of Colorado and for the availability of marijuana to minors.
- It is the position of the Colorado Association Chiefs of Police that clear direction and guidance is essential for our officers, prosecutors and community. The Colorado Association of Chiefs of Police supports legislation, training and education which provide clear direction and guidance to our officers and the communities we serve.
- The Colorado Association of Chiefs of Police support development and analysis of accurate data to determine the impact to the communities we serve. The Colorado Association of Chiefs of Police 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 Colorado.

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

## APPENDIX 4: FEDERAL GUIDANCE MEMOS ON STATE MARIJUANA LEGALIZATION LAWS

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Marijuana remains a Schedule I controlled substance and is an illegal drug under the Federal Controlled Substance Act. Federal officials have made it clear on numerous occasions that federal law enforcement will continue to enforce the law when activities involving marijuana amount to a violation of federal statutes.

However, the U.S. Department of Justice has since 2009 set out parameters under which the federal law may be enforced within states, and has otherwise allowed states to enforce their own laws regarding medical marijuana, and now in Colorado, recreational use of marijuana.

The guidance regarding federal enforcement was first laid out in a 2009 memo from Deputy Attorney General David W. Ogden to federal prosecutors, attached below. Following this guidance, federal law enforcement in 2012 informed a total of 58 marijuana businesses in Colorado that they were in violation of the conditions the federal government has laid out under which it would consider a marijuana operation illegal. All of these businesses agreed to close without prosecution.

This guidance policy was reinforced by a second memo issued in 2014 by Deputy Attorney General James M. Cole, also attached below. This memo expanded the guidelines to inform financial institutions of how federal money laundering laws will be enforced with regards to accounts for marijuana businesses that are deemed legal at the state level.

This latter guidance was supported by a memo (also attached) from the Financial Crimes Enforcement Network of the U.S. Department of Treasury, also clarifying the laws on money laundering with regard to marijuana businesses deemed legal under state laws.

Federal policy continues to evolve as more states allow some form of legal marijuana. The U.S. Congress, in the 2015 Appropriations omnibus funding bill, approved language barring any federal agency from using funds to enforce laws against medical marijuana operations deemed legal under state laws; however, this provision will expire at the end of the fiscal year on September 30, 2015.



U.S. Department of Justice

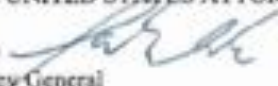
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.<sup>1</sup>

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

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<sup>1</sup> These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

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# Department of the Treasury Financial Crimes Enforcement Network

## Guidance

**FIN-2014-G001**

**Issued: February 14, 2014**

**Subject: BSA Expectations Regarding Marijuana-Related Businesses**

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The Financial Crimes Enforcement Network ("FinCEN") is issuing guidance to clarify Bank Secrecy Act ("BSA") expectations for financial institutions seeking to provide services to marijuana-related businesses. FinCEN is issuing this guidance in light of recent state initiatives to legalize certain marijuana-related activity and related guidance by the U.S. Department of Justice ("DOJ") concerning marijuana-related enforcement priorities. This FinCEN guidance clarifies how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations, and aligns the information provided by financial institutions in BSA reports with federal and state law enforcement priorities. This FinCEN guidance should enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses.

### **Marijuana Laws and Law Enforcement Priorities**

The Controlled Substances Act ("CSA") makes it illegal under federal law to manufacture, distribute, or dispense marijuana.<sup>1</sup> Many states impose and enforce similar prohibitions. Notwithstanding the federal ban, as of the date of this guidance, 20 states and the District of Columbia have legalized certain marijuana-related activity. In light of these developments, U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the "Cole Memo") to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the CSA.<sup>2</sup> The Cole Memo guidance applies to all of DOJ's federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

The Cole Memo reiterates Congress's determination that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Cole Memo notes that DOJ is committed to enforcement of the CSA consistent with those determinations. It also notes that DOJ is committed to using its investigative and prosecutorial resources to address the most

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<sup>1</sup> Controlled Substances Act, 21 U.S.C. § 801, *et seq.*

<sup>2</sup> James M. Cole, Deputy Attorney General, U.S. Department of Justice, *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement* (August 29, 2013), available at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>.

[www.fincen.gov](http://www.fincen.gov)

significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, the Cole Memo provides guidance to DOJ attorneys and law enforcement to focus their enforcement resources on persons or organizations whose conduct interferes with any one or more of the following important priorities (the “Cole Memo priorities”):<sup>3</sup>

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Concurrently with this FinCEN guidance, Deputy Attorney General Cole is issuing supplemental guidance directing that prosecutors also consider these enforcement priorities with respect to federal money laundering, unlicensed money transmitter, and BSA offenses predicated on marijuana-related violations of the CSA.<sup>4</sup>

### **Providing Financial Services to Marijuana-Related Businesses**

This FinCEN guidance clarifies how financial institutions can provide services to marijuana-related businesses consistent with their BSA obligations. In general, the decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution. These factors may include its particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively. Thorough customer due diligence is a critical aspect of making this assessment.

In assessing the risk of providing services to a marijuana-related business, a financial institution should conduct customer due diligence that includes: (i) verifying with the appropriate state authorities whether the business is duly licensed and registered; (ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business; (iii) requesting from state licensing and enforcement authorities available information about the business and related parties; (iv) developing an understanding of the normal and expected activity for the business, including the types of

<sup>3</sup> The Cole Memo notes that these enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA.

<sup>4</sup> James M. Cole, Deputy Attorney General, U.S. Department of Justice, *Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes* (February 14, 2014).

products to be sold and the type of customers to be served (e.g., medical versus recreational customers); (v) ongoing monitoring of publicly available sources for adverse information about the business and related parties; (vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and (vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk. With respect to information regarding state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.

As part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the Cole Memo priorities or violates state law. This is a particularly important factor for a financial institution to consider when assessing the risk of providing financial services to a marijuana-related business. Considering this factor also enables the financial institution to provide information in BSA reports pertinent to law enforcement's priorities. A financial institution that decides to provide financial services to a marijuana-related business would be required to file suspicious activity reports ("SARs") as described below.

### **Filing Suspicious Activity Reports on Marijuana-Related Businesses**

The obligation to file a SAR is unaffected by any state law that legalizes marijuana-related activity. A financial institution is required to file a SAR if, consistent with FinCEN regulations, the financial institution knows, suspects, or has reason to suspect that a transaction conducted or attempted by, at, or through the financial institution: (i) involves funds derived from illegal activity or is an attempt to disguise funds derived from illegal activity; (ii) is designed to evade regulations promulgated under the BSA, or (iii) lacks a business or apparent lawful purpose.<sup>5</sup> Because federal law prohibits the distribution and sale of marijuana, financial transactions involving a marijuana-related business would generally involve funds derived from illegal activity. Therefore, a financial institution is required to file a SAR on activity involving a marijuana-related business (including those duly licensed under state law), in accordance with this guidance and FinCEN's suspicious activity reporting requirements and related thresholds.

One of the BSA's purposes is to require financial institutions to file reports that are highly useful in criminal investigations and proceedings. The guidance below furthers this objective by assisting financial institutions in determining how to file a SAR that facilitates law enforcement's access to information pertinent to a priority.

#### *"Marijuana Limited" SAR Filings*

A financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a "Marijuana Limited" SAR. The content of this

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<sup>5</sup> See, e.g., 31 CFR § 1020.320. Financial institutions shall file with FinCEN, to the extent and in the manner required, a report of any suspicious transaction relevant to a possible violation of law or regulation. A financial institution may also file with FinCEN a SAR with respect to any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by FinCEN regulations.

SAR should be limited to the following information: (i) identifying information of the subject and related parties; (ii) addresses of the subject and related parties; (iii) the fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and (iv) the fact that no additional suspicious activity has been identified. Financial institutions should use the term “MARIJUANA LIMITED” in the narrative section.

A financial institution should follow FinCEN’s existing guidance on the timing of filing continuing activity reports for the same activity initially reported on a “Marijuana Limited” SAR.<sup>6</sup> The continuing activity report may contain the same limited content as the initial SAR, plus details about the amount of deposits, withdrawals, and transfers in the account since the last SAR. However, if, in the course of conducting customer due diligence (including ongoing monitoring for red flags), the financial institution detects changes in activity that potentially implicate one of the Cole Memo priorities or violate state law, the financial institution should file a “Marijuana Priority” SAR.

#### “Marijuana Priority” SAR Filings

A financial institution filing a SAR on a marijuana-related business that it reasonably believes, based on its customer due diligence, implicates one of the Cole Memo priorities or violates state law should file a “Marijuana Priority” SAR. The content of this SAR should include comprehensive detail in accordance with existing regulations and guidance. Details particularly relevant to law enforcement in this context include: (i) identifying information of the subject and related parties; (ii) addresses of the subject and related parties; (iii) details regarding the enforcement priorities the financial institution believes have been implicated; and (iv) dates, amounts, and other relevant details of financial transactions involved in the suspicious activity. Financial institutions should use the term “MARIJUANA PRIORITY” in the narrative section to help law enforcement distinguish these SARs.<sup>7</sup>

#### “Marijuana Termination” SAR Filings

If a financial institution deems it necessary to terminate a relationship with a marijuana-related business in order to maintain an effective anti-money laundering compliance program, it should

<sup>6</sup> Frequently Asked Questions Regarding the FinCEN Suspicious Activity Report (Question #16), available at: [http://finccen.gov/whatsnew/html/sar\\_faqs.html](http://finccen.gov/whatsnew/html/sar_faqs.html) (providing guidance on the filing timeframe for submitting a continuing activity report).

<sup>7</sup> FinCEN recognizes that a financial institution filing a SAR on a marijuana-related business may not always be well-positioned to determine whether the business implicates one of the Cole Memo priorities or violates state law, and thus which terms would be most appropriate to include (i.e., “Marijuana Limited” or “Marijuana Priority”). For example, a financial institution could be providing services to another domestic financial institution that, in turn, provides financial services to a marijuana-related business. Similarly, a financial institution could be providing services to a non-financial customer that provides goods or services to a marijuana-related business (e.g., a commercial landlord that leases property to a marijuana-related business). In such circumstances where services are being provided indirectly, the financial institution may file SARs based on existing regulations and guidance without distinguishing between “Marijuana Limited” and “Marijuana Priority.” Whether the financial institution decides to provide indirect services to a marijuana-related business is a risk-based decision that depends on a number of factors specific to that institution and the relevant circumstances. In making this decision, the institution should consider the Cole Memo priorities, to the extent applicable.

file a SAR and note in the narrative the basis for the termination. Financial institutions should use the term “MARIJUANA TERMINATION” in the narrative section. To the extent the financial institution becomes aware that the marijuana-related business seeks to move to a second financial institution, FinCEN urges the first institution to use Section 314(b) voluntary information sharing (if it qualifies) to alert the second financial institution of potential illegal activity. See *Section 314(b) Fact Sheet* for more information.<sup>8</sup>

#### *Red Flags to Distinguish Priority SARs*

The following red flags indicate that a marijuana-related business may be engaged in activity that implicates one of the Cole Memo priorities or violates state law. These red flags indicate only possible signs of such activity, and also do not constitute an exhaustive list. It is thus important to view any red flag(s) in the context of other indicators and facts, such as the financial institution’s knowledge about the underlying parties obtained through its customer due diligence. Further, the presence of any of these red flags in a given transaction or business arrangement may indicate a need for additional due diligence, which could include seeking information from other involved financial institutions under Section 314(b). These red flags are based primarily upon schemes and typologies described in SARs or identified by our law enforcement and regulatory partners, and may be updated in future guidance.

- A customer appears to be using a state-licensed marijuana-related business as a front or pretext to launder money derived from other criminal activity (i.e., not related to marijuana) or derived from marijuana-related activity not permitted under state law. Relevant indicia could include:
  - The business receives substantially more revenue than may reasonably be expected given the relevant limitations imposed by the state in which it operates.
  - The business receives substantially more revenue than its local competitors or than might be expected given the population demographics.
  - The business is depositing more cash than is commensurate with the amount of marijuana-related revenue it is reporting for federal and state tax purposes.
  - The business is unable to demonstrate that its revenue is derived exclusively from the sale of marijuana in compliance with state law, as opposed to revenue derived from (i) the sale of other illicit drugs, (ii) the sale of marijuana not in compliance with state law, or (iii) other illegal activity.
  - The business makes cash deposits or withdrawals over a short period of time that are excessive relative to local competitors or the expected activity of the business.

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<sup>8</sup> Information Sharing Between Financial Institutions: Section 314(b) Fact Sheet, available at: [http://fincen.gov/statutes\\_regs/patriot/pdf/314bfactsheet.pdf](http://fincen.gov/statutes_regs/patriot/pdf/314bfactsheet.pdf).

- Deposits apparently structured to avoid Currency Transaction Report (“CTR”) requirements.
  - Rapid movement of funds, such as cash deposits followed by immediate cash withdrawals.
  - Deposits by third parties with no apparent connection to the account holder.
  - Excessive commingling of funds with the personal account of the business’s owner(s) or manager(s), or with accounts of seemingly unrelated businesses.
  - Individuals conducting transactions for the business appear to be acting on behalf of other, undisclosed parties of interest.
  - Financial statements provided by the business to the financial institution are inconsistent with actual account activity.
  - A surge in activity by third parties offering goods or services to marijuana-related businesses, such as equipment suppliers or shipping servicers.
- The business is unable to produce satisfactory documentation or evidence to demonstrate that it is duly licensed and operating consistently with state law.
  - The business is unable to demonstrate the legitimate source of significant outside investments.
  - A customer seeks to conceal or disguise involvement in marijuana-related business activity. For example, the customer may be using a business with a non-descript name (e.g., a “consulting,” “holding,” or “management” company) that purports to engage in commercial activity unrelated to marijuana, but is depositing cash that smells like marijuana.
  - Review of publicly available sources and databases about the business, its owner(s), manager(s), or other related parties, reveal negative information, such as a criminal record, involvement in the illegal purchase or sale of drugs, violence, or other potential connections to illicit activity.
  - The business, its owner(s), manager(s), or other related parties are, or have been, subject to an enforcement action by the state or local authorities responsible for administering or enforcing marijuana-related laws or regulations.
  - A marijuana-related business engages in international or interstate activity, including by receiving cash deposits from locations outside the state in which the business operates, making or receiving frequent or large interstate transfers, or otherwise transacting with persons or entities located in different states or countries.

- The owner(s) or manager(s) of a marijuana-related business reside outside the state in which the business is located.
- A marijuana-related business is located on federal property or the marijuana sold by the business was grown on federal property.
- A marijuana-related business's proximity to a school is not compliant with state law.
- A marijuana-related business purporting to be a "non-profit" is engaged in commercial activity inconsistent with that classification, or is making excessive payments to its manager(s) or employee(s).

### **Currency Transaction Reports and Form 8300's**

Financial institutions and other persons subject to FinCEN's regulations must report currency transactions in connection with marijuana-related businesses the same as they would in any other context, consistent with existing regulations and with the same thresholds that apply. For example, banks and money services businesses would need to file CTRs on the receipt or withdrawal by any person of more than \$10,000 in cash per day. Similarly, any person or entity engaged in a non-financial trade or business would need to report transactions in which they receive more than \$10,000 in cash and other monetary instruments for the purchase of goods or services on FinCEN Form 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business). A business engaged in marijuana-related activity may not be treated as a non-listed business under 31 C.F.R. § 1020.315(e)(8), and therefore, is not eligible for consideration for an exemption with respect to a bank's CTR obligations under 31 C.F.R. § 1020.315(b)(6).

\* \* \* \* \*

FinCEN's enforcement priorities in connection with this guidance will focus on matters of systemic or significant failures, and not isolated lapses in technical compliance. Financial institutions with questions about this guidance are encouraged to contact FinCEN's Resource Center at (800) 767-2825, where industry questions can be addressed and monitored for the purpose of providing any necessary additional guidance.



U.S. Department of Justice

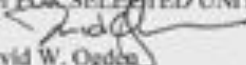
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 19, 2009

MEMORANDUM FOR SELECTED UNITED STATES ATTORNEYS

FROM:   
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Deputy Attorney General

SUBJECT: Investigations and Prosecutions in States  
Authorizing the Medical Use of Marijuana

This memorandum provides clarification and guidance to federal prosecutors in States that have enacted laws authorizing the medical use of marijuana. These laws vary in their substantive provisions and in the extent of state regulatory oversight, both among the enacting States and among local jurisdictions within those States. Rather than developing different guidelines for every possible variant of state and local law, this memorandum provides uniform guidance to focus federal investigations and prosecutions in these States on core federal enforcement priorities.

The Department of Justice is committed to the enforcement of the Controlled Substances Act in all States. Congress has determined that marijuana is a dangerous drug, and the illegal distribution and sale of marijuana is a serious crime and provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. One timely example underscores the importance of our efforts to prosecute significant marijuana traffickers: marijuana distribution in the United States remains the single largest source of revenue for the Mexican cartels.

The Department is also committed to making efficient and rational use of its limited investigative and prosecutorial resources. In general, United States Attorneys are vested with "plenary authority with regard to federal criminal matters" within their districts. USAM 9-2.001. In exercising this authority, United States Attorneys are "invested by statute and delegation from the Attorney General with the broadest discretion in the exercise of such authority." *Id.* This authority should, of course, be exercised consistent with Department priorities and guidance.

The prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority in the Department's efforts against narcotics and dangerous drugs, and the Department's investigative and prosecutorial resources should be directed towards these objectives. As a general matter, pursuit of these priorities should not focus federal resources in your States on



individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources. On the other hand, prosecution of commercial enterprises that unlawfully market and sell marijuana for profit continues to be an enforcement priority of the Department. To be sure, claims of compliance with state or local law may mask operations inconsistent with the terms, conditions, or purposes of those laws, and federal law enforcement should not be deterred by such assertions when otherwise pursuing the Department's core enforcement priorities.

Typically, when any of the following characteristics is present, the conduct will not be in clear and unambiguous compliance with applicable state law and may indicate illegal drug trafficking activity of potential federal interest:

- unlawful possession or unlawful use of firearms;
- violence;
- sales to minors;
- financial and marketing activities inconsistent with the terms, conditions, or purposes of state law, including evidence of money laundering activity and/or financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law;
- amounts of marijuana inconsistent with purported compliance with state or local law;
- illegal possession or sale of other controlled substances; or
- ties to other criminal enterprises.

Of course, no State can authorize violations of federal law, and the list of factors above is not intended to describe exhaustively when a federal prosecution may be warranted. Accordingly, in prosecutions under the Controlled Substances Act, federal prosecutors are not expected to charge, prove, or otherwise establish any state law violations. Indeed, this memorandum does not alter in any way the Department's authority to enforce federal law, including laws prohibiting the manufacture, production, distribution, possession, or use of marijuana on federal property. This guidance regarding resource allocation does not "legalize" marijuana or provide a legal defense to a violation of federal law, nor is it intended to create any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, party or witness in any administrative, civil, or criminal matter. Nor does clear and unambiguous compliance with state law or the absence of one or all of the above factors create a legal defense to a violation of the Controlled Substances Act. Rather, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion.

Finally, nothing herein precludes investigation or prosecution where there is a reasonable basis to believe that compliance with state law is being invoked as a pretext for the production or distribution of marijuana for purposes not authorized by state law. Nor does this guidance preclude investigation or prosecution, even when there is clear and unambiguous compliance with existing state law, in particular circumstances where investigation or prosecution otherwise serves important federal interests.

Your offices should continue to review marijuana cases for prosecution on a case-by-case basis, consistent with the guidance on resource allocation and federal priorities set forth herein, the consideration of requests for federal assistance from state and local law enforcement authorities, and the Principles of Federal Prosecution.

cc: All United States Attorneys

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# The Legalization of Marijuana in Colorado *The Impact*

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Rocky Mountain High Intensity  
Drug Trafficking Area  
[www.rmhidta.org](http://www.rmhidta.org)

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# Executive Summary

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## Purpose

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Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) is tracking the impact of marijuana legalization in the state of Colorado. This report will utilize, whenever possible, a comparison of three different eras in Colorado's legalization history:

- **2006 – 2008:** Medical marijuana pre-commercialization era
- **2009 – Present:** Medical marijuana commercialization and expansion era
- **2013 – Present:** Recreational marijuana era

Rocky Mountain HIDTA will collect and report comparative data in a variety of areas, including but not limited to:

- Impaired driving
- Youth marijuana use
- Adult marijuana use
- Emergency room admissions
- Marijuana-related exposure cases
- Diversion of Colorado marijuana

This is the fourth annual report on the impact of legalized marijuana in Colorado. It is divided into ten sections, each providing information on the impact of marijuana legalization. The sections are as follows:

### **Section 1 – Impaired Driving:**

- Marijuana-related traffic deaths increased **48 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
  - During the same time, all traffic deaths increased **11 percent**.
- Marijuana-related traffic deaths increased **62 percent** from 71 to 115 persons after recreational marijuana was legalized in 2013.

- In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented **10 percent** of all traffic fatalities. By 2015, that number doubled to **21 percent**.

### Section 2 – Youth Marijuana Use:

- Youth past month marijuana use **increased 20 percent** in the two year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally youth past month marijuana use **declined 4 percent** during the same time.
- The latest 2013/2014 results show Colorado youth ranked **#1** in the nation for past month marijuana use, up from **#4** in 2011/2012 and **#14** in 2005/2006.
- Colorado youth past month marijuana use for 2013/2014 was **74 percent higher** than the national average compared to **39 percent higher** in 2011/2012.

### Section 3 – Adult Marijuana Use:

- College-age past month marijuana use increased **17 percent** in the two-year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally college-age past month marijuana use **increased 2 percent** during the same time.
- The latest 2013/2014 results show Colorado college age adults ranked **#1** in the nation for past month marijuana use, up from **#3** in 2011/2012 and **#8** in 2005/2006.
- Colorado college age past month marijuana use for 2013/2014 was **62 percent higher** than the national average compared to **42 percent higher** in 2011/2012.
- Adult past-month marijuana use **increased 63 percent** in the two year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally adult past month marijuana use **increased 21 percent** during the same time.

- The latest 2013/2014 results show Colorado adults ranked **#1** in the nation for past month marijuana use, up from **#7** in 2011/2012 and **#8** in 2005/2006.
- Colorado adult past month marijuana use for 2013/2014 was **104 percent higher** than the national average compared to **51 percent higher** in 2011/2012.

#### **Section 4 – Emergency Department Marijuana and Hospital Marijuana-Related Admissions:**

- Colorado Emergency Department visits per year related to marijuana:
  - 2013 – **14,148**
  - 2014 – **18,255**
- Emergency Department rates likely related to marijuana increased **49 percent** in the two-year average (2013-2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011-2012).
- Number of hospitalizations related to marijuana:
  - 2011 – **6,305**
  - 2012 – **6,715**
  - 2013 – **8,272**
  - 2014 – **11,439**
- Hospital rates likely related to marijuana increased **32 percent** in the two-year average (2013-2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011-2012).

#### **Section 5 – Marijuana-Related Exposure:**

- Marijuana-related exposures increased **100 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
- Marijuana-only exposures increased **155 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.

### **Section 6 – Treatment:**

- Marijuana treatment data from Colorado in years 2005 – 2015 does not appear to demonstrate a definitive trend. Colorado averages approximately **6,500** treatment admissions annually for marijuana abuse.
- Over the last ten years, the top three drugs involved in treatment admissions, in descending order, were alcohol (average **13,382**), marijuana (average **6,652**) and methamphetamine (average **5,298**).

### **Section 7 – Diversion of Colorado Marijuana:**

- Highway patrol yearly interdiction seizures of Colorado marijuana increased **37 percent** from **288** to **394** (2013-2015), since recreational marijuana was legalized.
- Of the 394 seizures in 2015, there were **36** different states destined to receive marijuana from Colorado. The most common destinations identified were Missouri, Illinois, Texas, Iowa, and Florida.

### **Section 8 – Diversion by Parcel:**

- Seizures of Colorado marijuana in the U.S. mail has increased **427 percent** from an average of 70 parcels (2010-2012) to 369 parcels (2013-2015) in the three years that recreational marijuana has been legal.
- Seizures of Colorado marijuana in the U.S. mail has increased **471 percent** from an average of 129 pounds (2010-2012) to 736 pounds (2013-2015) in the three years that recreational marijuana has been legal.

### **Section 9 – Related Data:**

- Crime in Denver and Colorado has increased from 2013 to 2015.
- Colorado annual tax revenue from the sale of recreational and medical marijuana was \$115,579,432 (CY2015) or about **0.5 percent** of Colorado's total statewide budget (FY2016).
- "Denver is losing visitors and valuable convention business as a result of these overall safety (or perception of safety) issues..." – VISIT DENVER Report

- As of January 2016, there were **424 retail marijuana stores** in the state of Colorado compared to **322 Starbucks** and **202 McDonald's**.
- **68 percent** of local jurisdictions have banned medical and recreational marijuana businesses.

**Section 10 – Related Material:**

- This section lists various studies and reports regarding marijuana.

**THERE IS MUCH MORE DATA IN EACH OF THE TEN SECTIONS. THIS PUBLICATION MAY BE FOUND ON THE ROCKY MOUNTAIN HIDTA WEBSITE; GO TO [WWW.RMHIDTA.ORG](http://WWW.RMHIDTA.ORG) AND CLICK ON REPORTS.**

**State of Washington Data:**

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Washington legalized recreational marijuana at the same time as Colorado. The reader is encouraged to review data from Washington on the impact of legalization in that state. Many of the same trends in Colorado related to legal marijuana also are occurring in Washington. These trends include: impaired driving, traffic fatalities, use among teens and exposure (see Sections 1 and 10).



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# Introduction

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## Purpose

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The purpose of this report and future reports is to document the impact of the legalization of marijuana for medical and recreational use in Colorado. Colorado and Washington serve as experimental labs for the nation to determine the impact of legalizing marijuana. This is an important opportunity to gather and examine meaningful data and facts. Citizens and policymakers may want to delay any decisions on this important issue until there is sufficient and accurate data to make an informed decision.

## The Debate

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There is an ongoing debate in this country concerning the impact of legalizing marijuana. Those in favor argue that the benefits of removing prohibition far outweigh the potential negative consequences. Some of the benefits they cite include:

- Eliminate arrests for possession and sale, resulting in fewer people with criminal records and a reduction in the prison population
- Free up law enforcement resources to target more serious and violent criminals
- Reduce traffic fatalities since users will switch from alcohol to marijuana, which does not impair driving to the same degree
- No increase in use, even among youth, because of tight regulations
- Added revenue generated through taxation
- Eliminate the black market

Those opposed to legalizing marijuana argue that the potential benefits of lifting prohibition pale in comparison to the adverse consequences. Some of the consequences they cite include:

- Increase in marijuana use among youth and young adults
- Increase in marijuana-impaired driving fatalities
- Rise in number of marijuana-addicted users in treatment

- Diversion of marijuana
- Adverse impact and cost of the physical and mental health damage caused by marijuana use
- The economic cost to society will far outweigh any potential revenue generated

## Background

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This document should help you determine which side is more correct. A number of states have enacted varying degrees of legalized marijuana by permitting medical marijuana and four permitting recreational marijuana. In 2010, Colorado's legislature passed legislation that included the licensing of medical marijuana centers ("dispensaries"), cultivation operations and manufacturing of marijuana edibles for medical purposes. In November 2012, Colorado voters legalized recreational marijuana allowing individuals to use and possess an ounce of marijuana and grow up to six plants. The amendment also permits licensing marijuana retail stores, cultivation operations, marijuana edible factories and testing facilities. Washington voters passed a similar measure in 2012.

## Preface

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*Volume 4* will be formatted similar to *Volume 3*. It is important to note that, for purposes of the debate on legalizing marijuana in Colorado, there are three distinct timeframes to consider. Those are: the early medical marijuana era (2000 – 2008), the medical marijuana commercialization era (2009 – current) and the recreational marijuana era (2013 – current).

- **2000 – 2008:** In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient, and/or caregiver of a patient, to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. During that time there were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in the state.
- **2009 – Current:** Beginning in 2009 due to a number of events, marijuana became *de facto* legalized through the commercialization of the medical marijuana industry. By the end of 2012, there were over 100,000 medical marijuana cardholders and 500 licensed dispensaries operating in Colorado. There were also licensed cultivation operations and edible manufacturers.

- **2013 – Current:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over the age of 21. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edible manufacturers. Retail marijuana businesses became operational January 1, 2014.

## Colorado's History with Marijuana Legalization

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### Medical Marijuana 2000 – 2008

In November 2000, Colorado voters passed Amendment 20 which permitted a qualifying patient and/or caregiver of a patient to possess up to 2 ounces of marijuana and grow 6 marijuana plants for medical purposes. Amendment 20 provided identification cards for individuals with a doctor's recommendation to use marijuana for a debilitating medical condition. The system was managed by the Colorado Department of Public Health and Environment (CDPHE), which issued identification cards to patients based on a doctor's recommendation. The department began accepting applications from patients in June 2001.

From 2001 – 2008, there were only 5,993 patient applications received and only 55 percent of those designated a primary caregiver. During that time, the average was three patients per caregiver and there were no known retail stores selling medical marijuana ("dispensaries"). Dispensaries were not an issue because CDPHE regulations limited a caregiver to no more than five patients.

### Medical Marijuana Commercialization and Expansion 2009 – Present

In 2009, the dynamics surrounding medical marijuana in Colorado changed substantially. There were a number of factors that played a role in the explosion of the medical marijuana industry and number of patients:

The first was a Denver District Judge who, in late 2007, ruled that CDPHE violated the state's open meeting requirement when setting a five-patient-to-one-caregiver ratio and overturned the rule. That opened the door for caregivers to claim an unlimited number of patients for whom they were providing and growing marijuana. Although this decision expanded the parameters, very few initially began operating medical marijuana commercial operations (dispensaries) in fear of prosecution, particularly from the federal government.

The judge's ruling, and caregivers expanding their patient base, created significant problems for local prosecutors seeking a conviction for marijuana distribution by caregivers. Many jurisdictions ceased or limited filing those types of cases.

At a press conference in Santa Ana, California on February 25, 2009, the U.S. Attorney General was asked whether raids in California on medical marijuana dispensaries would continue. He responded "No" and referenced the President's campaign promise related to medical marijuana. In mid-March 2009, the U.S. Attorney General clarified the position saying that the Department of Justice enforcement policy would be restricted to traffickers who falsely masqueraded as medical dispensaries and used medical marijuana laws as a shield.

Beginning in the spring of 2009, Colorado experienced an explosion to over 20,000 new medical marijuana patient applications and the emergence of over 250 medical marijuana dispensaries (allowed to operate as "caregivers"). One dispensary owner claimed to be a primary caregiver to 1,200 patients. Government took little or no action against these commercial operations.

In July 2009, the Colorado Board of Health, after hearings, failed to reinstate the five-patients-to-one-caregiver rule.

On October 19, 2009, U.S. Deputy Attorney General David Ogden provided guidelines for U.S. Attorneys in states that enacted medical marijuana laws. The memo advised "Not focus federal resources in your state on individuals whose actions are in clear and unambiguous compliance with existing state law providing for the medical use of marijuana."

By the end of 2009, new patient applications jumped from around 6,000 for the first seven years to an additional 38,000 in just one year. Actual cardholders went from 4,800 in 2008 to 41,000 in 2009. By mid-2010, there were over 900 unlicensed marijuana dispensaries identified by law enforcement.

In 2010, law enforcement sought legislation to ban dispensaries and reinstate the one-to-five ratio of caregiver to patient as the model. However, in 2010 the Colorado Legislature passed HB-1284 which legalized medical marijuana centers (dispensaries), marijuana cultivation operations, and manufacturers for marijuana edible products. By 2012, there were 532 licensed dispensaries in Colorado and over 108,000 registered patients, 94 percent of who qualified for a card because of severe pain.

## Recreational Marijuana 2013 – Present

In November of 2012, Colorado voters passed Amendment 64, which legalized marijuana for recreational use. Amendment 64 allows individuals 21 years or older to grow up to six plants, possess/use 1 ounce or less and furnish an ounce or less of marijuana if not for remuneration. Amendment 64 permits marijuana retail stores, marijuana cultivation sites, marijuana edible factories and marijuana testing sites. The first retail marijuana businesses were licensed and operational in January of 2014. Some individuals have established private cannabis clubs, formed co-ops for large marijuana grow operations, and/or supplied marijuana for no fee other than donations.

**What has been the impact of commercialized medical marijuana and legalized recreational marijuana on Colorado? Review the report and you decide.**

**NOTE:**

- **DATA, IF AVAILABLE, WILL COMPARE PRE- AND POST-2009 WHEN MEDICAL MARIJUANA BECAME COMMERCIALIZED AND AFTER 2013 WHEN RECREATIONAL MARIJUANA BECAME LEGALIZED.**
- **MULTI-YEAR COMPARISONS ARE GENERALLY BETTER INDICATORS OF TRENDS. ONE-YEAR FLUCTUATIONS DO NOT NECESSARILY REFLECT A NEW TREND.**
- **PERCENTAGE COMPARISONS MAY BE ROUNDED TO THE NEAREST WHOLE NUMBER.**
- **PERCENT CHANGES ADDED TO GRAPHS WERE CALCULATED AND ADDED BY ROCKY MOUNTAIN HIDTA.**
- **THIS REPORT WILL CITE DATASETS WITH TERMS SUCH AS “MARIJUANA-RELATED” OR “TESTED POSITIVE FOR MARIJUANA.” THAT DOES NOT NECESSARILY PROVE THAT MARIJUANA WAS THE CAUSE OF THE INCIDENT.**

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# ***SECTION 1: Impaired Driving and Fatalities***

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## Definitions by Rocky Mountain HIDTA

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**Driving Under the Influence of Drugs (DUID):** DUID could include alcohol in combination with drugs. This is an important measurement since the driver's ability to operate a vehicle was sufficiently impaired that it brought his or her driving to the attention of law enforcement. Not only the erratic driving but the subsequent evidence that the subject was under the influence of marijuana helps confirm the causation factor.

**Marijuana-Related:** Also called "marijuana mentions," is any time marijuana shows up in the toxicology report. It could be marijuana only or marijuana with other drugs and/or alcohol.

**Marijuana Only:** When toxicology results show marijuana and no other drugs or alcohol.

**Fatalities:** Any death resulting from a traffic crash involving a motor vehicle.

**Operators:** Anyone in control of their own movements such as a driver, pedestrian or bicyclist.

## Some Findings

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- Marijuana-related traffic deaths increased **48 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
  - During the same time period, all traffic deaths increased **11 percent**.
- Marijuana-related traffic deaths increased **62 percent** from 71 to 115 persons when recreational marijuana was legalized in 2013.



- In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented **10 percent** of all traffic fatalities. By 2015, that number doubled to **21 percent**.
- There has been a **67 percent** increase of operators testing positive for marijuana involved in a fatal traffic accident since recreational marijuana legalization in 2013.
- Consistent with the past, in 2015 still only **49 percent** of operators involved in traffic deaths were tested for drug impairment. Out of those who were tested, about **1 in 4** tested positive for marijuana.
- The number of toxicology screens positive for marijuana (primarily DUID) increased **29 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
- The Colorado State Patrol DUID Program 2015 data includes:
  - **77 percent** (665) of the 862 DUIDs involved marijuana
  - **40 percent** (347) of the 862 DUIDs involved marijuana only

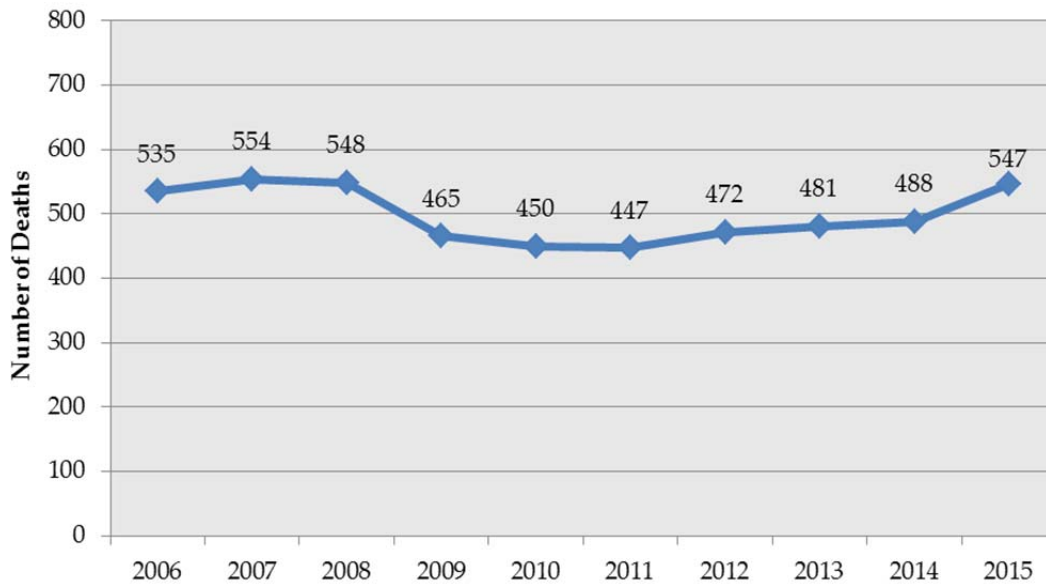
## Data for Traffic Deaths

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### NOTE:

- **THE DATA FOR 2012 THROUGH 2015 WAS OBTAINED FROM THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT). CDOT AND RMHIDTA CONTACTED CORONER OFFICES AND LAW ENFORCEMENT AGENCIES INVOLVED WITH FATALITIES TO OBTAIN TOXICOLOGY REPORTS. THIS REPRESENTS 100 PERCENT REPORTING. PRIOR YEAR(S) MAY HAVE HAD LESS THAN 100 PERCENT REPORTING TO THE COLORADO DEPARTMENT OF TRANSPORTATION, AND SUBSEQUENTLY THE FATALITY ANALYSIS REPORTING SYSTEM (FARS). ANALYSIS OF DATA WAS CONDUCTED BY ROCKY MOUNTAIN HIDTA.**
- **2015 FARS DATA WILL NOT BE OFFICIAL UNTIL JANUARY 2017.**

### Total Number of Statewide Traffic Deaths



SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS) and Colorado Department of Transportation

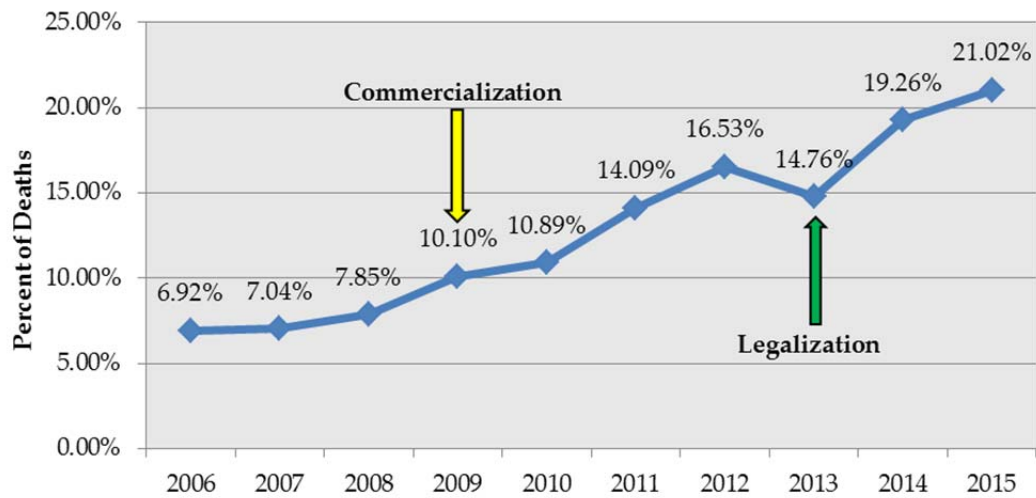
- ❖ In 2015 there were a total of 547 traffic deaths of which:
  - 359 were drivers
  - 111 were passengers
  - 59 were pedestrians
  - 13 were bicyclists
  - 4 were in wheelchairs
  - 1 was in a stroller

Traffic Deaths Related to Marijuana*			
Crash Year	Total Statewide Fatalities	Fatalities with Operators Testing Positive for Marijuana	Percentage Total Fatalities (Marijuana)
2006	535	37	6.92%
2007	554	39	7.04%
2008	548	43	7.85%
2009	465	47	10.10%
2010	450	49	10.89%
2011	447	63	14.09%
2012	472	78	16.53%
2013	481	71	14.76%
2014	488	94	19.26%
2015	547	115	21.02%

\*Fatalities Involving Operators Testing Positive for Marijuana

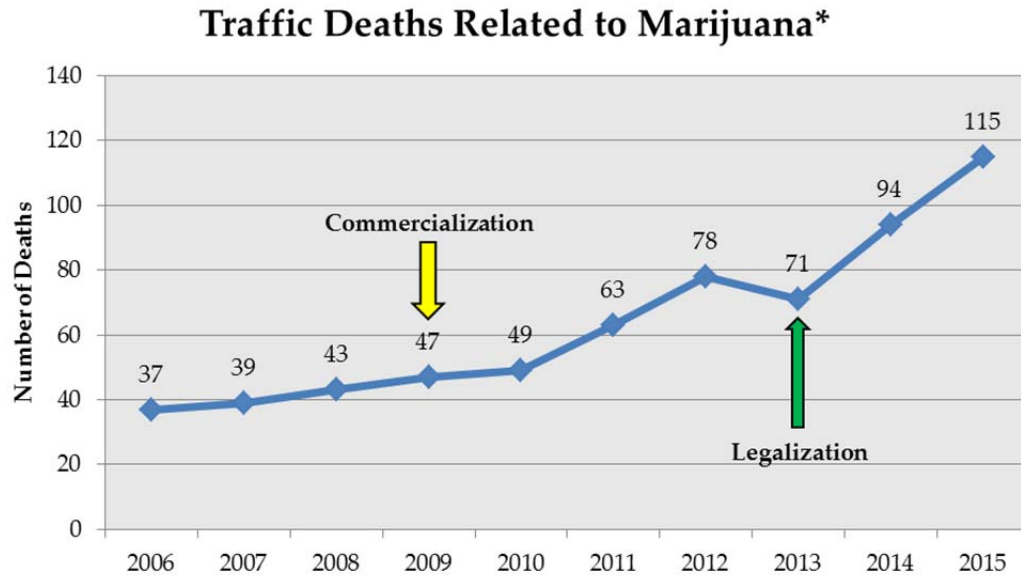
SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS)

**Percent of All Traffic Deaths That Were Marijuana-Related\***



\*Percent of All Fatalities Where the Operators Tested Positive for Marijuana

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

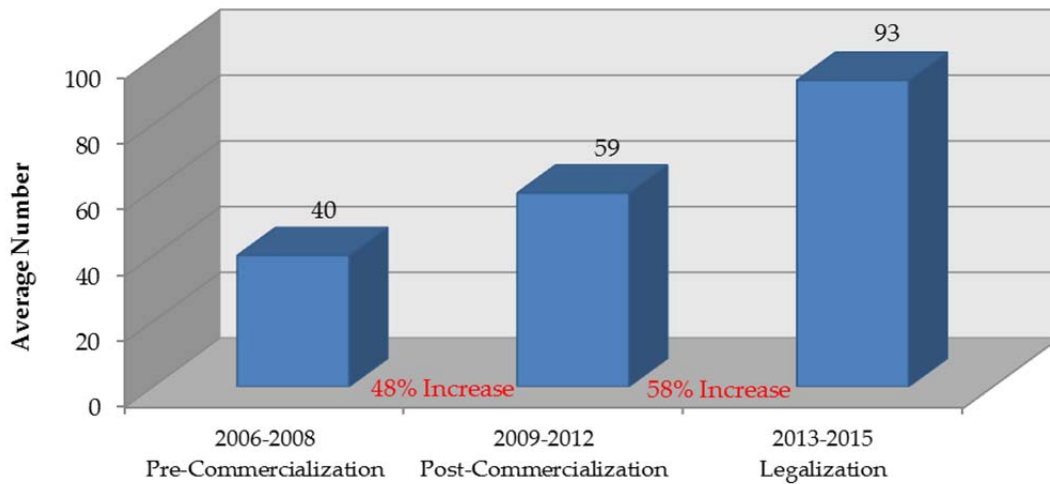


\*Number of Fatalities Involving Operators Testing Positive for Marijuana

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

- ❖ In 2015 there were a total of 115 marijuana-related traffic deaths of which:
  - 75 were drivers
  - 20 were passengers
  - 17 were pedestrians
  - 3 were bicyclists

### Average Number of Traffic Deaths Related to Marijuana\*



\*Average Number of Fatalities when an Operator Tested Positive for Marijuana

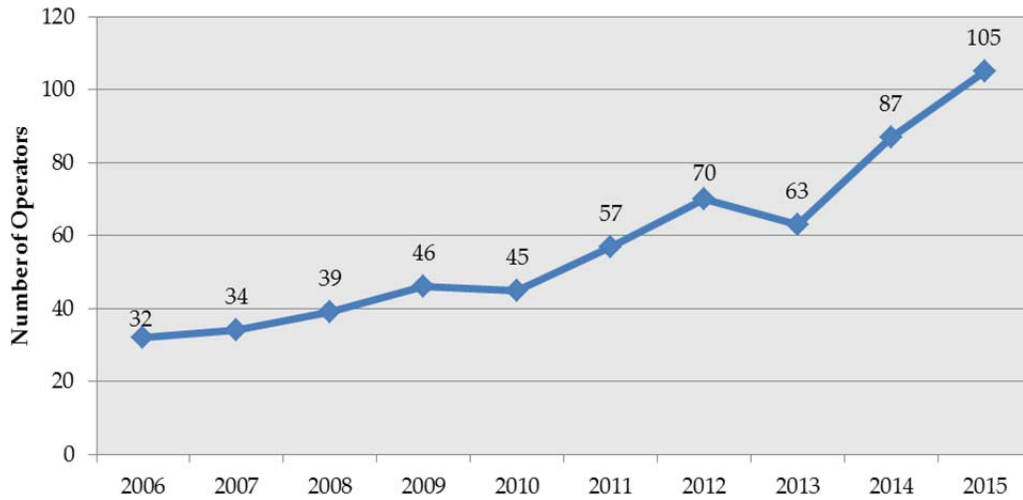
SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

Operators Testing Positive for Marijuana Involved in Fatal Crashes*			
Crash Year	Total Operators Involved in Fatal Crashes	Operators in Fatal Crashes Testing Positive for Marijuana	Percentage of Total Operators Who Tested Positive for Marijuana
2006	795	32	4.03%
2007	866	34	3.93%
2008	782	39	4.99%
2009	718	46	6.41%
2010	652	45	6.90%
2011	648	57	8.80%
2012	732	70	9.56%
2013	702	63	8.97%
2014	765	87	11.37%
2015	871	105	12.06%

\*Operators Involved in Fatalities Testing Positive for Marijuana

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

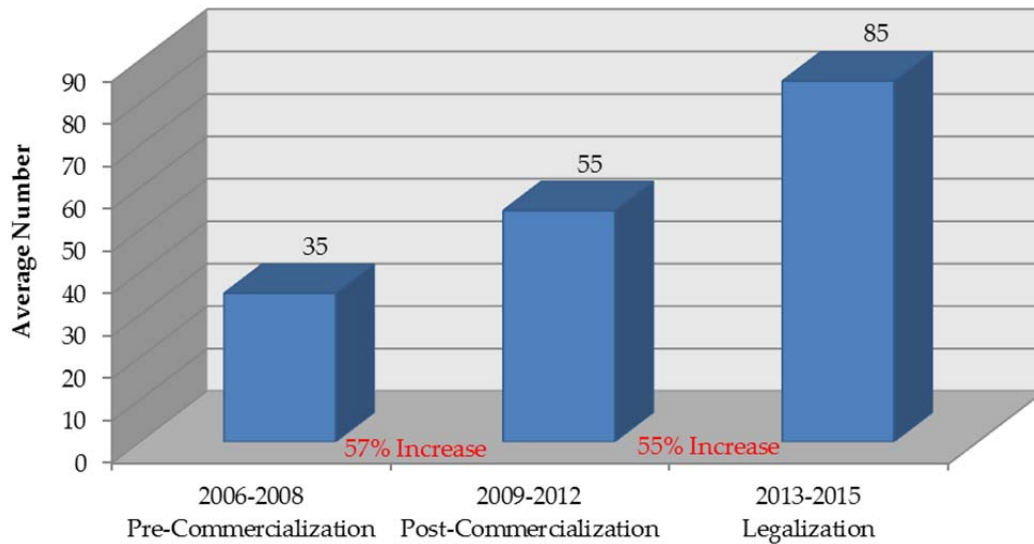
### Number of Operators Involved in Fatal Accidents who Tested Positive for Marijuana



SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

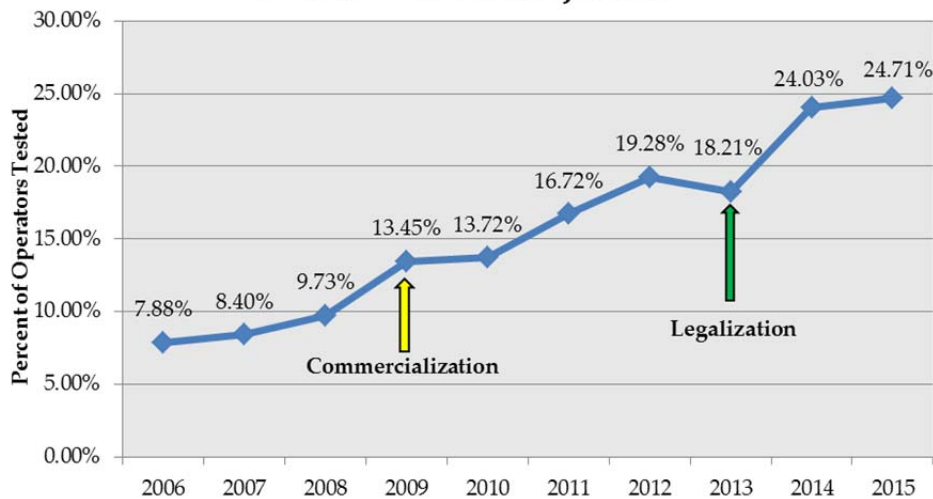
- ❖ Consistent with the past, in 2015 only 49 percent of operators involved in traffic deaths were tested for drug impairment.
- ❖ In 2015, there were a total of 105 operators testing positive for marijuana of which:
  - 88 were drivers
  - 15 were pedestrians
  - 2 were bicyclists

## Average Number of Operators Testing Positive for Marijuana



SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

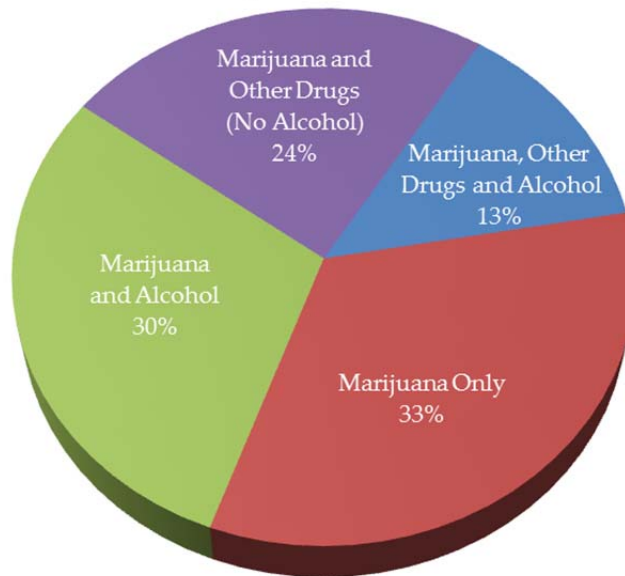
## Percent of Operators Tested Who Were Positive for Marijuana\*



\*Percent of those tested (49% of Total) who were positive for marijuana

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

## Drug Combinations for Operators Positive for Marijuana\*, 2015



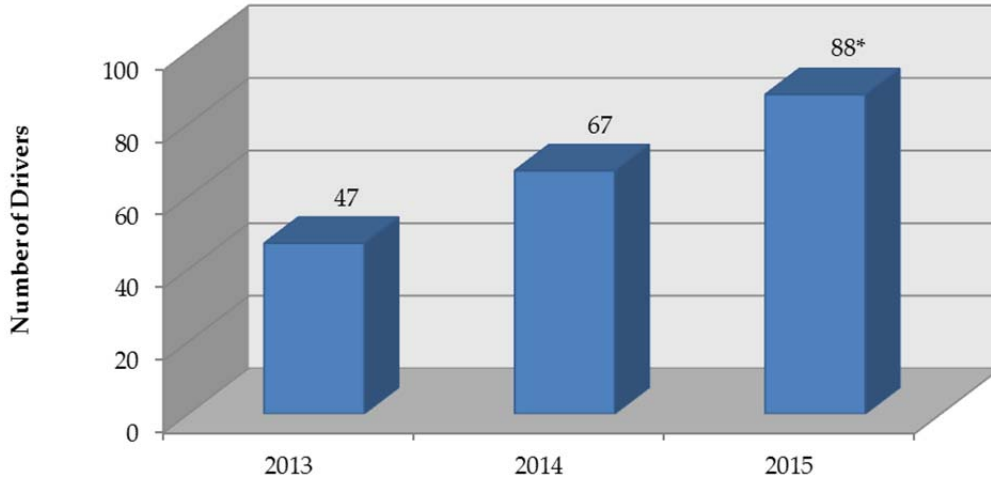
\*Toxicology results for all substances present in individuals who tested positive for marijuana

SOURCE: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS), 2006-2011 and Colorado Department of Transportation 2012-2015

- ❖ In 2015, of the operators who tested positive for marijuana, one out of three had only marijuana present in their system.



## Number of Drivers Involved in Fatal Crashes Who Tested Positive for Marijuana



\*2015 data obtained from CDOT

SOURCE: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics, "Marijuana Legalization in Colorado: Early Findings/A Report Pursuant to Senate Bill 13-283," March 2016

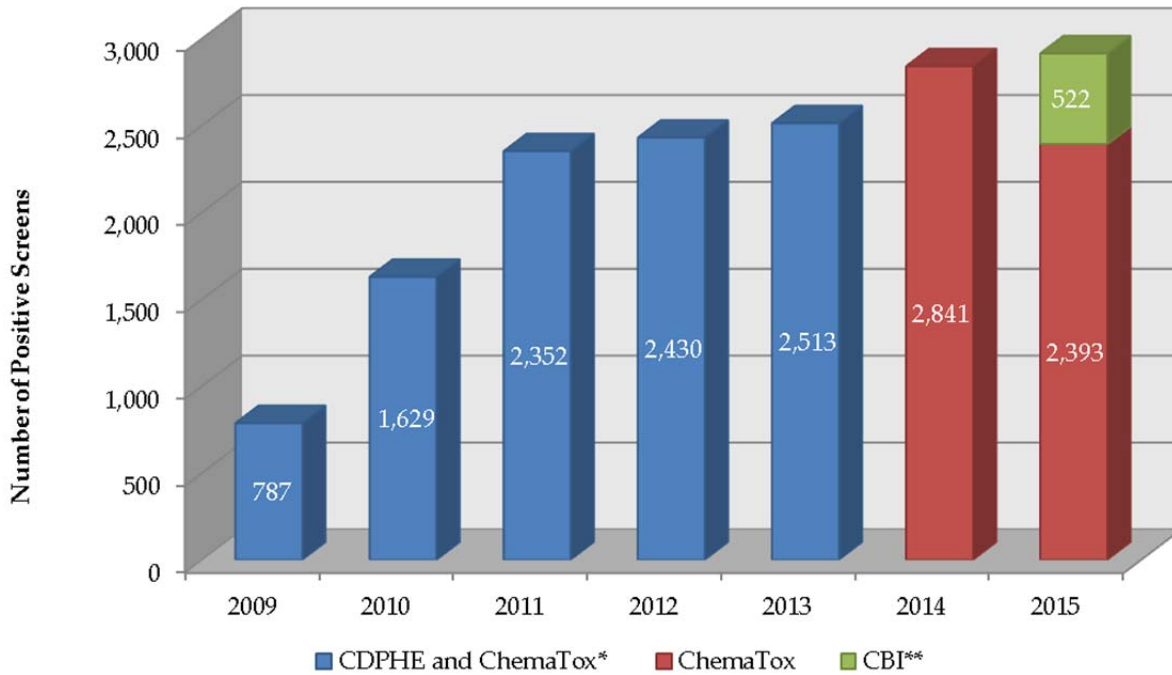
- ❖ There was an 87 percent increase in drivers testing positive for marijuana who were involved in fatal crashes from 2013 to 2015.

### Data for Impaired Driving

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**NOTE:** THE NUMBER OF DUID ARRESTS IS NOT REFLECTIVE OF THE TOTAL NUMBER OF PEOPLE ARRESTED FOR DRIVING UNDER THE INFLUENCE WHO ARE INTOXICATED ON NON-ALCOHOL SUBSTANCES. IF SOMEONE IS DRIVING BOTH INTOXICATED ON ALCOHOL AND INTOXICATED ON ANY OTHER DRUG (INCLUDING MARIJUANA), ALCOHOL IS ALMOST ALWAYS THE ONLY INTOXICANT TESTED FOR. A DRIVER WHO TESTS OVER THE LEGAL LIMIT FOR ALCOHOL WILL BE CHARGED WITH DUI, EVEN IF HE OR SHE IS POSITIVE FOR OTHER DRUGS. HOWEVER, WHETHER OR NOT HE OR SHE IS POSITIVE FOR OTHER DRUGS WILL REMAIN UNKNOWN BECAUSE OTHER DRUGS ARE NOT OFTEN TESTED FOR.

## Number of Positive Cannabinoid Screens



\*Data from the Colorado Department of Public Health and Environment was merged with ChemaTox data from 2009 to 2013.

\*\*The Colorado Bureau of Investigation began toxicology operations in July 1, 2015.

There were a total of 723 9-Panel drug screen (including Cannabinoids) cases analyzed by CBI in 2015.

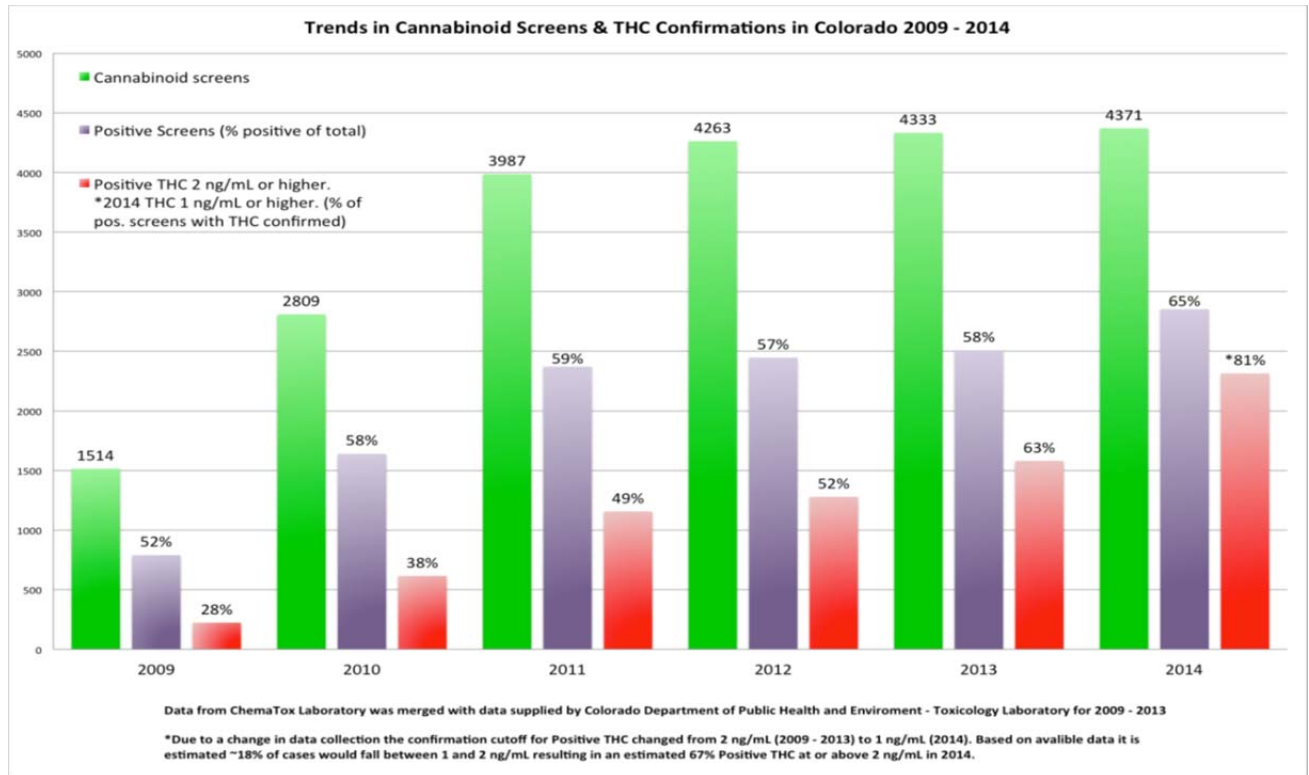
SOURCE: Colorado Bureau of Investigation and Rocky Mountain HIDTA

❖ The above graph is Rocky Mountain HIDTA’s conversion of the following ChemaTox data as well as data from the Colorado Bureau of Investigation’s state laboratory.

**NOTE:** THE ABOVE GRAPHS INCLUDE DATA FROM CHEMATOX LABORATORY WHICH WAS MERGED WITH DATA SUPPLIED BY COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT - TOXICOLOGY LABORATORY. THE VAST MAJORITY OF THE SCREENS ARE DUID SUBMISSIONS FROM COLORADO LAW ENFORCEMENT.

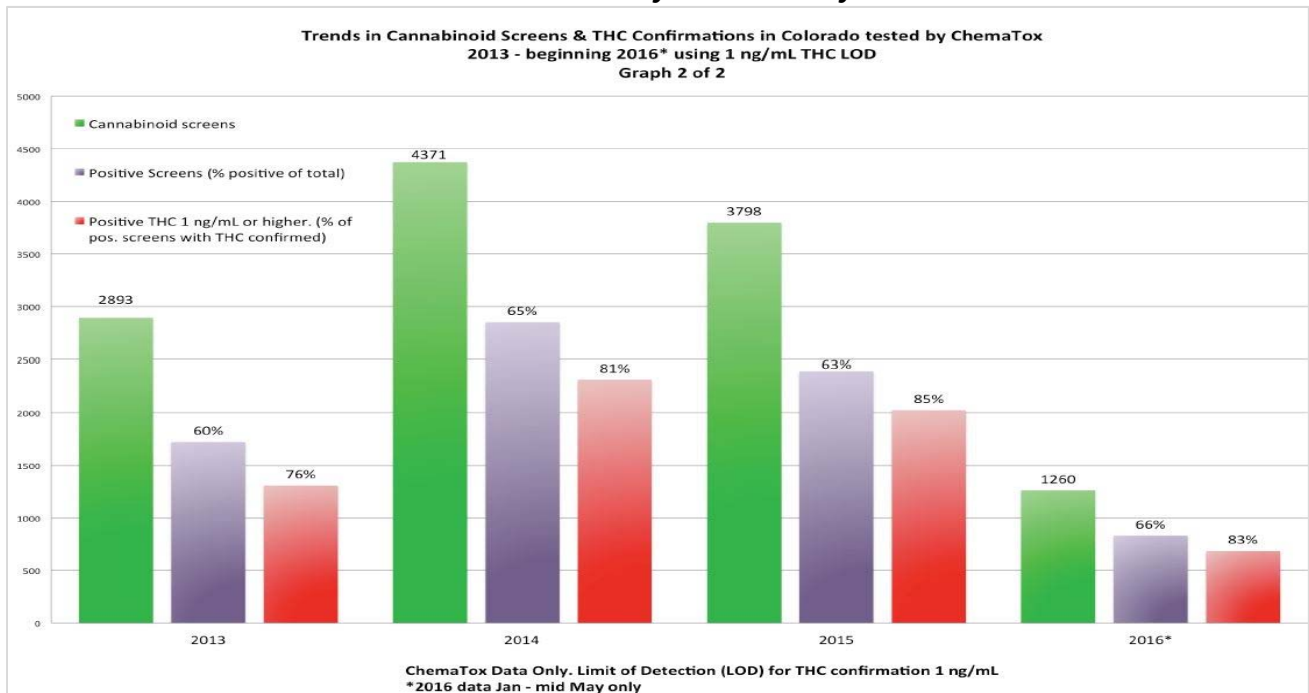
**NOTE:** COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DISCONTINUED TESTING IN JULY 2013. THE COLORADO BUREAU OF INVESTIGATION BEGAN TESTING ON JULY 1, 2015.

## ChemaTox and Colorado Department of Public Health and Environment (Data Combined 2009-2013)



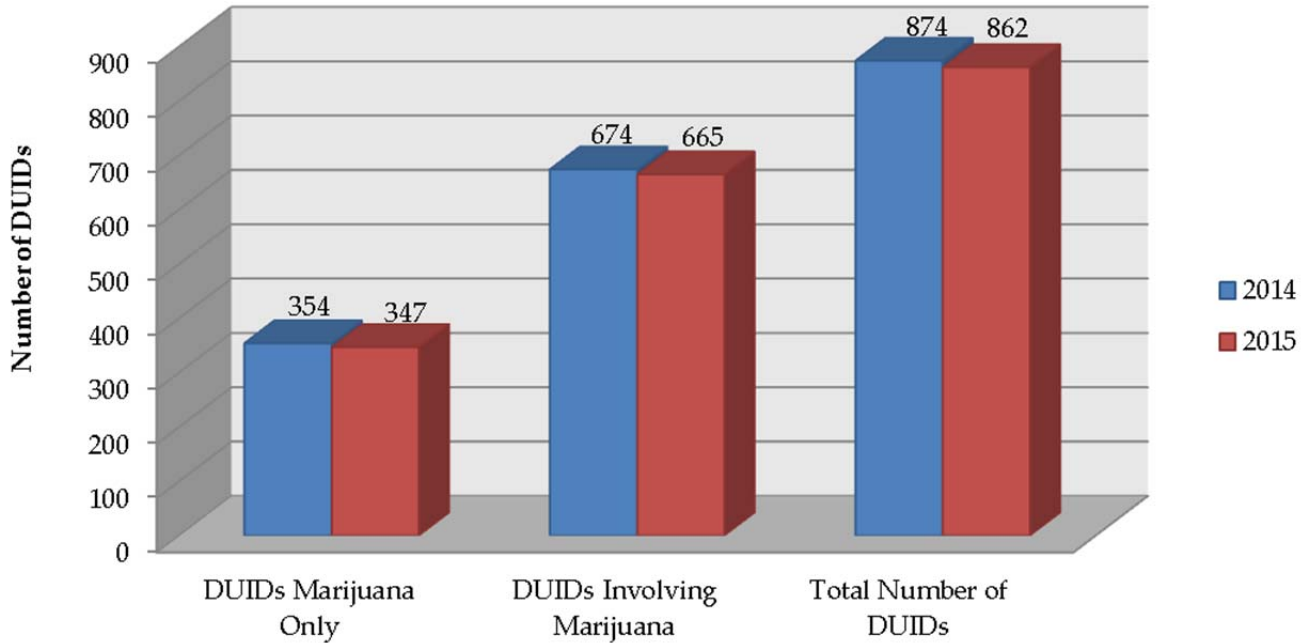
SOURCE: Sarah Urfer, M.S., D-ABFT-FT; ChemaTox Laboratory

## ChemaTox Data Only (2013-May 2016)



SOURCE: Sarah Urfer, M.D., D-ABFT-FT, ChemaTox Laboratory

## Colorado State Patrol Number of DUIDs, 2014 and 2015

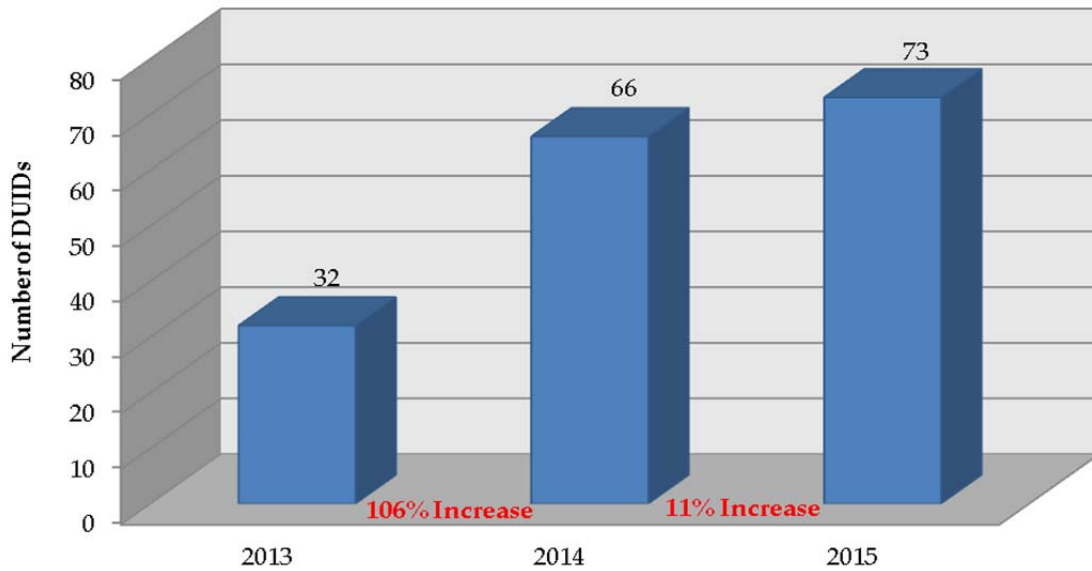


SOURCE: Colorado State Patrol, CSP Citations for Drug Impairment by Drug Type

- ❖ In 2015, 77 percent of total DUIDs involved marijuana and 40 percent of total DUIDs involved marijuana only
- ❖ In 2015, Colorado State Patrol made 1,000 less DUI and DUID cases than in 2014. However, marijuana made up 15 percent of the total in 2015 and 12 percent of the total in 2014.

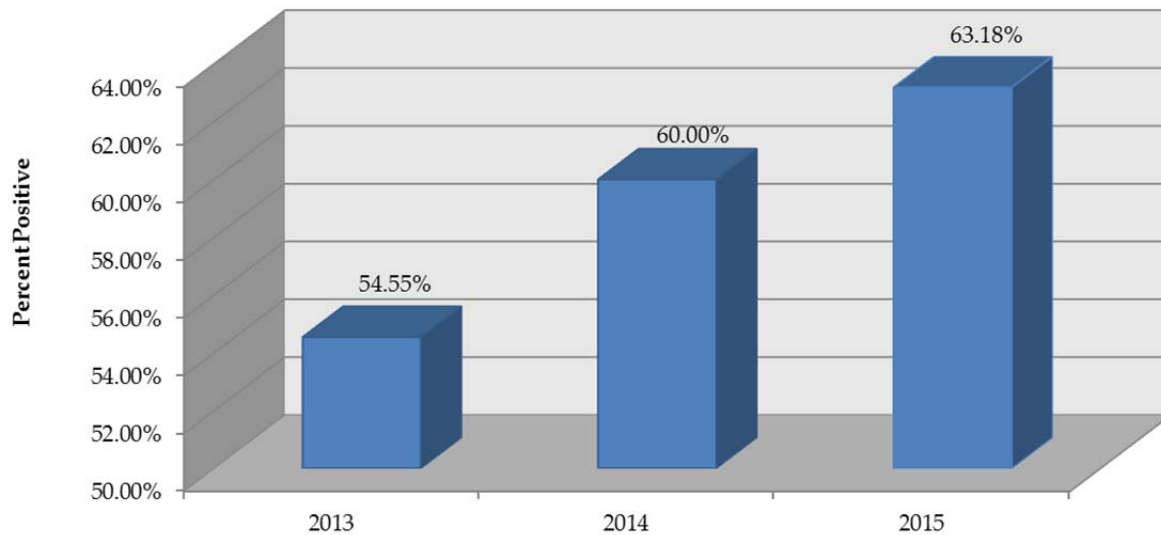
**NOTE:** "MARIJUANA CITATIONS DEFINED AS ANY CITATION WHERE CONTACT WAS CITED FOR DRIVING UNDER THE INFLUENCE (DUI) OR DRIVING WHILE ABILITY IMPAIRED (DWAI) AND MARIJUANA INFORMATION WAS FILLED OUT ON TRAFFIC STOP FORM INDICATING MARIJUANA & ALCOHOL, MARIJUANA & OTHER CONTROLLED SUBSTANCES, OR MARIJUANA ONLY PRESENT BASED ON OFFICER OPINION ONLY (NO TOXICOLOGICAL CONFIRMATION)." - COLORADO STATE PATROL

### Denver Police Department Number of DUIDs Involving Marijuana



SOURCE: Denver Police Department, Traffic Operations Bureau via Data Analysis Unit

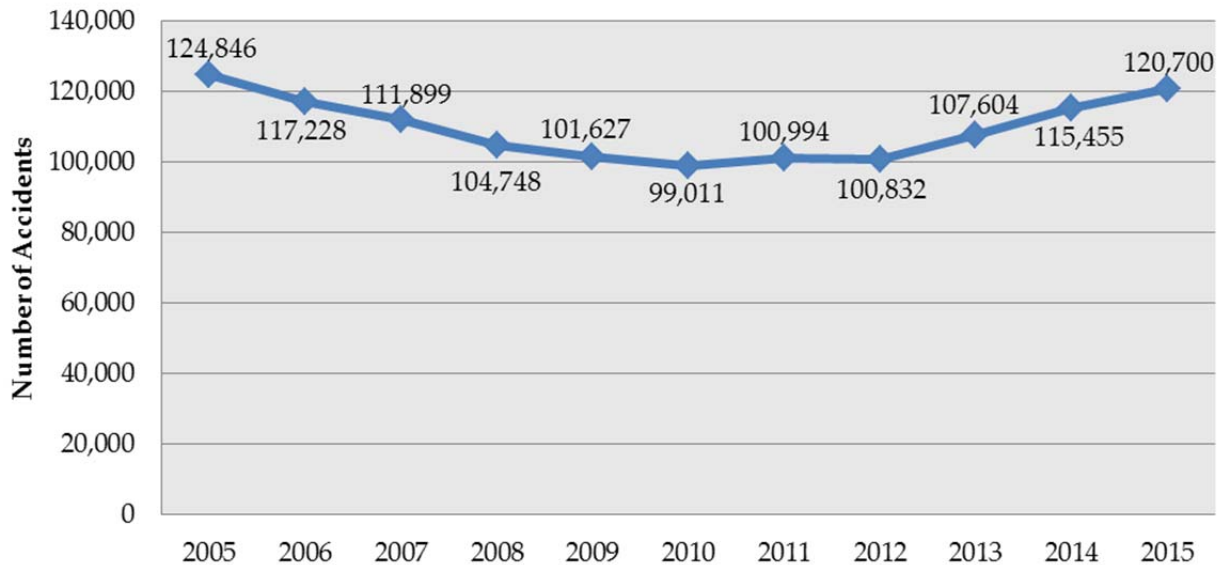
### Larimer County Sheriff's Office Percent of DUIDs Involving Marijuana



\*Percent of All DUID blood samples submitted for drug testing

SOURCE: Larimer County Sheriff's Office, Records Section

## Total Number of Accidents in Colorado



SOURCE: Colorado Department of Transportation (CDOT)

**NOTE:** ROCKY MOUNTAIN HIDTA HAS BEEN ASKED ABOUT THE TOTAL NUMBER OF TRAFFIC ACCIDENTS SEEN IN COLORADO SINCE LEGALIZATION AND IS, THEREFORE, PROVIDING THE DATA. ROCKY MOUNTAIN HIDTA IS NOT EQUATING ALL TRAFFIC ACCIDENTS WITH MARIJUANA LEGALIZATION.

### Related Costs

**Economic Cost of Vehicle Accidents Resulting in Fatalities:** According to the National Highway Traffic Safety Administration report, *The Economic and Societal Impact Of Motor Vehicles Crashes, 2010*, the total economic costs for a vehicle fatality is \$1,398,916. That includes property damage, medical, insurance, productivity, among other considerations.<sup>1</sup>

**Cost of Driving Under the Influence:** The cost associated with the first driving-under-the-influence (DUI) offense is estimated at \$10,270. Costs associated with a DUID (driving-under-the-influence-of-drugs) are very similar to those of a DUI/alcohol.<sup>2</sup>

## Some Information from Washington State

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### **Marijuana-Related Fatal Car Accidents Surge in Washington State After Legalization:**<sup>3</sup>

- Ten percent of Washington state drivers involved in fatal car crashes between 2010 and 2014 tested positive for recent marijuana use, with the percentage of drivers who had used pot within hours of a crash doubling between 2013 and 2014 (AAA Foundation for Traffic Safety).
- For 2013, there were 436 fatal crashes in Washington. Among those crashes, there were 40 in which the drivers involved tested positive for THC (9 percent). For 2014, there were 462 fatal crashes, 85 drivers tested positive for THC (18 percent).

**More Pot Use Found in Fatal Crashes, Data Says:** “We have seen marijuana involvement in fatal crashes remain steady over the years and then it just spiked in 2014,” said Dr. Staci Hoff, Washington Traffic Safety Commission research director.<sup>4</sup>

### **More Deaths on Washington’s Roads:**<sup>5</sup>

- Drivers with active THC in their blood involved in a fatal driving accident have increased 122.2 percent from 2010 to 2014.
- There was a 400 percent increase of marijuana-related DUIs between 2012 and 2014.
- “Marijuana-only DUIs have also been on the rise since 2012. These are DUIs for which marijuana was confirmed to be the only active drug in the driver’s system. From 2012 to 2014 the department [Washington State Traffic Safety Commission] noted a 460 percent increase.”

## Case Examples and Related Material

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**20-Year-Old Colorado Man Kills 8-Year-Old Girl While Driving High** A former star athlete at Mead High School accused of fatally running over an 8-year-old Longmont girl on her bike told police he thought he'd hit the curb — until he saw the girl's stepfather waving at him, according to an arrest affidavit released July 29, 2016.

Kyle Kenneth Couch, 20, turned right on a red light at the same time Peyton Knowlton rolled into the crosswalk on May 20, 2016. The girl was crushed by the rear right tire of the Ford F-250 pickup, and died from her injuries. Couch, of Longmont, surrendered to police Friday on an arrest warrant that included charges of vehicular homicide and driving under the influence of drugs. One blood sample collected more

than two hours after the collision tested positive for cannabinoids, finding 1.5 nanograms of THC per milliliter of blood. That's below Colorado's legal limit of 5 nanograms per milliliter. But Deputy Police Chief Jeff Satur said the law allows the DUI charge when those test results are combined with officer observations of impaired behavior and marijuana evidence found inside Couch's pickup.

The presumptive sentencing range for vehicular homicide, a Class 3 felony, is four to 12 years in prison.

Couch attends Colorado Mesa University where, in 2015, he appeared in six games as a linebacker as a red shirt freshman for the football team. In 2013, Couch became the first athlete from Mead High School to win a state title when he captured the Class 4A wrestling championship at 182 pounds. He was named the Longmont *Times-Call's* Wrestler of the Year that season and was able to defend his crown a year later, winning the 4A title at 195 pounds to cap his senior season with a 49-1 record.

Couch, now 20, has been arrested on suspicion of vehicular homicide and driving under the influence of marijuana in connection with the death of 8-year-old Peyton Knowlton.<sup>6</sup>

**Father Blames Teenage "Son's Death in Part on Legalized Pot"**: A 17-year-old, driving while high on marijuana when his car struck and killed another teenage boy, was sentenced to two years in youth corrections. The incident occurred in November of 2014, the teenager was sentenced in April of 2016.

Both the father of the victim and the 17th Judicial District Attorney blamed marijuana for what happened.

The Broomfield courtroom was crowded with family and friends of the victim. They wore buttons reading "Justice for Chad" in memory of Chad Britton who was only 16. The teen was his father's best friend before he was killed. With tears rolling down his cheek Lonnie Britton spoke of his boy, "He was a beautiful soul. He'd do anything for anyone."

It was normal day at Broomfield High School when Chad went to his car during lunch. Another teen was driving a separate car, so high on marijuana his friends warned him not to drive. Tragically, Chad was struck and killed. A witness at the time told reporters, "He was putting stuff in the back of his car and the other kid wasn't paying attention and just hit him."

In juvenile court, family and friends tried to hold back the tears but failed. It was an emotional sentencing as the driver of the car, Brandon Cullip, was sentenced to two years in youth corrections. Cullip pleaded guilty to vehicular homicide in February of 2016. Cullip had obtained his driver's license just six days before the accident occurred.

Britton's father told the judge he had, "a hole in his heart that will never be mended" and he blamed his son's death in part on legalized pot. "I think this was



probably the worst thing that could happen to the state of Colorado, passing the marijuana law," Lonnie Britton said.

When recreational pot was legalized in Colorado there was fear about this very sort of thing happening. Dave Young, the district attorney for the 17th Judicial District covering Adams and Broomfield counties, told CBS4's Rick Sallinger, "The legalization of marijuana has supplied marijuana to kids and our youth and I don't think it's going to be the last time we have a tragedy like this because of marijuana."<sup>7</sup>

### **Middle School Counselor Killed by High Driver as She Helped Fellow Motorist:**

A counselor at Wolf Point Middle School, Montana, was hit by a car and killed by an impaired driver in Colorado as she stopped to help another driver. The Jefferson County coroner in Colorado identified the woman as Jana Elliott, 56. She died of multiple blunt force trauma injuries. Elliott is identified as a counselor for the sixth grade in Montana.

The driver who hit Elliott, identified as Curtis Blodgett, 24, is being charged with vehicular homicide for allegedly smoking marijuana prior to the crash, according to *The Denver Post*. Blodgett allegedly admitted he had smoked marijuana that day. Detectives are working to determine whether Blodgett was legally impaired at the time of the crash. "How much he had in his system and what he had in his system will determine whether additional charges could be filed," Lakewood Police Spokesman Steve Davis told *The Post*.

According to the Lakewood Police Department Traffic Unit, Elliott was driving on US Highway 6 when a vehicle traveling in the left lane lost the bicycle it was carrying on its top. The driver of the vehicle stopped to retrieve the bike and Elliott stopped along the shoulder as well to help. After they retrieved the bicycle and were preparing to drive away, another vehicle rear ended Elliott's vehicle at a speed of 65 mph. Elliott was killed in the crash.<sup>8</sup>

### **Teen Driver Charged With Vehicular Homicide and DUI in Boulder, Colorado Crash:**

A 17-year-old accused of driving into a stopped car and killing two people in May of 2016 was charged with four counts of vehicular homicide, as Boulder prosecutors alleged for the first time that the teen was under the influence of marijuana at the time of the crash.

Joe Ramas, 39, and Stacey Reynolds, 30, both of Boulder, died as a result of the injuries they sustained in the May 7 crash. The teen driver, Quinn Hefferan, is being prosecuted as a juvenile in this case. Hefferan just recently graduated from Boulder High School in the spring of 2016.

Hefferan turned himself in to police and appeared in court Wednesday morning. He was charged with two counts of vehicular homicide under a reckless-driving theory

and two counts of vehicular homicide under a driving-under-the-influence-of-drugs theory. He also will be charged in Boulder County Court with DUI (drugs), reckless driving, improper lane change and running a red light.

District Attorney Stan Garnett said the DUI-related charges against Hefferan stem from the teen's suspected use of marijuana. The maximum penalty for vehicular homicide against a juvenile is two years in the department of youth corrections, Garnett said.

Just before midnight on May 7, police say Hefferan was driving a 2002 Volkswagen Jetta when he rear-ended a 2010 Honda Fit stopped at a red light. The Jetta also struck a 2008 Dodge Ram that was stopped at the light as well. The two occupants of the Fit — Ramas and Reynolds — were taken to Boulder Community Health in critical condition, but each was taken off life support and died within days of the crash.

Hefferan was treated for minor injuries and released, while the occupants of the Ram were not injured. Police said Hefferan was driving "at least" 45 mph and that there was 'minimal braking' before the crash.<sup>9</sup>

**Teens in Fatal Crash had Marijuana and Traces of Xanax in Their Systems:** The 18-year-old driver and two other teens that died in a car crash in May near Conifer tested positive for traces of prescription drugs and marijuana.

The crash happened at 4:35 p.m. on May 10, 2016 when the driver of a Dodge Dakota pickup truck traveling near Conifer, Colorado lost control and ran off the road, rolling down an embankment and into a creek. Three teenage boys, including the driver, died. One other passenger was transported to a hospital and was expected to survive. All of them were students from St. John's Military School in Salina, Kansas, an Episcopalian all-boys boarding school, and were on a trip after the end of the school year.

The toxicology reports, released by the Jefferson County coroner's office Thursday, showed all three teens — Jacob Whitting, John Yoder, 19, and Akinwumi Ricketts, 16 — had taken Xanax, an anti-anxiety drug, and marijuana. The toxicology screen of the driver, Whitting, recorded THC levels at higher than 5 nanograms or more of active THC (delta-9 tetrahydrocannabinol) per milliliter of blood which, under Colorado law, is considered impaired while driving. None of the boys tested positive for alcohol.

Whitting had just graduated as valedictorian. He had received a varsity letter for academics, among other awards.<sup>10</sup>

**Impaired, Even if Blood Levels are Below 5ng/ml:** "The percentage of drivers involved in fatal crashes who had traces of marijuana in their blood has doubled since marijuana was legalized in Washington state, a new study suggests.

'Marijuana use in driving is a growing, contributing factor to fatal crashes,' said Jake Nelson, the director of traffic safety advocacy and research at the American Automobile

Association (AAA) said. 'It's a highway safety problem that we should all be concerned about.'

The team found that prior to legalization, about 8.3 percent of drivers involved in fatal crashes had THC in their blood, but after legalization, 17 percent of drivers had THC in their blood. Of that 17 percent, about two-thirds also had some other drugs or alcohol in their system. The total number of fatal crashes also went up slightly, the study found.

While the study can't prove that marijuana was a key cause of those crashes, it is likely that marijuana is at least one contributor to those fatal crashes, Nelson said.

The researchers found that 70 percent of drivers who failed these sobriety tests, and whose impairment was attributed to marijuana by drug-recognition experts, still had blood levels of THC lower than 5 nanograms per milliliter.

'For instance, it's possible that police are simply testing for THC more often now that the drug has been legalized, and are therefore catching people who might have been missed in previous years,' [Benjamin] Hansen [an economist at the University of Oregon in Eugene and at the National Bureau of Economic Research] said. 'It's also possible that people who are found to have detectable levels of THC in their blood were not impaired at the time of the crash,' he added."<sup>11</sup>

**Delays in DUI Blood Testing – Impact on Cannabis DUI Assessments:** A study published in the *Traffic Injury Prevention* journal (June 11, 2015) set out to examine time from law enforcement dispatch to the first blood draw in cases of driving under the influence (DUI) in Colorado for 2012. Laboratory toxicology results were also looked at in order to understand the implications of delays in blood draws in cases of DUI of marijuana's THC. The results of this study revealed that the average time from law enforcement dispatch to blood draw in cases of vehicular homicide and vehicular assault was 2.32 hours, with a range of .83 to 8.0 hours. Data from DUI traffic arrests found that between 42 and 70 percent of all cannabinoid-positive traffic arrests tested below 5 ng/ml THC in blood, which is the legal limit in Colorado and Washington.

Researchers discuss the fact that alcohol is metabolized at a linear rate, which allows forensic toxicologists to determine blood alcohol content at the time of arrest when multiple blood determinations are available. In contrast, THC is more problematic as it is not metabolized in a linear fashion. THC is not a reliable marker for impairment because it can be detected in blood for hours or even days after signs of impairment disappear. In fact, there is no accepted method to extrapolate backward from the time of arrest or a crash, as can be done with alcohol. The difficulty in identifying a suitable test for determining a driver's impairment from THC further adds to the controversy surrounding the legalization of marijuana in the state.<sup>12</sup>

**Scientific Basis for Laws on Marijuana, Driving Questioned:** There is no science that shows drivers become impaired at a specific level of THC in the blood. A lot depends on the individual. Drivers with relatively high levels of THC in their systems might not be impaired, especially if they are regular users, while others with relatively low levels may be unsafe behind the wheel.

Some drivers may be impaired when they are stopped by police, but by the time their blood is tested they have fallen below the legal threshold because active THC dissipates rapidly. The average time to collect blood from a suspected driver is often more than two hours, because taking a blood sample typically requires a warrant and transport to a police station or hospital.<sup>13</sup>

**Overview of Major Issues Regarding the Impacts of Alcohol and Marijuana on Driving:**

- THC concentrates in fatty tissue, including the brain, and is less evenly-distributed throughout the body than is alcohol. Blood levels, therefore, may not be reflective of central nervous system effects, including the ability to safely operate a motor vehicle.
- Impairment remains for 2 to 4 hours after intake (at least in smoking research) despite blood levels dropping rapidly to low levels. Following oral ingestion, absorption is slower with much later, and lower, peak blood concentrations but still substantial impairment.
- Acute marijuana use has been shown to moderately diminish virtually every driving-related capacity. Effects depend on dose, absorption, time since peak blood level, history of use and skill/task involved.<sup>14</sup>

**Drug Use Now Rivals Drunk Driving as Cause of Fatal Car Crashes, Study Says:**

According to the Governors Highway Safety Association, a national organization of state highway safety officers, drugs were found in the systems of almost 40 percent of fatally-injured drivers who were tested for them. This number rivals that of the number of drivers who died with alcohol in their system.

The number of dead drivers who tested positive for drugs has increased from 29 percent in 2005 to 39.9 percent in 2013, according to federal crash data.

“Every state must take steps to reduce drug-impaired driving, regardless of the legal status of marijuana,” stated Jonathan Adkins, executive director of the Governors Highway Safety Association.

Marijuana is by far the most common drug that is used, found in roadside surveys, and found in fatally-injured drivers. Marijuana use by drivers likely increases after a state permits recreational marijuana use.<sup>15</sup>

**Drive High or Drive Drunk, Which is Safer?:** “Our data further suggest that many marijuana users in Colorado and Washington believe that driving while under the influence of marijuana or hashish is safe in general and safer than driving under the influence of alcohol. However, it is clear that marijuana use impairs the ability to drive, particularly among occasional marijuana users who may be less tolerant to THC.”<sup>16</sup>

**Stoned Drivers Didn’t Think They’d Get Caught:** “Our research indicates that unfortunately a lot of marijuana users are driving high and many believe they will not get a DUI for doing so,” CDOT spokeswoman Amy Ford said in a statement.

“About 55 percent of them drove a vehicle within 2 hours of consuming marijuana, a CDOT survey found.”

“Through its ‘Drive High, Get a DUI’ campaign, the Colorado Department of Transportation reported that 51 percent of marijuana users did not think they’d be cited for driving while under the influence of the drug.”<sup>17</sup>

## Sources

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<sup>1</sup> U.S. Department of Transportation National Highway Traffic Safety Administration, “The Economic and Societal Impact Of Motor Vehicle Crashes, 2010,” May 2014, <<http://www.nrd.nhtsa.dot.gov/pubs/812013.pdf>>, accessed February 19, 2015

<sup>2</sup> *Cost of a DUI brochure*, <<https://www.codot.gov/library/brochures/COSTDUI09.pdf/view>>, accessed February 19, 2015

<sup>3</sup> Andrea Noble, *The Washington Times*, May 10, 2016, “Marijuana-related fatal car accidents surge in Washington state after legalization,” <<http://www.washingtontimes.com/news/2016/may/10/marijuana-related-fatal-car-accidents-surge-washin/>>, accessed May 10, 2016

<sup>4</sup> Bob Young, *Seattle Times*, “August 19, 2015 (updated April 25, 2016), “More pot use found in fatal crashes, data says,” <<http://www.seattletimes.com/seattle-news/marijuana/more-pot-use-found-in-fatal-crashes-data-says/>>, accessed June 2, 2016

<sup>5</sup> *Washington State Marijuana Impact Report*, March 2016, Northwest High Intensity Drug Trafficking Area, Director Dave Rodriguez, Director

<sup>6</sup> Amelia Arvesen, *Times-Call*, July 29, 2016, "Driver accused of killing Longmont girl riding bike thought he'd hit curb," <[http://www.timescall.com/news/crime/ci\\_30185142/driver-accused-killing-longmont-girl-bike-thought-hed](http://www.timescall.com/news/crime/ci_30185142/driver-accused-killing-longmont-girl-bike-thought-hed)>. accessed July 29, 2016

<sup>7</sup> Rick Sallinger, CBS 4/Denver, April 8, 2016, "Teen Sentenced for Deadly Crash Driving While High," <http://denver.cbslocal.com/2016/04/08/teen-sentenced-for-deadly-crash-driving-while-high/>, accessed April 8, 2016

<sup>8</sup> Aja Goare, KTVS.com, July 13, 2016, "Wolf Point school counselor killed by car while helping other driver in Colorado," <<http://www.ktvq.com/story/32440083/wolf-point-school-counselor-killed-by-car-while-helping-other-driver-in-colorado>>, accessed July 13, 2016

<sup>9</sup> Mitchell Byars, *DailyCamera*, May 25, 2016, "Teen driver charged with vehicular homicide, DUI in fatal Boulder crash," <[http://www.dailycamera.com/news/boulder/ci\\_29937461/teen-driver-be-charged-vehicular-homicide-dui-fatal](http://www.dailycamera.com/news/boulder/ci_29937461/teen-driver-be-charged-vehicular-homicide-dui-fatal)>, accessed May 25, 2016

<sup>10</sup> Yesenia Robles, *The Denver Post*, July 7, 2016, "Autopsy shows teens in fatal Conifer crash had traces of Xanax and marijuana in their system", <<http://www.denverpost.com/2016/07/07/teens-conifer-crash-traces-drugs-thc/>>, accessed July 7, 2016

<sup>11</sup> Tia Ghose, Live Science, May 10, 2016, "Does Driving High on Marijuana Increase Fatal Crashes?," <<http://www.livescience.com/54693-high-drivers-double-after-marijuana-legalization.html>>, accessed May 10, 2016

<sup>12</sup> Ed Wood, Ashley Brooks-Russell and Phillip Drum, Taylor & Francis Online, June 11, 2015, "Delays in DUI blood testing: Impact on cannabis DUI assessments," <<http://www.tandfonline.com/doi/full/10.1080/15389588.2015.1052421>>, accessed February 25, 2016

<sup>13</sup> Joan Lowy, Associated Press, May 10, 2016, "Scientific basis for laws on marijuana, driving questioned," <<http://bigstory.ap.org/article/ab89342fa73d434880e4f7c8137f0221/scientific-basis-laws-marijuana-driving-questioned>>, accessed May 11, 2016

<sup>14</sup> Caleb Banta-Green, PhD, MPH, MSW and Jason Williams, PhD, University of Washington, sponsored by the AAA Foundation for Traffic Safety, "Overview of Major Issues Regarding the Impacts of Alcohol and Marijuana on Driving (March 2016)," <<https://www.aaafoundation.org/overview-major-issues-regarding-impacts-alcohol-and-marijuana-driving-0>>, accessed March 2016

<sup>15</sup> Ashley Halsey III, *The Washington Post*, September 30, 2015, "Drug use now rivals drunk driving as cause of fatal car crashes, study says," <[https://www.washingtonpost.com/local/trafficandcommuting/drug-use-now-rivals-drunken-driving-as-cause-of-fatal-car-crashes-study-says/2015/09/29/fc139d6a-66a9-11e5-9223-70cb36460919\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/drug-use-now-rivals-drunken-driving-as-cause-of-fatal-car-crashes-study-says/2015/09/29/fc139d6a-66a9-11e5-9223-70cb36460919_story.html)>, October 1, 2015

<sup>16</sup> Davis, KC, Allen J, Duke J, Nonnemaker J, Bradfield B, Farrelly MC, et al. (2016) Correlates of Marijuana Drugged Driving and Openness to Driving While High: Evidence from Colorado and Washington. *PloS ONE* 11(1): e0146853. Doi: 10.1371/journal.pone.0146853, <<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0146853>>, accessed August 1, 2016

<sup>17</sup> Chhun Sun, *The Gazette*, February 11, 2016, "Report: Marijuana-related DUI citations in Colorado dropped slightly in 2015," <<http://gazette.com/report-marijuana-related-dui-citations-in-colorado-dropped-slightly-in-2015/article/1569870>>, accessed February 11, 2016

# *SECTION 2: Youth Marijuana Use*

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## Some Findings

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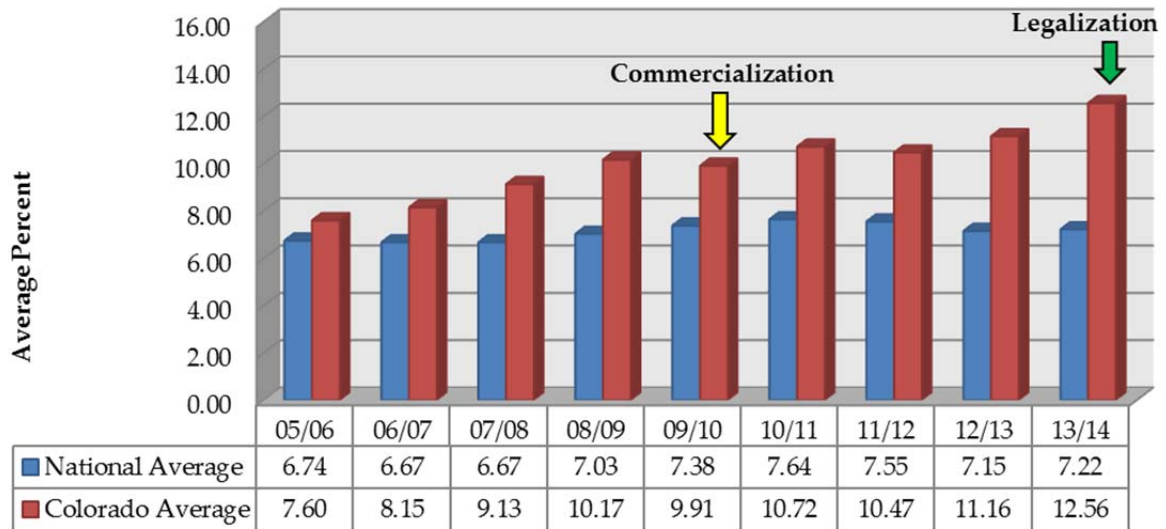
- Youth past month marijuana use **increased 20 percent** in the two-year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally youth past month marijuana use **declined 4 percent** during the same timeframe.
- The latest 2013/2014 results show Colorado youth ranked **#1** in the nation for past month marijuana use, up from **#4** in 2011/2012 and **#14** in 2005/2006.
- Colorado youth past month marijuana use for 2013/2014 was **74 percent higher** than the national average compared to **39 percent higher** in 2011/2012.
- The top ten states for the highest rate of current marijuana use were all medical marijuana states whereas the bottom ten were all non-medical-marijuana states.
- In school year 2015/2016, **62 percent** of all drug expulsions and suspensions were for marijuana violations.



Data

Youth Ages 12 to 17 Years Old

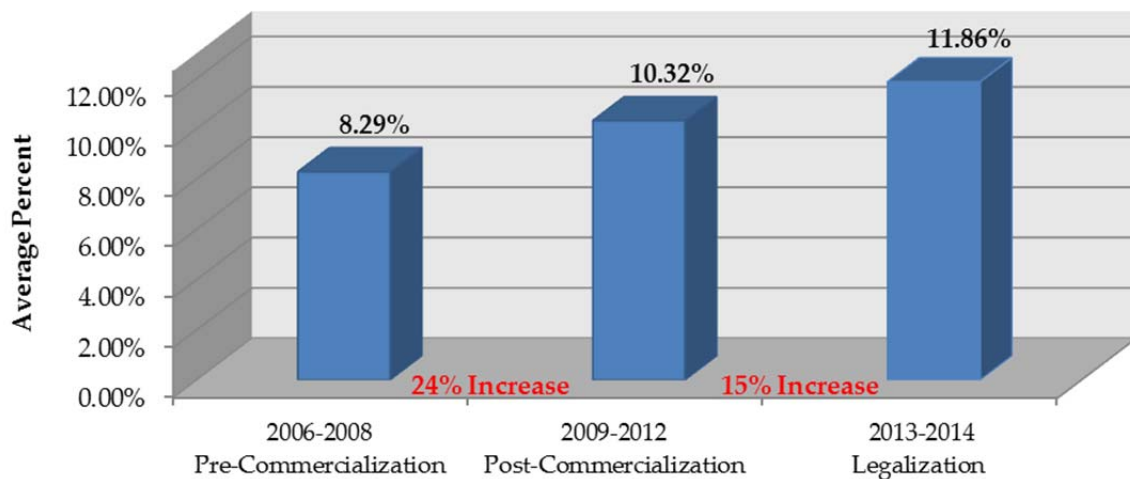
### Past Month Marijuana Use Youth Ages 12 to 17 Years Old



Annual Averages of Data Collection

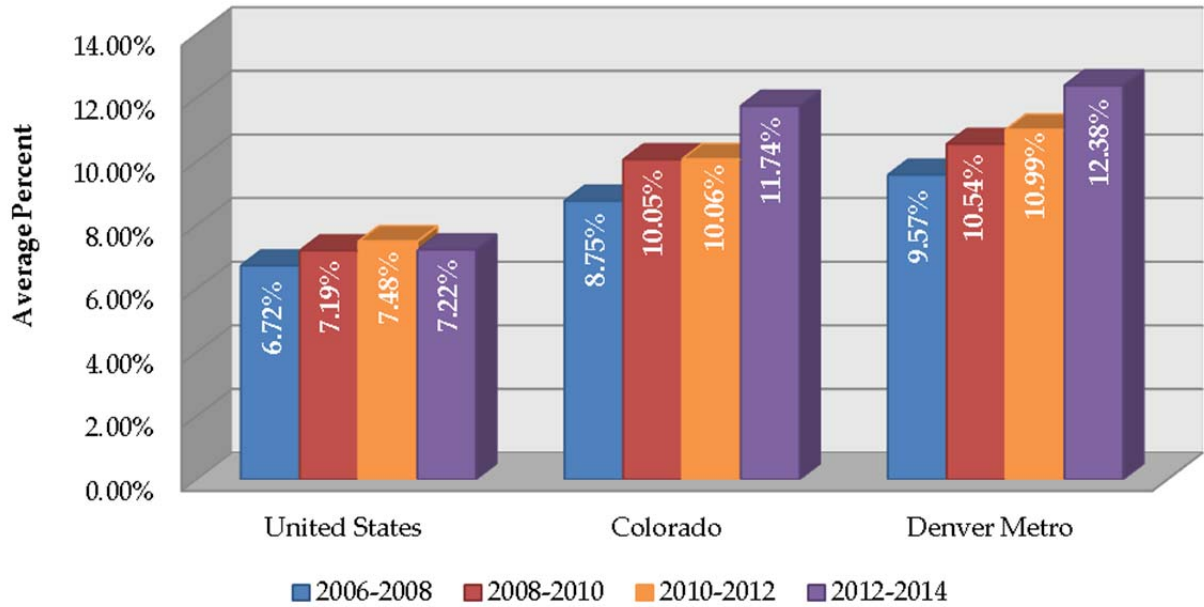
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

### Average Past Month Use of Marijuana Youth Ages 12 to 17 Years Old



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

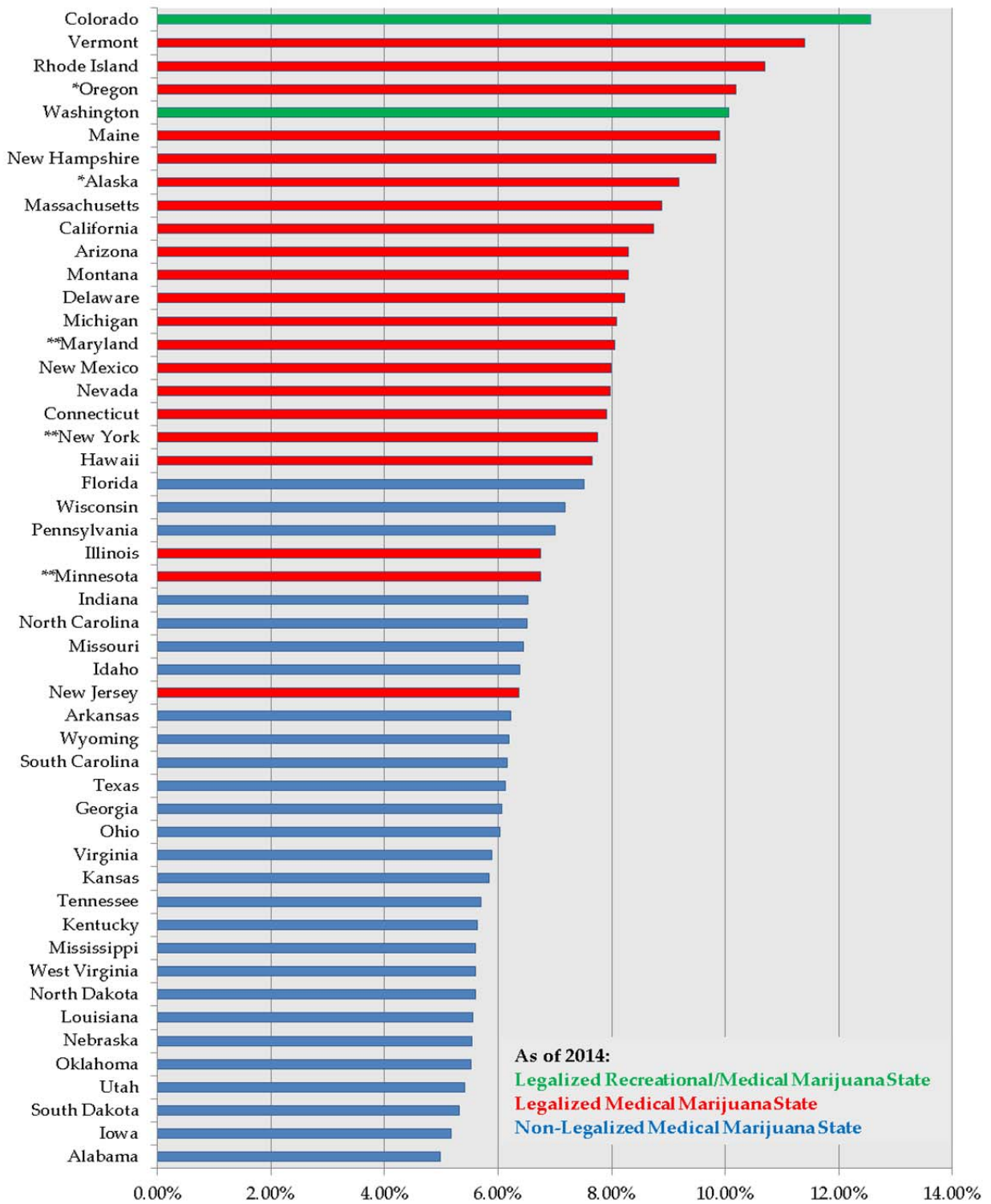
## Prevalence of Past 30-Day Marijuana Use Youth Ages 12 to 17 Years Old



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, Substate Region Estimates 2006-2014

**NOTE:** SUBSTATE DATA IS ONLY AVAILABLE FROM THE NATIONAL SURVEY ON DRUG USE AND HEALTH IN THE ABOVE TIMEFRAMES.

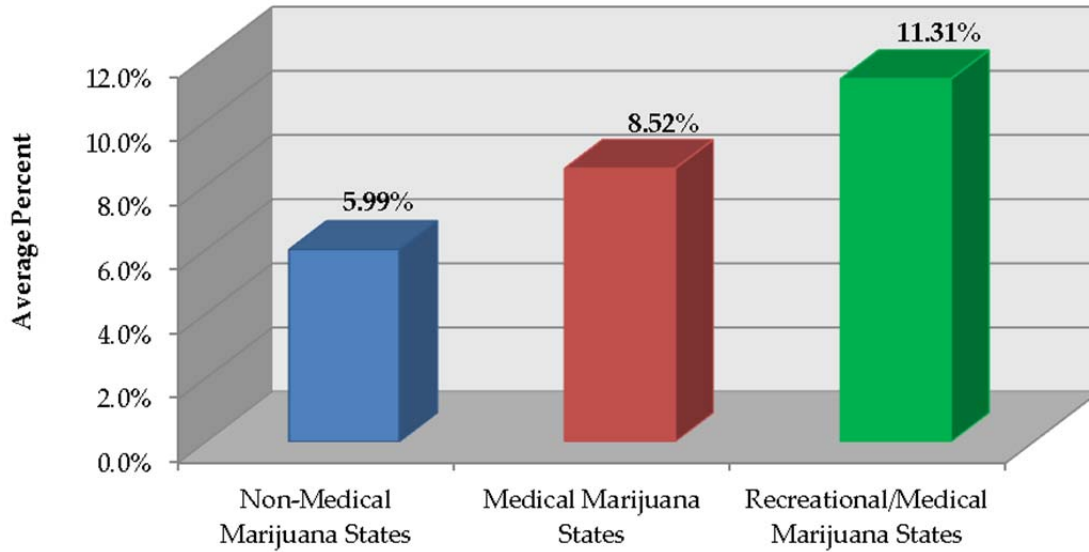
### Past Month Usage, 12 to 17 Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

NOTE: \*Oregon and Alaska voted to legalize recreational marijuana in November 2014  
 \*\*States that had legislation for medical marijuana signed into effect during 2014

## Average Past Month Use Youth Ages 12 to 17 Years Old, 2013/2014



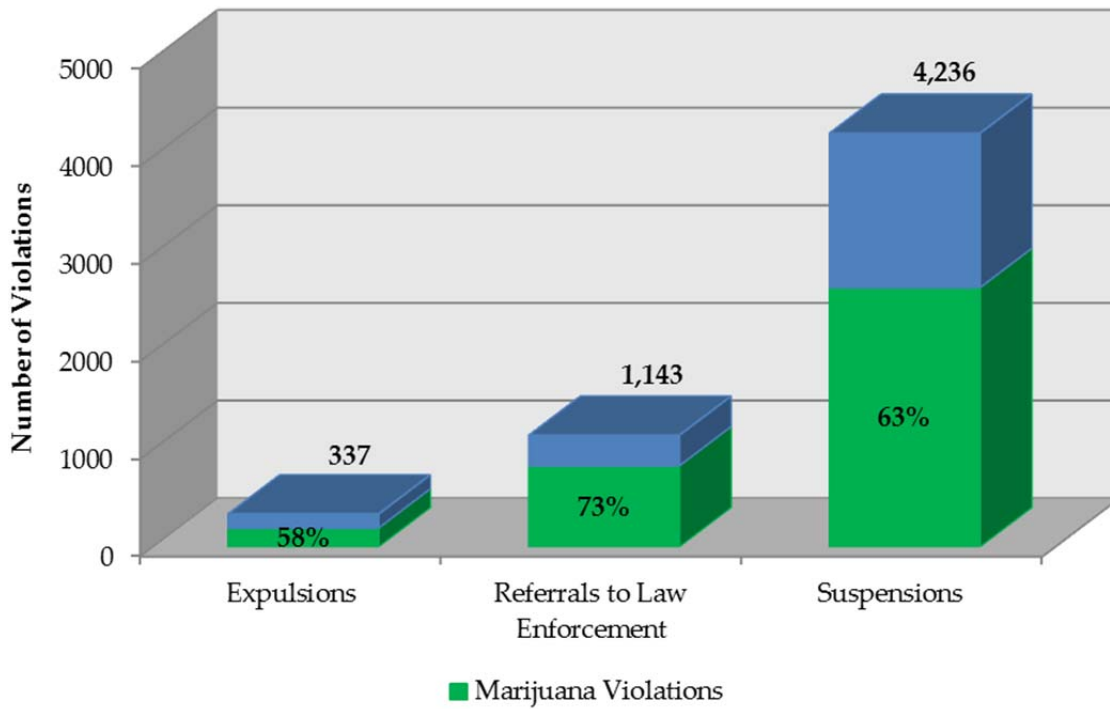
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

## States for Past Month Marijuana Use Youth Ages 12 to 17 Years Old, 2013/2014

<u>Top 10</u> (Medical/Recreational States)	<u>Bottom 10</u> (Non-Medical or Recreational States)
<b>National Average = 7.22%</b>	
<ol style="list-style-type: none"> <li>1. Colorado – 12.56%</li> <li>2. Vermont – 11.40%</li> <li>3. Rhode Island – 10.69%</li> <li>4. Oregon – 10.19%</li> <li>5. Washington – 10.06%</li> <li>6. Maine – 9.90%</li> <li>7. New Hampshire – 9.83%</li> <li>8. Alaska – 9.19%</li> <li>9. Massachusetts – 8.88%</li> <li>10. California – 8.74%</li> </ol>	<ol style="list-style-type: none"> <li>41. Mississippi – 5.60%</li> <li>42. West Virginia – 5.60%</li> <li>43. North Dakota – 5.60%</li> <li>44. Louisiana – 5.55%</li> <li>45. Nebraska – 5.54%</li> <li>46. Oklahoma – 5.52%</li> <li>47. Utah – 5.42%</li> <li>48. South Dakota – 5.32%</li> <li>49. Iowa – 5.17%</li> <li>50. Alabama – 4.98%</li> </ol>

SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

## All Drug Violations, 2015-2016 School Year



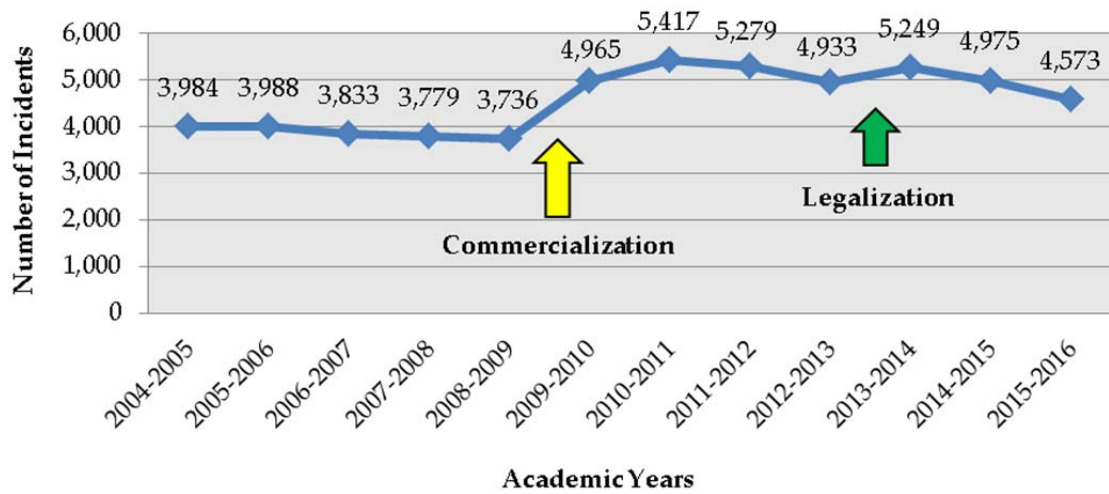
SOURCE: Colorado Department of Education, 10-Year Trend Data : State Suspension and Expulsion Incident Rates and Reasons

**NOTE: THE COLORADO DEPARTMENT OF EDUCATION BEGAN COLLECTING MARIJUANA VIOLATIONS SEPARATELY FROM ALL DRUG VIOLATIONS DURING THE 2015-2016 SCHOOL YEAR.**

### Impact on School Violation Numbers

- ❖ “Note that Senate Bill 12-046 and House Bill 12-1345 targeted reform of ‘zero tolerance’ policies in schools, and appear to have decreased expulsions, suspensions and referrals to law enforcement.” – Colorado Department of Public Safety, *Marijuana Legalization in Colorado: Early Findings, A Report Pursuant to Senate Bill 13-283*, March 2016

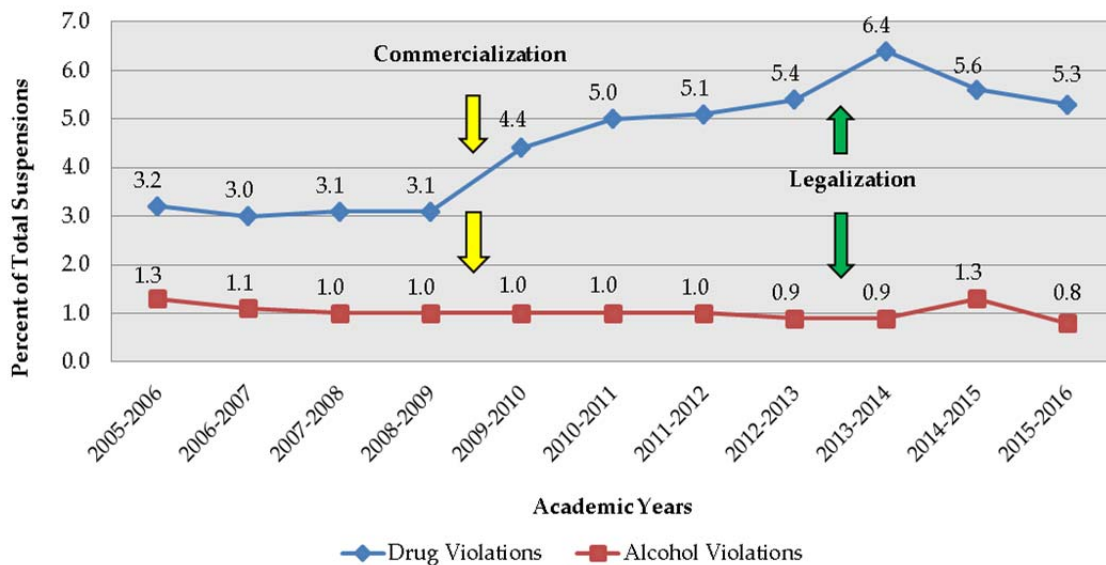
## Drug-Related Suspensions/Expulsions



SOURCE: Colorado Department of Education, 10-Year Trend Data : State Suspension and Expulsion Incident Rates and Reasons

- ❖ In school year 2015/2016, 62 percent of all drug expulsions and suspensions were for marijuana violations.

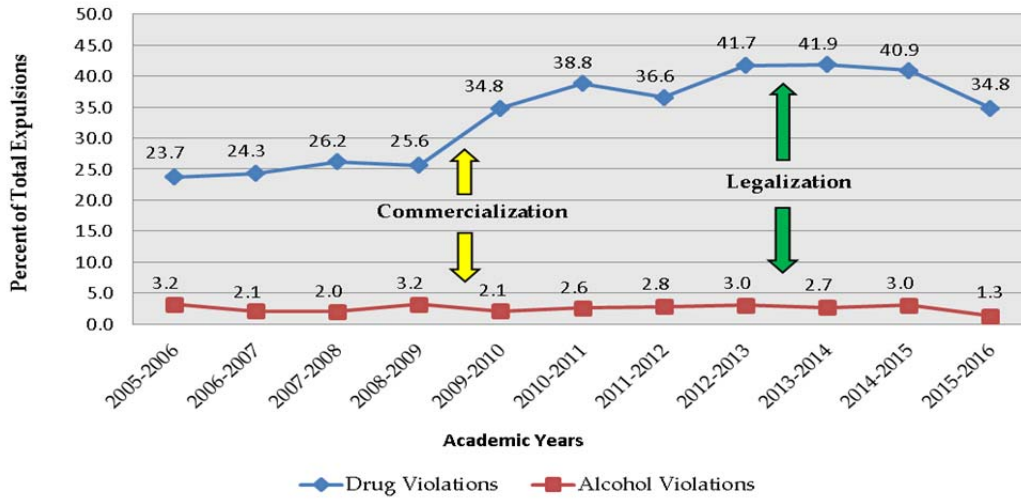
## Percent of Total Suspensions in Colorado



SOURCE: Colorado Department of Education, 10-Year Trend Data : State Suspension and Expulsion Incident Rates and Reasons

- ❖ In school year 2015/2016, 63 percent of all drug related suspensions were for marijuana violations.

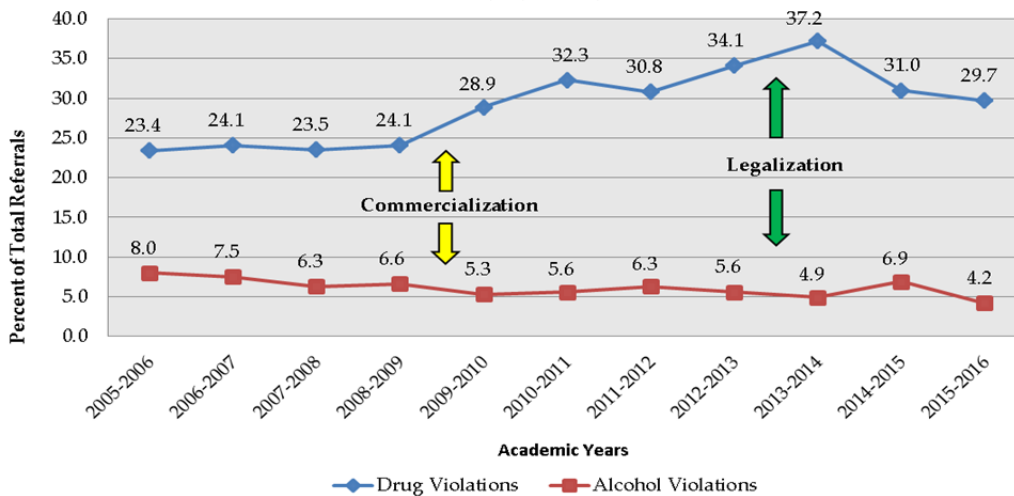
### Percent of Total Expulsions in Colorado



SOURCE: Colorado Department of Education, 10-Year Trend Data : State Suspension and Expulsion Incident Rates and Reasons

❖ In school year 2015/2016, 58 percent of all drug related expulsions were for marijuana violations.

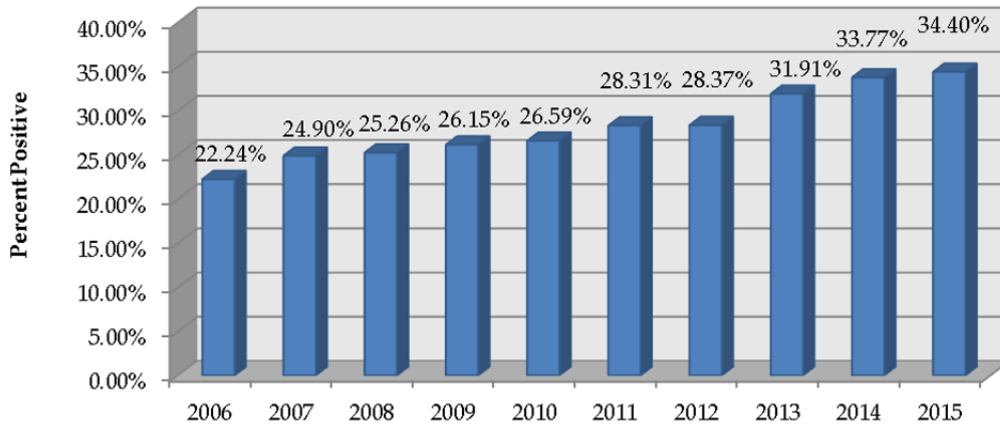
### Percent of Total Referrals to Law Enforcement in Colorado



SOURCE: Colorado Department of Education, 10-Year Trend Data : State Suspension and Expulsion Incident Rates and Reasons

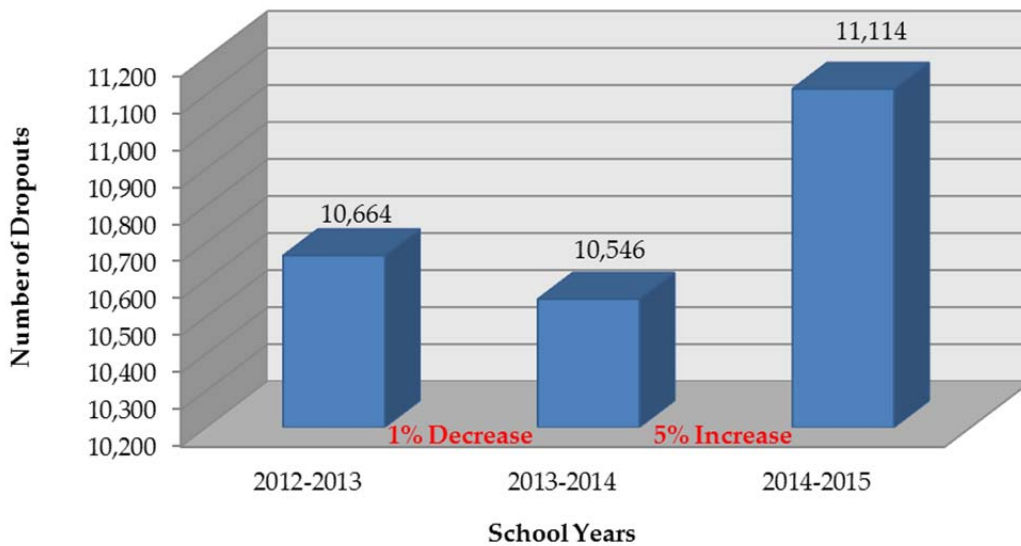
❖ In school year 2015/2016, 73 percent of all drug related referrals to law enforcement were for marijuana violations.

### Colorado Probation Percent of All Urinalysis Tests Positive for Marijuana Youth Ages 10 - 17 Years Old



SOURCE: Division of Probation Services/State Court Administrator’s Office

### Colorado School Dropouts



SOURCE: Colorado Department of Education

**NOTE:** ROCKY MOUNTAIN HIDTA HAS BEEN ASKED ABOUT THE NUMBER OF SCHOOL DROPOUTS IN COLORADO NUMEROUS TIMES AND IS, THEREFORE, PROVIDING THE DATA. ROCKY MOUNTAIN HIDTA IS NOT EQUATING THE NUMBER OF DROPOUTS WITH MARIJUANA LEGALIZATION.

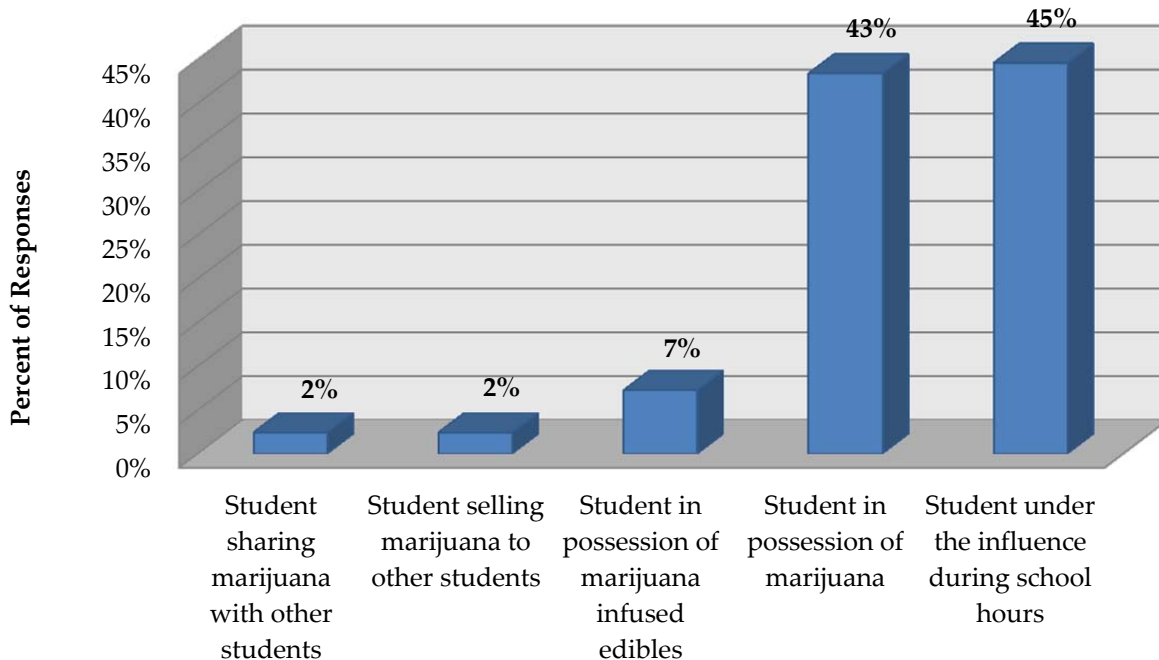


Colorado School Resource Officer Survey

In June 2016, 103 school resource officers (SRO) participated in a survey concerning marijuana in schools. The majority were assigned to high schools with an average tenure of six years as an SRO. They were asked for their professional opinion on a number of questions, including:

- Since the legalization of recreational marijuana, what impact has there been on marijuana-related incidents at your school?
  - 82 percent reported an increase in incidents
  - 12 percent reported no change in incidents
  - 6 percent reported a decrease in incidents
  
- What were the most predominant marijuana violations by students on campus?
  - 45 percent reported being under the influence during school hours
  - 43 percent reported possession of marijuana
  - 7 percent reported possession of marijuana-infused edibles
  - 2 percent reported selling marijuana to other students
  - 2 percent reported sharing marijuana with other students

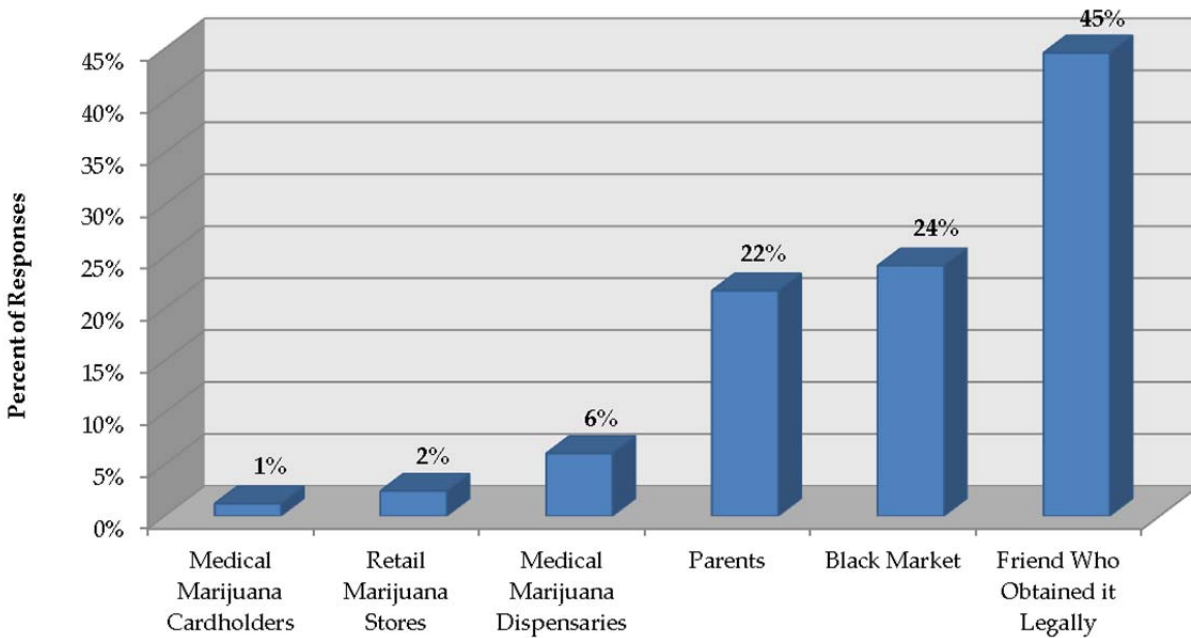
**Predominant Marijuana Violations, 2016**



SOURCE: Colorado Association of School Resource Officers (CASRO) and Rocky Mountain HIDTA

- Where do the students get their marijuana?
  - 45 percent reported friends who obtain it legally
  - 24 percent reported from the black market
  - 22 percent reported from their parents
  - 6 percent reported from medical marijuana dispensaries
  - 2 percent reported from retail marijuana stores
  - 1 percent reported from medical marijuana cardholders

**Student Marijuana Source, 2016**



SOURCE: Colorado Association of School Resource Officers (CASRO) and Rocky Mountain HIDTA

**Some Comments from School Resource Officers**

**High at School:** “Multiple incidents of students leaving campus during lunch, smoking marijuana and returning to campus under the influence.”

**Home Grows:**

- “Children coming in clothes smelling like marijuana.”
- “Incidents are slightly up from last year but seeing an increase in BHO [butane hash oil] (homemade). Had an incident in which 2 elementary students came to school smelling of product. Father had a licensed care giver operation and was growing 160 plants in house. DHHS took no action because of the grow being legal.”

**Middle School Users:** “On several occasions students have shown up to school obviously high on marijuana. When asked where they obtained the drug it's 50-50 parents or friends. I have seen this at the 6th grade level, but mostly 8th grade level. Hardest part telling kids that marijuana usage at an early age is detrimental to brain growth, but some tell me that my mom and dad say it's ok.”

**Getting High and Skipping Class:** “The amount of marijuana use/sales has climbed since it became legal for legal users. One of the primary problems I see is the strength (potency) of the marijuana. Students use on a break/lunch and cannot return to class, therefore the truancy rates are high.”

**School Marijuana Use on the Rise:** “Students at the middle and high school levels have brought leaf marijuana, edibles, and paraphernalia to school either for personal use or to share with others. They tend to store said items in their cars, backpacks, and other personal belongings. Having worked in the schools before Marijuana was legal and then returning after legalization the number of middle school students who are using and exposed to marijuana seems to be on the rise in my opinion.”

**“Legal” Users Selling to Kids:** “Former students gather across the street from school and sell to current students. Sellers are either 21+ years old or 18 & have medical marijuana cards.”

**Home Environment Encourages Use:** “8th grade kid high at school he and 6th grade sister both smoke marijuana at home with parents while watching TV at night. Parents also let both eat marijuana edibles that parents make. Search warrant in home has illegal grow, but much finished products (marijuana) and other drugs and stolen gun.”

**Edibles Resulting in Paramedics:** “In Feb. 2016 a juvenile male brought edibles into the school. The male gave it out to several students and consumed himself. Paramedics were called and the male was transported to the ER. The juvenile’s parent was a user and the source of the edibles.”

**Elementary Students Defending Pot Use:** “I have taught D.A.R.E over 20 years. The attitude towards marijuana has drastically changed among grade school kids. They are more vocal in defending the useful purpose and benefits of marijuana. Kids defend parent and sibling use. I asked a 5th grade boy what he thought he would be doing when he was 25 years old. He replied ‘work in a weed shop.’ I asked why he chose that for a job, he said ‘because that's what my dad wants me to do.’ Common parenting in my community. I have seen a large increase in pro-marijuana clothing in students 4-

12 grades. I have a large Native American population of students in my classes. Many will defend the use of marijuana as they are taught it is medicine and has always been so in their culture, no matter if legal or not by 'the white man laws.' Many Native American students have explained to me the use of marijuana is a 'right of passage.'"

**Buying Marijuana on Facebook:** "There has been a definite increase in hash/marijuana concentrate at the school. There has also been a significant increase in delivery methods showing up at school (pipe/vape pens/etc.). I have also seen the increase in the use of social media to buy their product. Just go to a certain Facebook page, order your hash/marijuana and the sellers will deliver the product to the local park by your home. I had a case this year (2016) where I now have a warrant out for an adult for selling marijuana to a child and contributing to the delinquency of a child and the deal was made on Facebook and was sold at a business near the school. Internet sales are a booming business in the marijuana world."

**Regular Marijuana Use:**

- "Students at alternative high school come to school high or leave campus and get high and don't return to school. Students admitting getting high on regular basis 3-4 times a week and usually high most of the weekend. Alcohol also involved. Middle school students report experimenting with marijuana. Few (3-4) report smoking once a month."
- "Many students skip their study period just prior to lunch and return from lunch high on marijuana. This is pretty much a daily occurrence."

**Medical Marijuana Diversion:** "In April 2016 three students were in parking lot of school smoking marijuana. One student recently turned 18 and shortly after, obtained medical MJ card. That student was sharing with the other two. Student contacted with MJ at Prom. Had recently turned 18 and then got medical MJ card. That led to discovery of possession of alcohol. January 2016 sophomore student found near campus selling marijuana to other students. Suspended by school, court gave diversion."

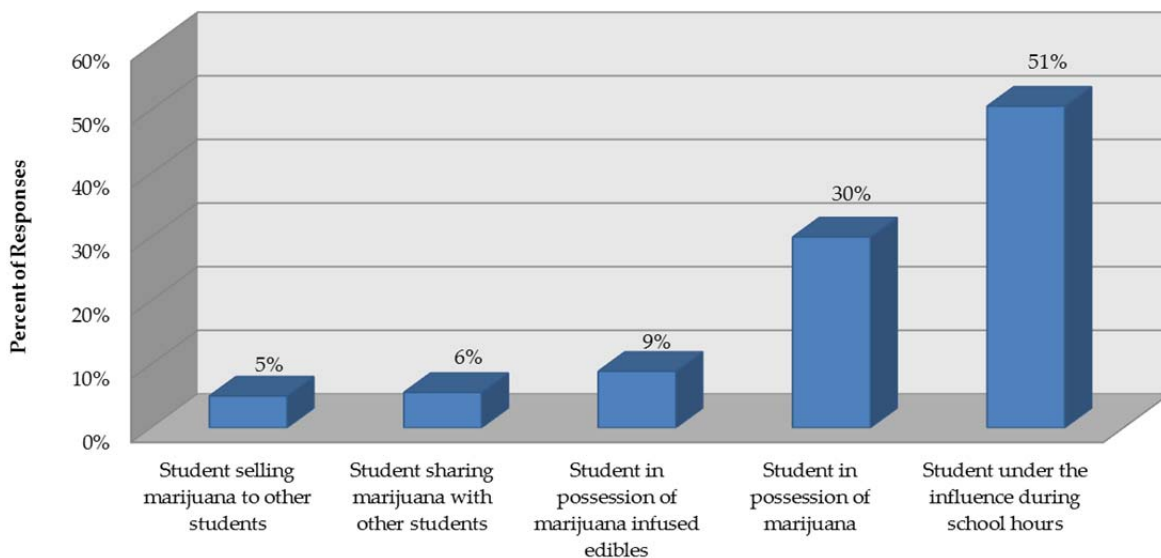
School Counselor Survey

❖ The Colorado School Counselor Association elected not to participate in a 2016 survey.

In August 2015, 188 school counselors participated in a survey concerning the legalization of marijuana in schools. The majority were assigned to high schools with an average tenure of ten years. They were asked for their professional opinion on a number of questions including:

- Since the legalization of recreational marijuana, what impact has there been on marijuana-related incidents at your school?
  - 69 percent reported an increase in incidents
  - 30 percent reported no change in incidents
  - 2 percent reported a slight decrease in incidents
  
- What were the most predominant marijuana violations by students on campus?
  - 51 percent reported being under the influence during school hours
  - 30 percent reported possession of marijuana
  - 9 percent reported possession of marijuana-infused edibles
  - 6 percent reported sharing marijuana with other students
  - 5 percent reported selling marijuana to other students

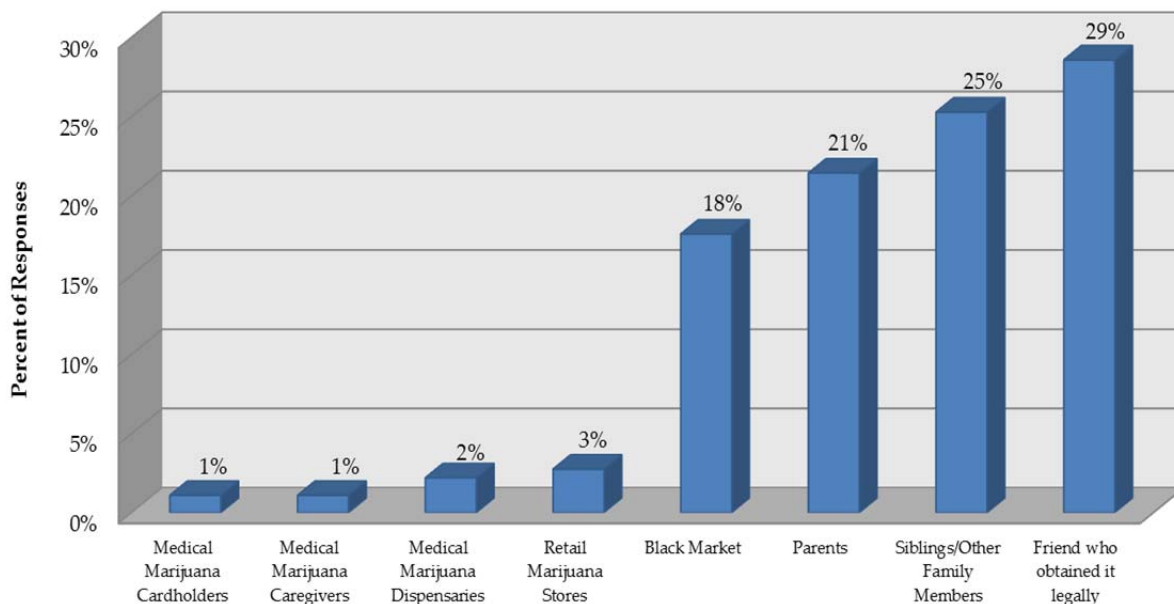
**Predominant Marijuana Violations, 2015**



SOURCE Colorado School Counselor Association (CSCA) and Rocky Mountain HIDTA

- Where do the students get their marijuana?
  - 29 percent reported friends who obtain it legally
  - 25 percent reported from their siblings or other family members
  - 21 percent reported from their parents
  - 18 percent reported from the black market
  - 3 percent reported from retail marijuana stores
  - 2 percent reported from medical marijuana dispensaries
  - 1 percent reported from medical marijuana cardholders
  - 1 percent reported from medical marijuana caregivers

**Student Marijuana Source, 2015**



SOURCE Colorado School Counselor Association (CSCA) and Rocky Mountain HIDTA

**Some Comments from School Counselors**

**Halls Reek of Pot After Lunch:**

- “Many kids come back from lunch highly intoxicated from marijuana use. Halls reek of pot, so many kids are high that it is impossible to apprehend all but the most impaired.”
- “They go off campus and smoke during lunch with friends. They will run home with friends during lunch and smoke then.”

- “There have been several instances of students in their cars on lunch or during their off hours ‘hotboxing’ or smoking marijuana. Most students are seniors but on occasion, seniors will provide marijuana to 9<sup>th</sup> or 10<sup>th</sup> grade students.”
- “2014/2015 school year, several students caught coming back from off-campus lunch under the influence of marijuana.”
- “Had a student come back from lunch, teacher believed that they were high. Student was escorted to the office, student admitted they were indeed high to the administrator.”
- “Students are often referred after lunch (open campus) after they have been riding around smoking marijuana with their friends.”
- “More and more students are coming back to school high after lunch.”
- “In April 2015, students were going out for a break. 2-3 students smoked marijuana about a block away from school. They smelled like pot when they got back.”

**Just a Plant:** “In March of 2015 a fifth grade boy offered marijuana to another fifth grader on the playground. In October of 2014 a kindergarten girl described the pipe in her grandmother’s car and the store where you go to buy pipes. In May of 2015 a first grade girl reported that her mom smokes weed in the garage. ‘It’s not a drug, it’s just a plant.’”

**Arrives at School Stoned:**

- “At the beginning of the second semester, three middle school boys were routinely arriving late at school, and noticeable intoxicated.”
- “We have middle school students who either come to school high, or have it on them in a bag. Or they have pipes on them.”
- “In May 2015, a teacher witnessed 2 seniors smoking marijuana while driving to school. One student admitted to having done so; the other denied it.”
- “Teaching a lesson in class during first period that started 7:30 AM and 2 students were already high in class.”
- “A male 13 y/o student fell asleep in several classes. He was interviewed by the school counselor and the RSO (sic). He was assessed as being high and admitted that he uses marijuana often before school. He steals it from his older brother.”
- “12 yr. old, sixth grader, was suspected of coming to summer school high. When confronted he told the teacher that he smoked it at home the night before but denied being high at the time. Later, he confirmed that he had smoked early that morning. The marijuana came from his mother’s stash.”

**New Use of Bathrooms:**

- “2 students were smoking marijuana in the restroom last year.”
- “8<sup>th</sup> grade male student had marijuana in his locker, classmates reported it. 8<sup>th</sup> grade female student smoked a joint in a school bathroom during school hours. Shared it with a friend.”
- “7<sup>th</sup> grade girl last year had hidden marijuana and a pipe in the girl’s restroom and told several friends who began getting bathroom break passes from various classrooms. Security noted an increased traffic flow to and from that restroom and found the weed and soon after the violators.”

**It’s Legal:**

- “3 or 4 times in the last school year, students have come to school under the influence after meeting at homes where parents were absent, sharing marijuana off campus and then bringing it on campus. 7<sup>th</sup> and 8<sup>th</sup> grade students have been involved, and most often their reaction when caught is ‘it’s legal’.”
- “I met with at least 5 students last year alone that have been showing significant signs of drug use or were caught and they all said they will not stop using weed on a daily basis. Their justification was it’s fine because it’s legal. If it’s legal it’s not as bad as what adults say about the risks.”

**Grades Decline:** “I would like to say that in general our Marijuana incidents have not gone up. We have a savvy population that knows to keep it away from school. However, I have seen a huge spike in talking with kids about it in my sessions. Last year I had two very intelligent students (above 4.0) that used marijuana 2-6 times a week. Both of them had grades decline and significant social emotional issues spike in the Spring of their Senior Year. They also both had violations at school.”

**Dad Allows Pot Smoking:** “We had reports of two students (brothers) appear to be high at school. Our officer assessed both of them and discovered that their father, who had a medical marijuana card, was having them both “smoke a bowl” before school. He thought it would make their school day easier.”

**Parents High:** “At our elementary school, we have noticed an increased number of parents showing up to school high. Kids have also brought [marijuana] to school to show their friends.”

**Difficulty in Assessment:** “For school personnel, it is more difficult to evaluate what substance a student is under the influence of. We can smell alcohol and smoked marijuana but the edibles and vapes are hard to detect.”



**Warning: Drug Canines:** “I would like to just offer that we need policy that allows for more use of drug dogs and not having to forewarn students or parents when these dogs will be present. Students and especially dealers, the ones we need to catch, are very vigilant in making adjustments when these resources are used.”

## Youth Use Surveys Not Utilized and Why

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- ❖ **After careful analysis and consideration, Rocky Mountain HIDTA did not use the following datasets in this report because of the following reasons:**

### Healthy Kids Colorado Survey (HKCS)

The HKCS shows a 7.6 percent increase in student marijuana use from 2013 (19.7 percent) to 2015 (21.2 percent). According to a front page article in *The Denver Post* (June 21, 2016), the increase was not statistically significant and thus “Pot use among Colorado teens flat.” In fact, *The Denver Post* editorial board released an editorial on June 22, 2016 titled “Colorado’s good news on teen pot use.” An analysis of the data paints a different picture of student marijuana use in Colorado. For a detailed analysis and actual data, go to [www.rmhidta.org](http://www.rmhidta.org) and click on the Reports tab to read “Colorado Youth Marijuana Use: Up – Down – Flat? Examine the Data and You Decide!” Some of the data in this survey include the following:

#### Bad News

- Marijuana use among Colorado high school junior and senior students increased 19 percent and 14 percent respectively.
- One out of 3 Denver high school juniors and seniors surveyed are marijuana users, a 20 percent increase.
- There was nearly a 50 percent increase in the Boulder/Broomfield region high school junior and senior marijuana users.
- Colorado mountain resort communities (Region 12) saw a 90 percent increase in marijuana users among their high school seniors and a 54.7 percent increase among sophomores.
- Other rural mountain communities (Region 11) saw increases of 22.2 percent for freshmen, 72.0 percent for sophomores, 18.8 percent for juniors and 57.3 percent for seniors.
- Ten out of the 17 regions, with sufficient participation to be counted, saw an overall increase in marijuana use.

- Only 48 percent of high school students surveyed see marijuana as risky compared to 54 percent of those surveyed two years earlier.

### **Yes, There is Good News**

- The rural western area (Region 10) had a major decrease in marijuana users in all four high school grades. This decrease was 51.8 percent among freshmen to 24.7 percent among seniors.
- Rural mountain communities (Region 17) saw an overall 17.1 percent decrease including a 53.7 percent drop in freshmen marijuana users and a 34.3 percent drop in senior users. However, the survey does show an increase in sophomore users (12.7 percent) and junior users (7.6 percent).
- Seven out of 17 regions, with sufficient participation to be counted, saw an overall decrease in marijuana users.
- The question should be raised as to what message is getting through to students in the regions experiencing overall decreases in marijuana use but missing in those regions experiencing increases in use.

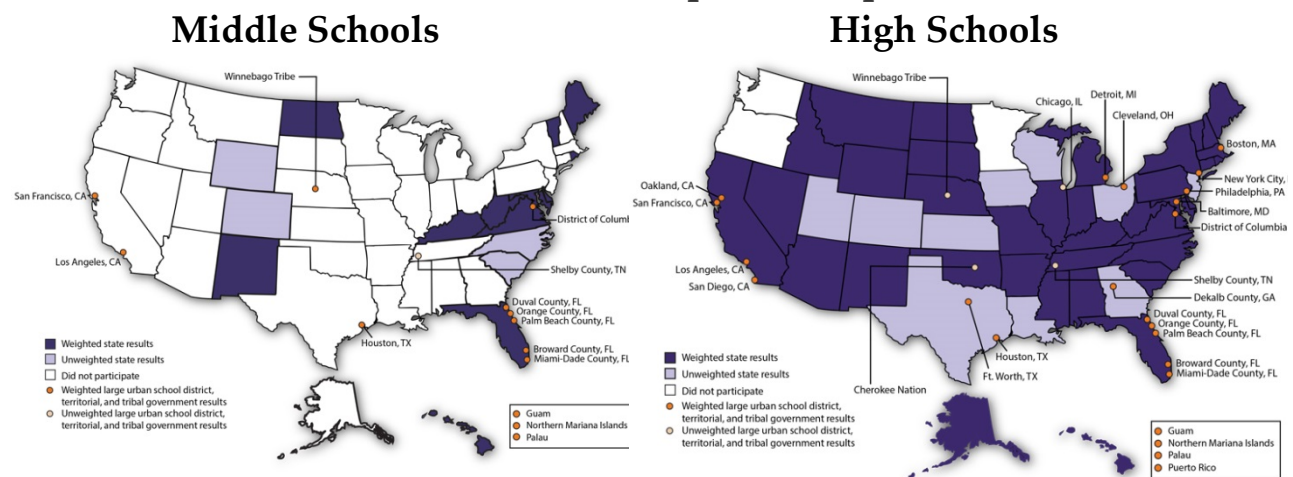
### **Other Potentially Pertinent Information**

- The article cites the Centers for Disease Control's Youth Risk Behavior Survey (YRBS) to indicate that "marijuana use among teens nationwide also remains flat..." They failed to mention that Oregon and Washington, states with legalized marijuana, and Minnesota did not participate in the 2015 YRBS. There were also ten states, including Colorado, with unweighted results because their state survey participation rate did not meet the 60 percent participation standard set by YRBS.
- In 2015 the HKCS survey had a response rate of 46 percent. Even though HKCS samples a large number of students, their participation rate is below the industry standard for weighted data.
- Jefferson County (the 2<sup>nd</sup> largest school district), Douglas County (the 3<sup>rd</sup> largest school district), El Paso County (which includes Colorado Springs, 2<sup>nd</sup> largest metro area), and Weld County results were listed as N/A which means data not available due to low participation in the region. NOTE: This is a similar reason why Colorado results were considered unweighted by the national YRBS survey.

### Centers for Disease Control Youth Risk Behavior Survey (YRBS)

In 2015, Colorado fell short of the required 60 percent participation rate and was, therefore, not included with weighted data in this survey. Additionally, upon further review, it was discovered that since 1991 the state of Colorado has only been represented in the High School YRBS survey with weighted data four times. Since 1995, Colorado has only been represented in the Middle School YRBS survey by weighted data twice. States that participated in the 2015 Middle School and High School YRBS surveys are represented in dark purple in the below maps. It should be noted, in 2015, high schools in the following ten states were not included with weighted high school data: Utah, Colorado, Kansas, Texas, Louisiana, Georgia, Iowa, Wisconsin, Ohio, and New Jersey. Washington, Oregon, and Minnesota did not participate in the survey.

### Centers for Disease Control Youth Risk Behavior Survey 2015 YRBS Participation Map



SOURCE: Centers for Disease Control and Prevention, Adolescent and School Health, YRBS Participation Maps and History <<http://www.cdc.gov/healthyyouth/data/yrebs/participation.htm>>

### Monitoring the Future (MTF) Study:

Monitoring The Future is designed to be nationally-represented and not state-represented. MTF does not provide usable estimates for the specific state of Colorado because of the state’s relatively small size. Colorado is only 1.6 percent of the total U.S. population; thus, the sampling would only be 1.6 percent of Colorado schools (400) or about 6 schools per year. Since 2010, the survey sampled an average of 4.6 Colorado schools. In 2014 and 2015, there were four schools surveyed each year of which three

were eighth grade. Therefore, the MTF study is not useful for state data pertaining to Colorado for school-age drug use data and trends.

## Related Material

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**American Academy of Pediatrics (AAP) – Oppose Legalization:** In a policy statement issued by the American Academy of Pediatrics, the organization declares their recommendations regarding legalization of marijuana in regard to the effects on our youth:

“Given the data supporting the negative health and brain development effects of marijuana in children and adolescents, ages 0 through 21 years, the AAP is opposed to marijuana use in this population.” Additionally, the AAP declares that they, “Oppose legalization of marijuana because of the potential harms to children and adolescents. The AAP supports studying the effects of recent laws legalizing the use of marijuana to better understand the impact and define best policies to reduce adolescent marijuana use.” Furthermore, the AAP, “Opposes the use of smoked marijuana because smoking is known to cause lung damage, and the effects of secondhand marijuana smoke are unknown.” Lastly, the AAP discourages the use of marijuana by adults due to the influence on children and adolescent behavior.<sup>1</sup>

**American College of Pediatricians (ACP): Marijuana Harmful to Youth, Oppose Legalization:** An article published and reviewed by the ACP states, “Although increasing legalization of marijuana has contributed to the growing belief that marijuana is harmless, research documents the risks of its use by youth are grave. Evidence indicates limited legalization of marijuana has already raised rates of unintended marijuana exposure among young children, and may increase adolescent use. Therefore, the American College of Pediatricians supports legislation that continues to restrict the availability of marijuana...”

Supporting evidence that the ACP cites regarding youth marijuana abuse includes:

- According to CDC data, more teens are now smoking marijuana than cigarettes.
- Researchers in Colorado found that approximately 74 percent of adolescents in substance abuse treatment had used someone else’s medical marijuana, a potential byproduct of legalization.
- The National Institute of Drug Abuse- (NIDA) funded *Monitoring the Future* study of the year 2012 showed that 12.7 percent of 8th graders, 29.8 percent of 10th graders, and 36.4 percent of 12th graders had used marijuana at least once in the year prior to being surveyed. They also found that 7, 18 and 22.7 percent respectively for these groups used marijuana in the past month.

- The number of current (past month) users aged 12 and up increased from 14.5 to 18.9 million since 2007.
- Marijuana is the leading illicit substance mentioned in adolescent emergency department admissions and autopsy reports, and is considered one of the major contributing factors leading to violent deaths and accidents among adolescents.
- Approximately 9 percent of users overall become addicted to marijuana, about 17 percent of those who start during adolescence become addicted.

In summary, marijuana use is harmful to children and adolescents. For this reason, the American College of Pediatricians opposes its legalization for recreational use and urges extreme caution in legalizing it for medicinal use. Likewise, the American Academy of Child and Adolescent Psychiatry (AACAP) recently offered their own policy statement opposing efforts to legalize marijuana.<sup>2</sup>

#### **Pot Science – Top Marijuana Findings of 2015:**<sup>3</sup>

- A study published in the journal *JAMA Psychiatry* examined brain scans in pairs of same-sex siblings, including some sets of twins. The researchers found that teens who had smoked marijuana – even once – had smaller brain volume in the amygdala compared with teens who never tried pot. The amygdala is involved in processing emotions and seeking rewards.
- Researchers have found that marijuana could play a role in cortical thinning (the cortex is the outer layer of the brain), which may alter brain development in teens.
- One in five high school students who use e-cigarettes has also tried using these devices to vape pot, reported a Connecticut study of nearly 4,000 teens (released September 2015).

**Democrat Governor – Legalizing Pot Was ‘Reckless’:** In a gubernatorial debate Colorado Governor John Hickenlooper stated, “I think for us to do that [legalize recreational use] without having all the data, there is not enough data, and to a certain extent you could say it was reckless.” A study that speaks to this sentiment was published in the *Journal of Addiction* by professor Wayne Hall of Kings College, London shows that marijuana is highly addictive, causes mental health problems and is a gateway drug to other illegal dangerous drugs. The study confirms that regular adolescent marijuana users have lower educational attainment than non-using peers, users are more likely to use other illegal drugs, adolescent use produces ‘intellectual impairment,’ marijuana use doubles the risk of being diagnosed with schizophrenia, and marijuana use increases the risk of heart attacks in middle-aged adults.<sup>4</sup>

**Colorado Educators Concerned About Pot in Public Schools:**<sup>5</sup>

- Authorities are referring to marijuana as the No. 1 issue Colorado schools face. According to Christine Harms, director of the Colorado School Safety Resource Center, “Our students are paying the price.”
- “At first, I thought it was similar to alcohol and that the kids would do it anyway and all that, but it’s like they’re disguising alcohol as Kool-Aid and marketing it to kids. These edibles are cookies and gummy bears, and they’re filled with high amounts of THC. There’s a shift in culture, kids see their parents smoking it and see it marketed everywhere, and they think it’s normal and OK for them to do.”
  - Jeff Whitmore, director of transportation for Bayfield School District in Southwestern Colorado

**Teens Who Use Cannabis at Risk of Schizophrenia:**<sup>6</sup>

- In a study performed by researchers from Western University in Ontario, Canada, long-term exposure to THC in mice was linked to several characteristics present in schizophrenics. Adolescent rodents with THC exposure were socially withdrawn and demonstrated increased anxiety, cognitive disorganization and abnormal levels of dopamine, all of which are features of schizophrenia. These changes continued into early adulthood, well past the initial exposure.
- “Adolescence is a critical period of brain development, and the adolescent brain is particularly vulnerable. Health policy makers need to ensure that marijuana, especially marijuana strains with high THC levels, stays out of the hands of teenagers.”
  - Steven Laviolette, PhD – led the research at Western University, Ontario, Canada

**Something Interesting Happens to Weed After It’s Legal:** Researchers from the Pardee RAND Graduate School and Carnegie Mellon University examined prices of marijuana in Washington over the course of the first two years of recreational legalization. As one might suspect, prices of both retail and wholesale marijuana have plummeted. Currently, prices are falling at about 2 percent per month, which equates to an approximate 25 percent drop every year going forward. For consumers of pot, the decrease in price will affect different populations in different ways. For example: young users are typically more “price sensitive” consumers; therefore, their use of inexpensive pot may rise over time, as might that of problematic marijuana users.<sup>7</sup>

**America's Youth – The Marijuana Martyrs:**<sup>8</sup>

- Colorado and Washington, the first two states to legalize, were among the top three states with the largest increases in youth homelessness from 2013 to 2014. In each state, the youth homelessness rate grew by 27 and 13.3 percent respectively in just one year.
- Colorado now ranks number one for regular marijuana use among youth (U.S. Department of Health and Human Services). This proud achievement only came incrementally, though; Colorado once ranked a distant 14th in the country for youth usage. Once again, this jump in the rankings coincided with Colorado's 2012 passage of Amendment 64, which legalized marijuana for recreational use.
- Average use among teens in recreational/medical marijuana states rests at 10.5 percent compared to 8.9 percent in states where it is only legal for medicinal purposes and 6.1 percent in states where the drug is banned altogether. In other words, there is a direct correlation between availability of marijuana and teen usage.
- According to Arapahoe House Treatment network in Colorado, teenage admissions for marijuana addiction in Colorado increased by 66 percent between 2011 and 2014, again correlating with the 2012 passage of Amendment 64.
  - Ninety-five percent of the teenagers treated for substance abuse and addiction in my adolescent substance-abuse treatment clinic at Denver Health are there because of their marijuana use, and because nationwide, 67 percent of teens are referred to substance treatment because of their marijuana use. Marijuana is the No. 1 reason why adolescents seek substance-abuse treatment in the United States. (*Dr. Christian Thurstone, University of Colorado*)
- A comprehensive New Zealand study of 1,000 individuals over many years found that participants who used cannabis heavily in their teens had an astonishing average loss of 8 IQ points.

**Impact of Legalization on Youth:** In a report written by Dr. Kenneth Finn, MD and Rochelle Salmore, MSN, RN, some effects of marijuana legalization on our youth in CO are described from the eyes of medical professionals:

“The effects on learning and education related to cannabis use have been documented extensively, and Colorado school expulsions for drug related reasons increased 40% between 2008 and 2014, citing marijuana as the most commonly abused substance. In addition, the American Academy of Neurology recently recommended no cannabis use for children, adolescents, or adults until further study is done. Cannabis has a known addictive potential, particularly in the developing brain, and has a well-described withdrawal syndrome. Nationally there are 7.15% adolescents using

cannabis, but in Colorado this figure is 11.16%. Furthermore, the addiction rate is higher for adolescents (approximately 18%) than for adults (approximately 9%).”<sup>9</sup>

**Legalizing Marijuana and the Opiate Epidemic:** New science suggests that teenagers who use marijuana increase their risk of opiate addiction later in life. For example, a 20-year-old who takes an opiate painkiller for a skiing injury or wisdom tooth removal may be much more at risk of becoming addicted to that painkiller as a result of his or her earlier marijuana use – no matter how insignificant that earlier use may seem. This science puts some teeth behind the old-school term “gateway drug.”

A study of rodents, conducted at the Hurd Laboratory at the Mount Sinai School of Medicine, showed that rodents exposed to THC in the adolescent years had offspring that were primed for addiction. The research has yet to be reproduced in humans, but other studies on trans-generational effects of other drugs in humans appear consistent with the discoveries in rodents.<sup>10</sup>

## Sources

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<sup>1</sup> Committee on Substance Abuse, Committee on Adolescence, Pediatrics 2015;135;584; originally published online January 26, 2015; DOI: 10.1542/peds 2014-4146, “The Impact of Marijuana Policies on Youth: Clinical, Research, and Legal Update,” <<http://pediatrics.aappublications.org/content/pediatrics/135/3/584.full.pdf>>, accessed June 10, 2016

<sup>2</sup> American College of Pediatricians, April 2016, “Marijuana Use: Detrimental to Youth,” <<http://www.acped.org/marijuana-use-detrimental-to-youth>>, accessed June 20, 2016, accessed June 10, 2016

<sup>3</sup> Cari Nierenberg, Live Science, December 29, 2015, “Pot Science: Top Marijuana Findings of 2015,” <<http://www.livescience.com/53218-top-marijuana-scientific-findings-2015.html>>, accessed December 29, 2015

<sup>4</sup> Charles “Cully” Stimson, *The Daily Signal*, October 8, 2014, “Democrat Governor: Legalizing Pot Was ‘Reckless.’ A New Study Proves Him Right,” <<http://dailysignal.com/2014/10/08/dem-gov-legalizing-pot-colo-reckless-new-study-proves-right/>>, accessed June 9, 2016



<sup>5</sup> Elizabeth Hernandez, October 14, 2015, *The Denver Post*, "Colorado educators concerned about pot in public schools," <<http://www.denverpost.com/2015/10/14/colorado-educators-concerned-about-pot-in-public-schools/>>, accessed October 15, 2015

<sup>6</sup> Yvette Brazier, Medical News Today (MNT), January 17, 2016, "Teens who use cannabis at risk of schizophrenia," <<http://www.medicalnewstoday.com/articles/305151.php>>, accessed June 9, 2016

<sup>7</sup> Keith Humphreys, *The Washington Post*, May 4, 2016, "So, something interesting happens to weed after it's legal," <<https://www.washingtonpost.com/news/wonk/wp/2016/05/04/the-price-of-legal-pot-is-collapsing/>>, accessed May 4, 2016

<sup>8</sup> Kayleigh McEnanny, Above the Law, December 31, 2015, "America's Youth: The Marijuana Martyrs," <<http://abovethelaw.com/2015/12/americas-youth-the-marijuana-martyrs/>>, accessed January 25, 2016

<sup>9</sup> Kenneth Finn, M.D., "The Hidden Costs of Marijuana Use in Colorado: One Emergency Department's Experience," *The Journal of Global Drug Policy and Practice*, <[http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado\\_Final.pdf](http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado_Final.pdf)>, accessed May 17, 2016

<sup>10</sup> Heidi Heilman, *New Boston Post*, March 4, 2016, "Legalizing marijuana will increase our opiate epidemic," <<http://newbostonpost.com/2016/03/03/legalizing-marijuana-will-increase-our-opiate-epidemic/>>, accessed March 4, 2016

# ***SECTION 3: Adult Marijuana Use***

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## Some Findings

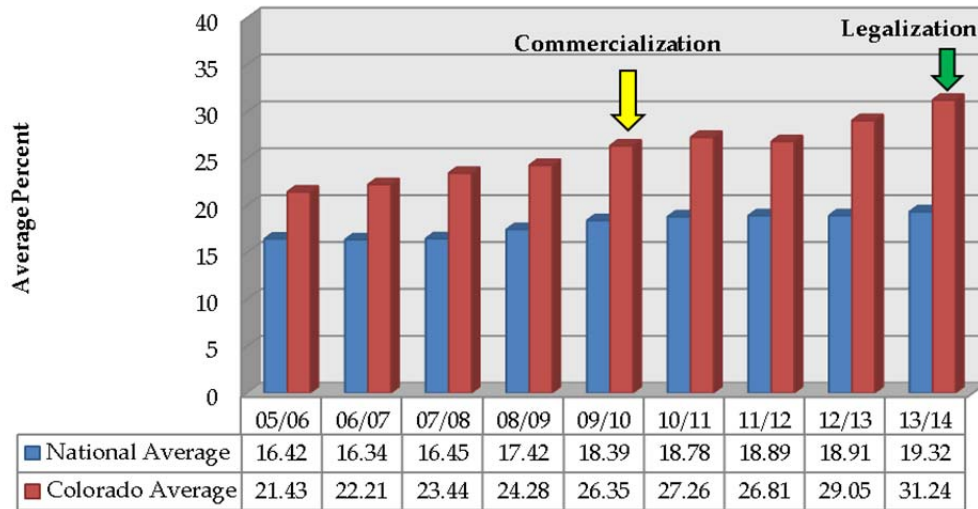
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- College age past month marijuana use increased **17 percent** in the two-year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally college age past month marijuana use **increased 2 percent** during the same timeframe.
- The latest 2013/2014 results show Colorado college age adults ranked **#1** in the nation for past month marijuana use, up from **#3** in 2011/2012 and **#8** in 2005/2006.
- Colorado college age past month marijuana use for 2013/2014 was **62 percent higher** than the national average compared to **42 percent higher** in 2011/2012.
- Adult past-month marijuana use **increased 63 percent** in the two-year average (2013/2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011/2012).
  - Nationally adult past month marijuana use **increased 21 percent** during the same timeframe.
- The latest 2013/2014 results show Colorado adults ranked **#1** in the nation for past month marijuana use, up from **#7** in 2011/2012 and **#8** in 2005/2006.
- Colorado adult past month marijuana use for 2013/2014 was **104 percent higher** than the national average compared to **51 percent higher** in 2011/2012.
- The top ten states for the highest rate of current marijuana use for 2013-2014 were all medical-marijuana states.

Data

College Age 18 to 25 Years Old

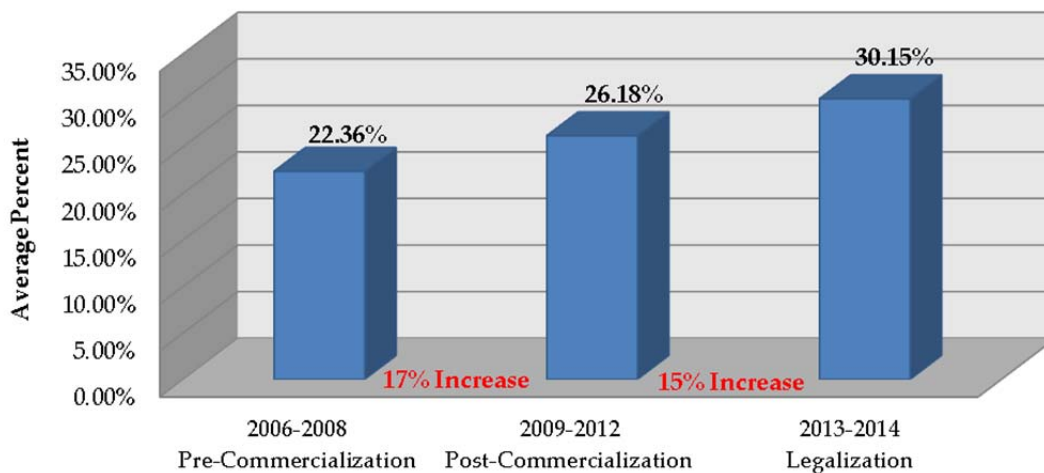
Past Month Marijuana Use  
College Age 18 to 25 Years Old



Annual Averages of Data Collection

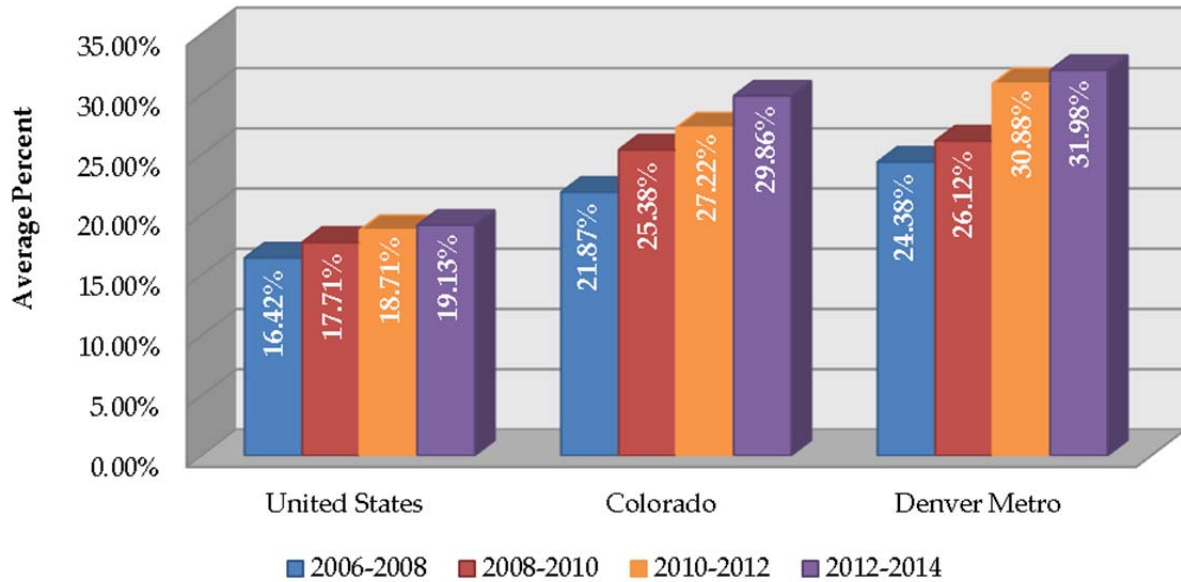
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

Average Past Month Use of Marijuana  
College Age 18 to 25 Years Old



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

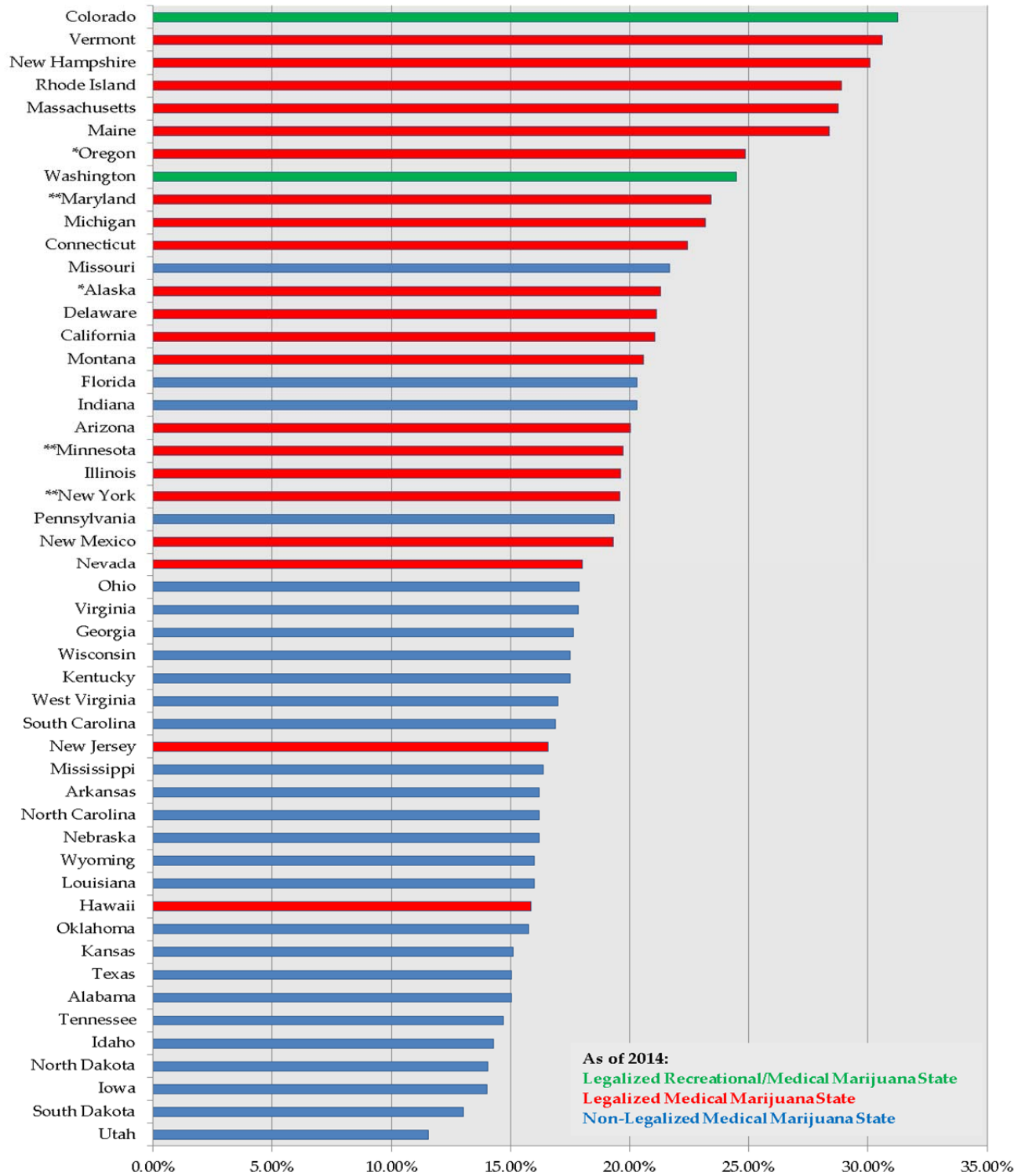
## Prevalence of Past 30-Day Marijuana Use College Age 18 to 25 Years Old



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, Substate Region Estimates 2006-2014

**NOTE:** SUBSTATE DATA IS ONLY AVAILABLE FROM THE NATIONAL SURVEY ON DRUG USE AND HEALTH IN THE ABOVE TIMEFRAMES.

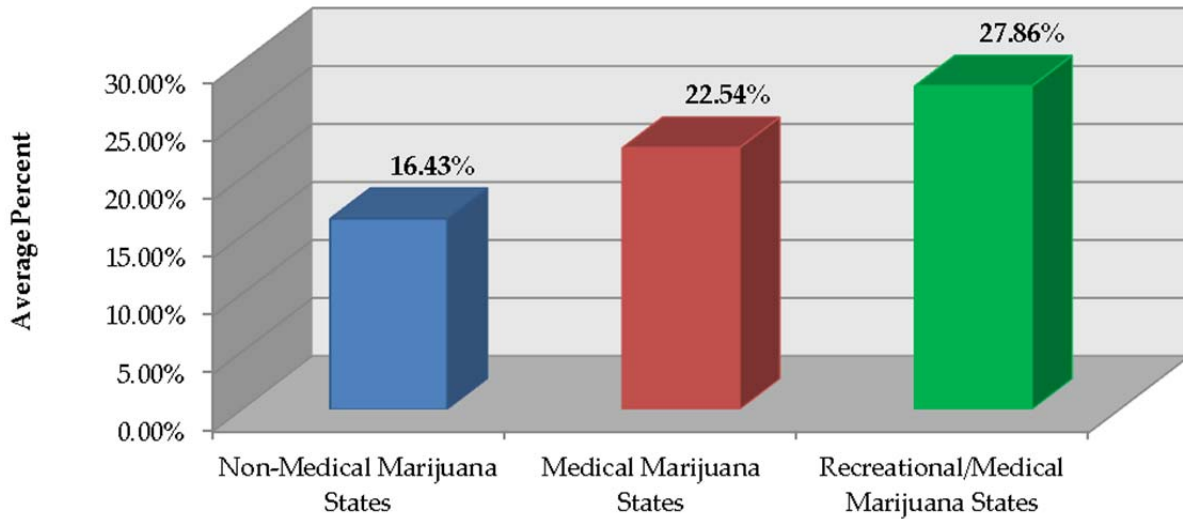
### Past Month Usage, 18 to 25 Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

NOTE: \*Oregon and Alaska voted to legalize recreational marijuana in November 2014  
 \*\*States that had legislation for medical marijuana signed into effect during 2014

## Average Past Month Use College Age 18 to 25 Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

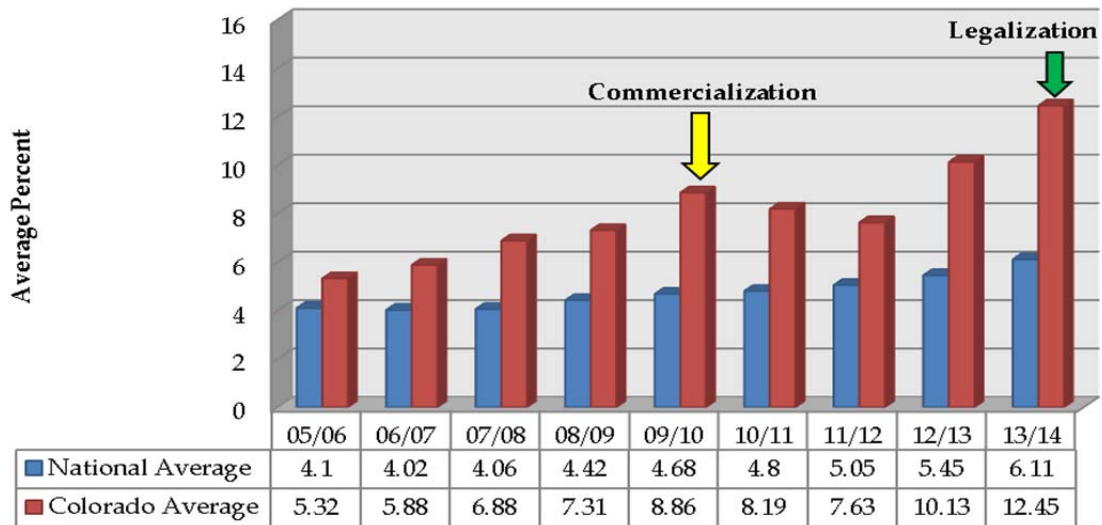
## States for Past Month Marijuana Use College Age 18 to 25 Years Old, 2013/2014

<u>Top 10</u> (Medical/Recreational States)	<u>Bottom 10</u> (Non-Medical or Recreational States)
<b>National Average = 19.32%</b>	
<ol style="list-style-type: none"> <li>1. Colorado – 31.24%</li> <li>2. Vermont – 30.60%</li> <li>3. New Hampshire – 30.09%</li> <li>4. Rhode Island – 28.90%</li> <li>5. Massachusetts – 28.74%</li> <li>6. Maine – 28.38%</li> <li>7. Oregon – 24.85%</li> <li>8. Washington – 24.47%</li> <li>9. Maryland – 23.42%</li> <li>10. Michigan – 23.17%</li> </ol>	<ol style="list-style-type: none"> <li>41. Oklahoma – 15.76%</li> <li>42. Kansas – 15.11%</li> <li>43. Texas – 15.06%</li> <li>44. Alabama – 15.04%</li> <li>45. Tennessee – 14.72%</li> <li>46. Idaho – 14.28%</li> <li>47. North Dakota – 14.05%</li> <li>48. Iowa – 14.01%</li> <li>49. South Dakota – 13.02%</li> <li>50. Utah – 11.55%</li> </ol>

SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

Adults Age 26+ Years Old

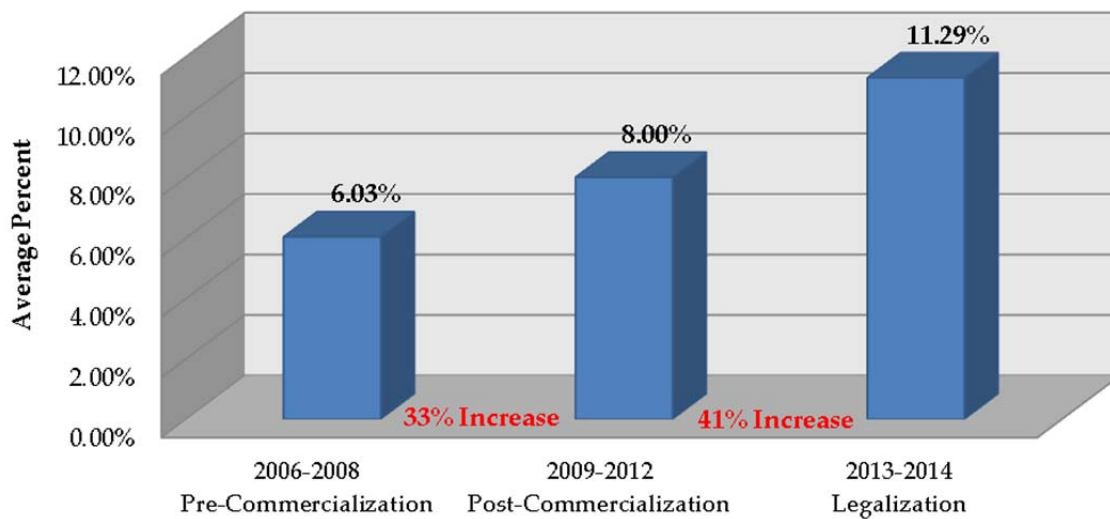
### Past Month Marijuana Use Adults Age 26+ Years Old



Annual Averages of Data Collection

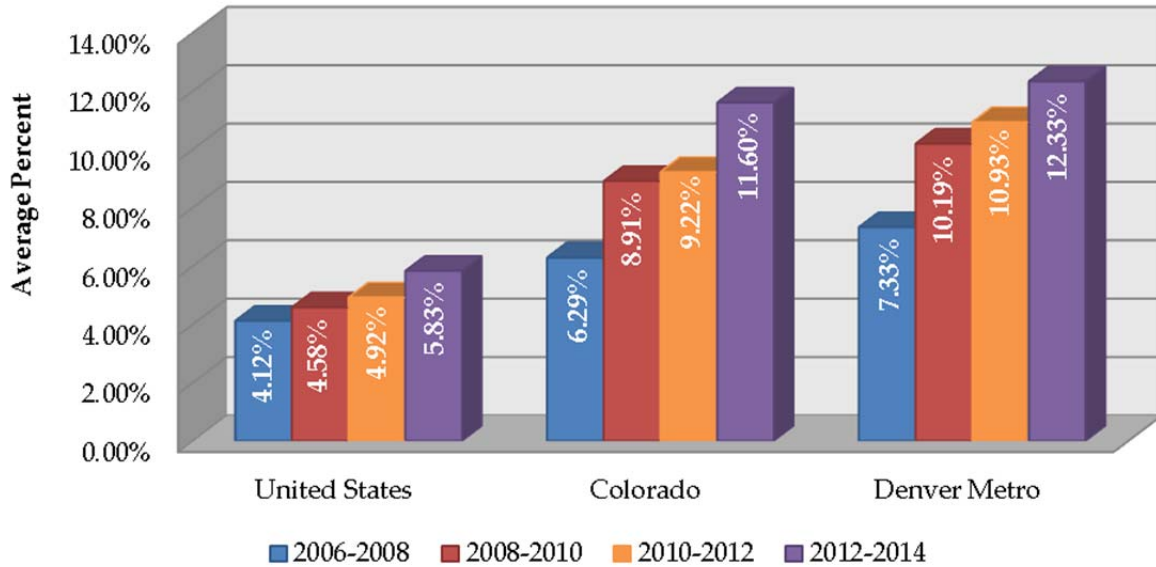
SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014.

### Average Past Month Use of Marijuana Adults Age 26+ Years Old



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014.

## Prevalence of Past 30-Day Marijuana Use Adults Age 26+ Years Old

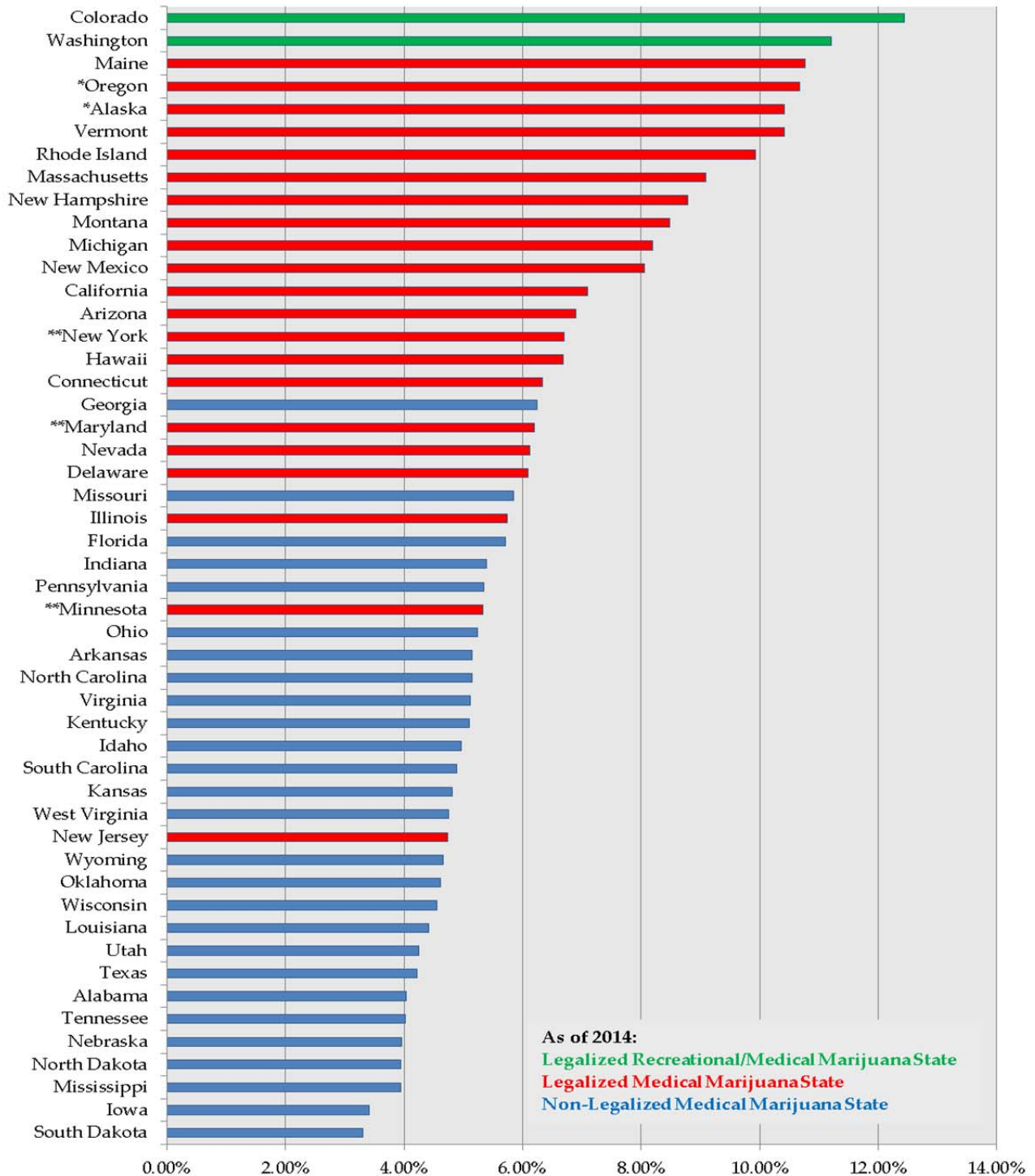


SOURCE: SAMHSA.gov, National Survey on Drug Use and Health, Substate Region Estimates 2006-2014

**NOTE:** SUBSTATE DATA IS ONLY AVAILABLE FROM THE NATIONAL SURVEY ON DRUG USE AND HEALTH IN THE ABOVE TIMEFRAMES.



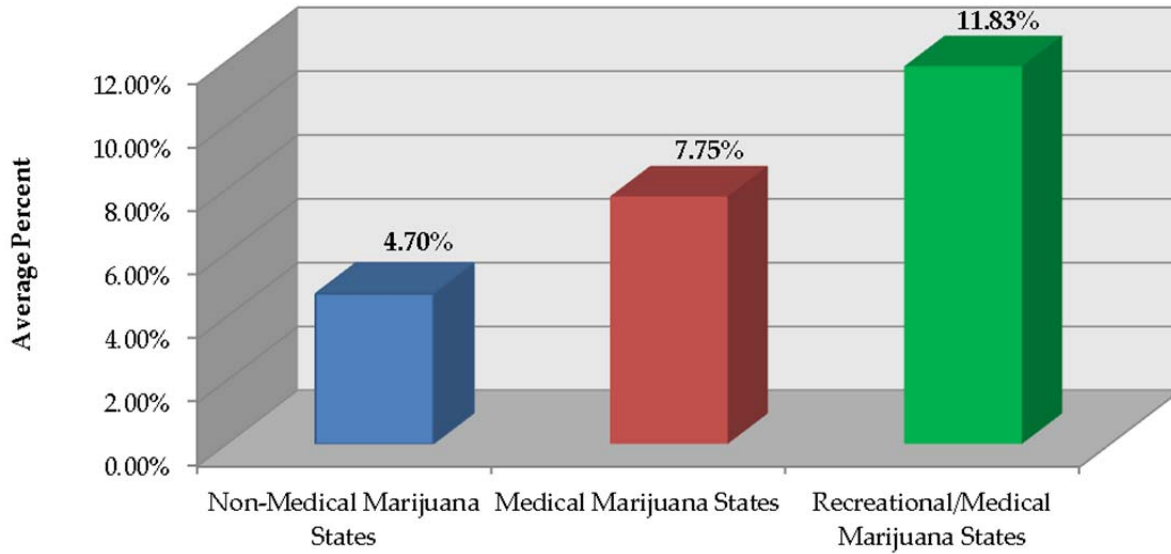
### Past Month Usage, 26+ Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

NOTE: \*Oregon and Alaska voted to legalize recreational marijuana in November 2014  
 \*\*States that had legislation for medical marijuana signed into effect during 2014

### Average Past Month Use Adults Ages 26+ Years Old, 2013/2014



SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

### States for Past Month Marijuana Use Adults Ages 26+ Years Old, 2013/2014

Top 10 (Medical/Recreational States)	Bottom 10 (Non-Medical or Recreational States)
<b>National Average = 6.11%</b>	
1. Colorado – 12.45%	41. Louisiana – 4.42%
2. Washington – 11.21%	42. Utah – 4.25%
3. Maine – 10.77%	43. Texas – 4.21%
4. Oregon – 10.68%	44. Alabama – 4.03%
5. Alaska – 10.42%	45. Tennessee – 4.01%
6. Vermont – 10.42%	46. Nebraska – 3.97%
7. Rhode Island – 9.92%	47. North Dakota – 3.95%
8. Massachusetts – 9.08%	48. Mississippi – 3.95%
9. New Hampshire – 8.78%	49. Iowa – 3.40%
10. Montana – 8.49%	50. South Dakota – 3.30%

SOURCE: SAMHSA.gov, National Survey on Drug Use and Health 2013 and 2014

## Colorado Adult Marijuana Use Demographics<sup>1</sup>

According to the Colorado Behavior Risk Factor Surveillance System, 2014:

- 13.6 percent of adults (18+ years old) are current users of marijuana
- Approximately 1 out of 3 current users report using marijuana daily
- A little less than 1 in 5 (18.8 percent) report driving after using marijuana
- Highest current use demographics:
  - Younger adults (18 to 24 years old)
  - Less than high school education
  - Lower household income
  - Black
  - Gay/Lesbian/Bisexual adults
  - Men
- Three highest current use areas in Colorado:
  - Boulder 18.9 percent
  - Denver 18.5 percent
  - Mountain Area West of Denver 15.6 percent

## Related Material

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### **Pot Science: Top Marijuana Findings of 2015:<sup>2</sup>**

- A study this year published in the journal of *JAMA Psychiatry* found a doubling of marijuana use among American adults and almost a doubling of problematic use between 2002 and 2013. Earlier studies of adult marijuana use showed a much smaller increase.
  - Alan Budney, professor of psychiatry at the Geisel School of Medicine
- Another big concern on the topic of marijuana is the increase in sales of high-potency products, arriving with the advent of marijuana dispensaries in some states. “Little is known about the impact of these high-potency products compared with the lower-potency marijuana that people may have been using in the past 30 years. It’s too early, using the data that’s currently available, to know the effects.”
  - Alan Budney, professor of psychiatry at the Geisel School of Medicine
- A 2014 survey of more than 1,000 U.S. college students found that the percentage of students who smoked marijuana every day or nearly every day reached its highest level in more than 30 years.

- Young men who smoked pot more than once a week had sperm counts which were about 30 percent lower, on average, than males who used the drug less frequently or not at all. One possible reason for this has to do with the way THC may interact with certain receptors found in the testes.
- A study published in September of 2015 in the journal *Diabetologia*, found that people who used marijuana 100 times or more as young adults were 40 percent more likely to develop prediabetes in middle age compared with individuals who never used the drug.

**Number of U.S. Pot Users Doubles Over Three Years:** According to a recent Gallup poll, "...the percentage of American adults who say they currently smoke marijuana has nearly doubled over the past three years." The first time the poll was conducted in 2013, only 7 percent of adults said they were marijuana smokers. However, when the poll was taken again in 2016, 13 percent of adults admitted to being current users, which according to the article, works out to be about 33 million adult marijuana users in the United States. "There are currently about 40 million cigarette smokers in the U.S., according to the Centers for Disease Control and Prevention. Given that cigarette use is in decline, marijuana use could become more prevalent than cigarette use in just a few years' time."<sup>3</sup>

**Marijuana Does Not Help You Get Good Grades:** A study following college students over years to measure the impact of marijuana use found those who smoked it often were more likely to skip class, get worse grades, and take longer to graduate. As use became more frequent, grades tended to drop – as use declined, grades tended to bounce back.<sup>4</sup>

**Harvard Scientists Studied the Brains of Pot Smokers, and the Results Don't Look Good:** According to a study performed by researchers at Harvard and Northwestern (published 4/15/2014), 18-25 year olds who smoked marijuana only a few times a week had significant brain abnormalities in the areas that control emotion and motivation. Noticeable abnormalities were even observed for those study participants who smoked marijuana only one time per week. Those who smoked more had more significant variations.<sup>5</sup>

**Marijuana Use Among U.S. College Students at 35 Year High:** A study from the University of Michigan reports that daily marijuana use has surpassed daily cigarette use among students at American universities. Daily, or near daily, pot smoking is at a record high: nearly 6 percent of all college students polled reported that they had used marijuana 20 or more times in the past 30 days. That's close to double the number (3.5 percent) of students in 2007 who said they smoke pot daily. Researchers behind the

Michigan study suggest that the increase in marijuana use is due to decreasing fears of the drugs ill effects. There was a marked decrease in the number of high school graduates who viewed pot as dangerous over the past eight years – from a majority of all students (55 percent) in 2006, to just over a third in 2014.<sup>6</sup>

#### **Long-term Marijuana Use Associated with Worse Verbal Memory in Middle Age:**

A recent study published in the *JAMA International Medicine* journal examined cognitive performance of subjects who had used marijuana to varying degrees beginning in early adulthood using standardized tests of verbal memory, processing speed and executive function. Of the subjects, 86.3 percent reported past marijuana use but only 11.6 percent reported using marijuana into middle-age. According to Reto Auer, M.D., and co-authors, past exposure to marijuana was associated with diminished verbal memory.

“The public health challenge is to find effective ways to inform young people who use, or are considering using, marijuana about the cognitive and other risks of long-term daily use,” said Wayne Hall, Ph.D., of the University of Queensland, Australia, and Michael Lynskey, Ph.D., of Kings College London, in a related commentary.<sup>7</sup>

#### **Smoking Most Prevalent Mode of Lifetime Marijuana Use Among Adults:**

Slightly more than one-third (35 percent) of adults reported ever using marijuana in 2014. Among these adults, smoking was reported as the most prevalent mode of marijuana use. A majority of users reported smoking joints (89 percent), around one-half reported using bong, water pipes, or hookahs (49 percent) or bowls or pipes (48 percent), and one-fourth (25 percent) smoked marijuana in blunts. Other modes of marijuana use included ingesting marijuana in edibles or drinks (30 percent) and vaporizing marijuana (10 percent).<sup>8</sup>

**2015 National Poll Finds More Than Four in Ten U.S. Adults Report Ever Trying Marijuana:** Forty-four percent of U.S. adults have ever tried marijuana, according to a nationwide July 2015 telephone poll. When the question was first asked in 1969, only 4 percent admitted to trying marijuana. The percentage increased sharply from 1973 (12 percent) to 1985 (33 percent), and then remained relatively stable until reaching a high of 44 percent in 2015.<sup>9</sup>

**Marijuana Use More than Doubles from 2001 to 2013:** The estimated prevalence of adults who used marijuana in the past year more than doubled in the United States between 2001 and 2013, according to an article published online by *JAMA Psychiatry*. Increases were particularly notable among women and individuals who were black, Hispanic, living in the South, middle-aged or older, according to the authors. Additionally, nearly 3 of every 10 Americans who used marijuana in the past year had a diagnosis of a marijuana use disorder, which equates to about 6.8 million Americans.

“In summary, while many in the United States think prohibition of recreational marijuana should be ended, this study and others suggest caution and the need for public education about the potential harms in marijuana use, including the risk for addiction. As is the case with alcohol, many individuals can use marijuana without becoming addicted. However, the clear risk for marijuana use disorders among users (approximately 30 percent) suggests that as the number of U.S. users grows, so will the numbers of those experiencing problems related to such use.”<sup>10</sup>

**Poorer Users Smoking the Most:** A study published “...in the *Journal of Drug Issues* found that the proportion of marijuana users who smoke daily has rapidly grown, and that many of those frequent users are poor and lack a high school diploma.” According to the study the profile of marijuana users is much closer associated to that of cigarette smokers than alcohol drinkers, “...and that a handful of users consume much of the marijuana used in the U.S.” Also, 29 percent of all marijuana use across the county is from households with an annual income of less than \$20,000. “The concentration of use among poorer households means that many marijuana users are spending a high proportion of their income on their marijuana habit. Users who spend fully one quarter of their income on weed account for 15 percent of all marijuana use.”<sup>11</sup>

## Sources

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<sup>1</sup> Colorado Behavioral Risk Factor Surveillance System 2014, “Marijuana Use in Colorado,” Colorado Department of Public Health and Environment

<sup>2</sup> Cari Nierenberg, Live Science, December 29, 2015, “Pot Science: Top Marijuana Findings of 2015,” <<http://www.livescience.com/53218-top-marijuana-scientific-findings-2015.html>>, accessed December 29, 2015

<sup>3</sup> *The Washington Post* as published in *The Denver Post*, August 9, 2016, “Poll: Number of pot users nearly doubles over three years,” <http://www.denverpost.com/2016/08/09/poll-number-of-pot-users-nearly-doubles-over-three-years/>, accessed August 9, 2016

<sup>4</sup> Sylvia Svriuga, *The Washington Post*, December 28, 2015, “Can anyone answer this: Does marijuana help you get good grades and graduate from college on time?,” <<https://www.washingtonpost.com/news/grade-point/wp/2015/12/18/can-anyone-answer-this-does-marijuana-help-you-get-good-grades-and-graduate-from-college-on-time/>>, accessed January 18, 2016

<sup>5</sup> Eileen Shim, News.Mic, April 16, 2014, “Harvard Scientist Studies the Brains of Pot Smokers, and the Results Don’t Look Good,” <<https://mic.com/articles/87743/harvard-scientists-studied-the-brains-of-pot-smokers-and-the-results-don-t-look-good#.EBTsOB51M>>, accessed January 19, 2016

<sup>6</sup> Airel Key, *Independent*, September 4, 2015, “Marijuana use among US college students at 35 year high, says study,” <<http://www.independent.co.uk/news/world/americas/marijuana-use-among-us-college-students-at-35-year-high-says-study-10487217.html>>, accessed June 10, 2016

<sup>7</sup> Study author Reto Auer, M.D., M.A.S., The JAMA Network News Release/For the Media, February 1, 2016, “Long-Term Marijuana Use with Worse Verbal Memory in Middle Age,” <<http://media.jamanetwork.com/news-item/long-term-marijuana-use-associated-with-worse-verbal-memory-in-middle-age/#>>, accessed June 15, 2016

<sup>8</sup> CESAR, November 30, 2015, Vol. 24, Issue 15, “Smoking Most Prevalent Mode of Lifetime Marijuana Use Among Adults; 30% Report Consuming in Edibles and 10% Report Vaporizing”, <<http://www.cesar.umd.edu/cesar/cesarfax/vol24/24-15.pdf>>, accessed June 7, 2016

<sup>9</sup> Justin McCarthy, Gallup Poll, July 22, 2015, “More Than Four in 10 Americans Say They Have Tried Marijuana,” <<http://www.gallup.com/poll/184298/four-americans-say-tried-marijuana.aspx>>, accessed June 7, 2016

<sup>10</sup> Corresponding author Bridget G. Grant, Ph.D., The JAMA Network/For the Media, “Marijuana Use More than Doubles from 2001 to 2013; Increase in Use Disorders Too,” <<http://media.jamanetwork.com/news-item/marijuana-use-more-than-doubles-from-2001-to-2013-increase-in-use-disorders-too/>>, accessed June 15, 2016

<sup>11</sup> *The Washington Post* as published in *The Denver Post*, August 14, 2016, “Study: Poorer marijuana users smoking the most,” <<http://www.denverpost.com/2016/08/14/study-poorer-marijuana-users-smoking-the-most/>>, accessed August 15, 2016

# ***SECTION 4: Emergency Department and Hospital Marijuana- Related Admissions***

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- ❖ **2015 marijuana-related emergency department and hospitalization data for the state of Colorado was not available at the time this publication was released.**

## **Some Findings**

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- Colorado Emergency Department visits per year related to marijuana:
  - 2013 – **14,148**
  - 2014 – **18,255**
- Emergency Department rates likely related to marijuana increased **49 percent** in the two-year average (2013-2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011-2012).
- In 2014, when retail marijuana businesses began operating, the rate of emergency department visits likely related to marijuana increased **25 percent** in one year.
- Emergency Department visits related to marijuana per 100,000 in 2013:
  - Denver rate – **415.46**
  - Colorado rate – **248.32**
    - Denver's rate was **67 percent** higher than Colorado's rate and increased **25 percent** when recreational marijuana was legalized in 2013.



- Number of hospitalizations related to marijuana:
  - 2011 – **6,305**
  - 2012 – **6,715**
  - 2013 – **8,272**
  - 2014 – **11,439**
  
- Hospital rates likely related to marijuana increased **32 percent** in the two-year average (2013-2014) since Colorado legalized recreational marijuana compared to the two-year average prior to legalization (2011-2012).
  
- In 2014, when retail marijuana stores began operating, the rate of hospitalizations likely related to marijuana increased **20 percent** in only one year.
  
- Hospital discharges related to marijuana per 100,000 in 2013:
  - Denver rate – **245.94**
  - Colorado rate – **148.80**
    - Denver’s rate was over **65 percent higher** than Colorado’s rate and increased **29 percent** when recreational marijuana was legalized in 2013.
  
- Children’s Hospital Colorado reported **1** marijuana ingestion among children under 9 years old in 2009 compared to **16** in 2015.

## Definitions

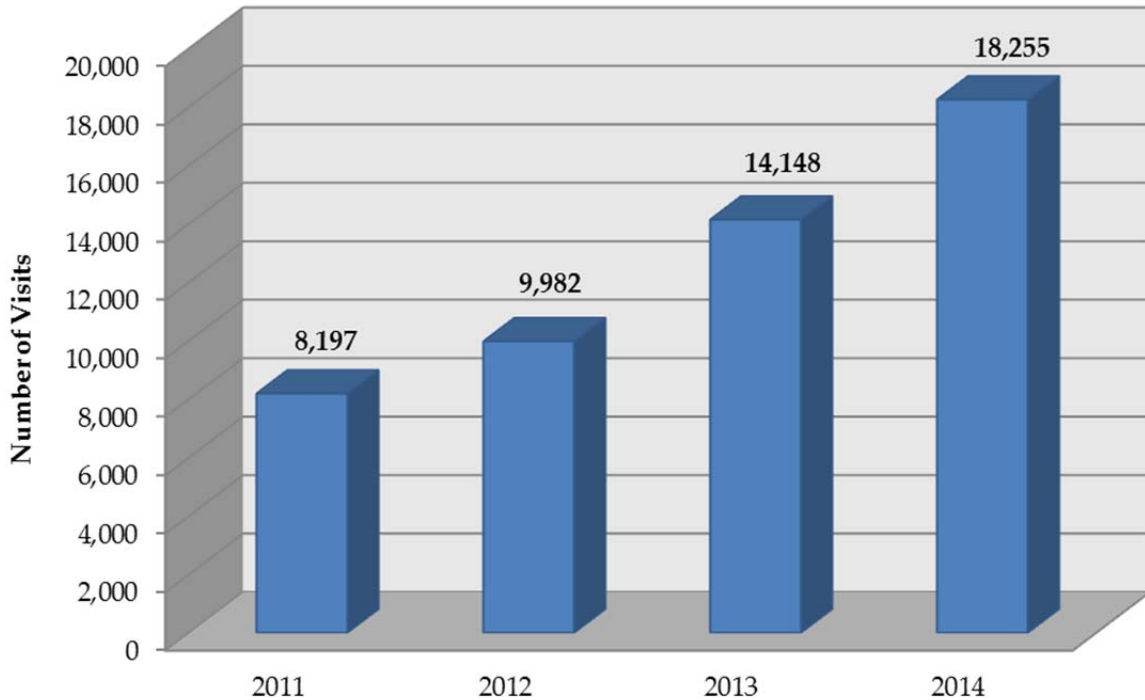
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**Marijuana-Related:** Also referred to as “marijuana mentions.” This means the data could be obtained from lab tests, self-admitted or some other form of validation by the physician. That does not necessarily prove marijuana was the cause of the emergency admission or hospitalization.

Emergency Department Data

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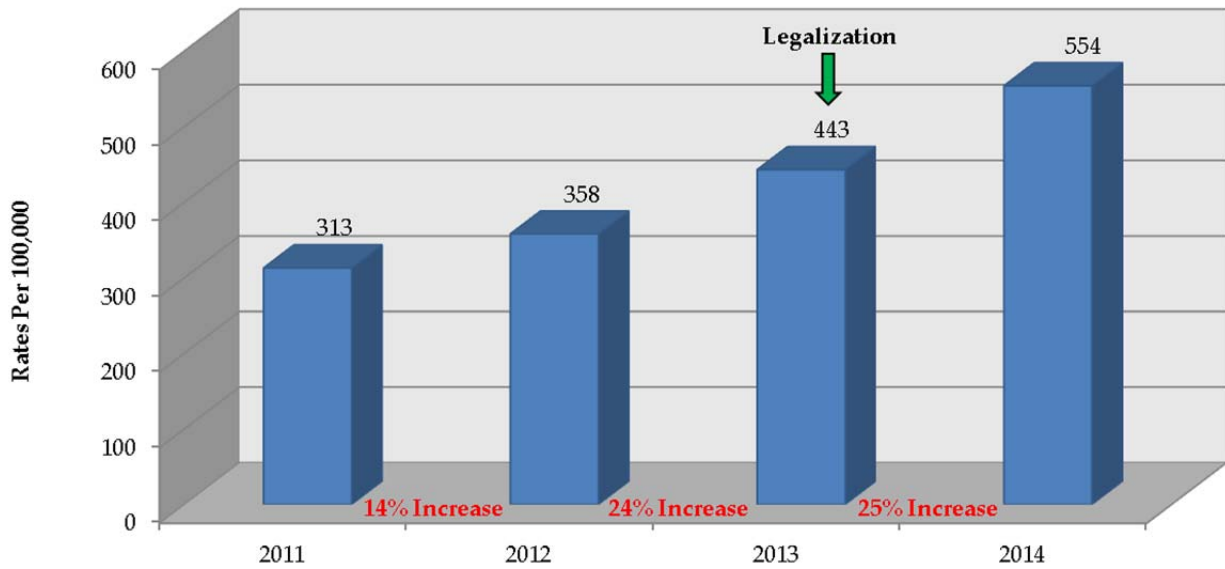
### Marijuana-Related Emergency Department Visits



SOURCE: Colorado Hospital Association, Emergency Department Visit Dataset. Statistics prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment

**NOTE: 2011 AND 2012 EMERGENCY DEPARTMENT DATA REFLECTS INCOMPLETE REPORTING STATEWIDE. INFERENCES CONCERNING TRENDS, INCLUDING 2011 AND 2012, SHOULD NOT BE MADE.**

### Colorado Emergency Department Rates that are Likely Related to Marijuana\*



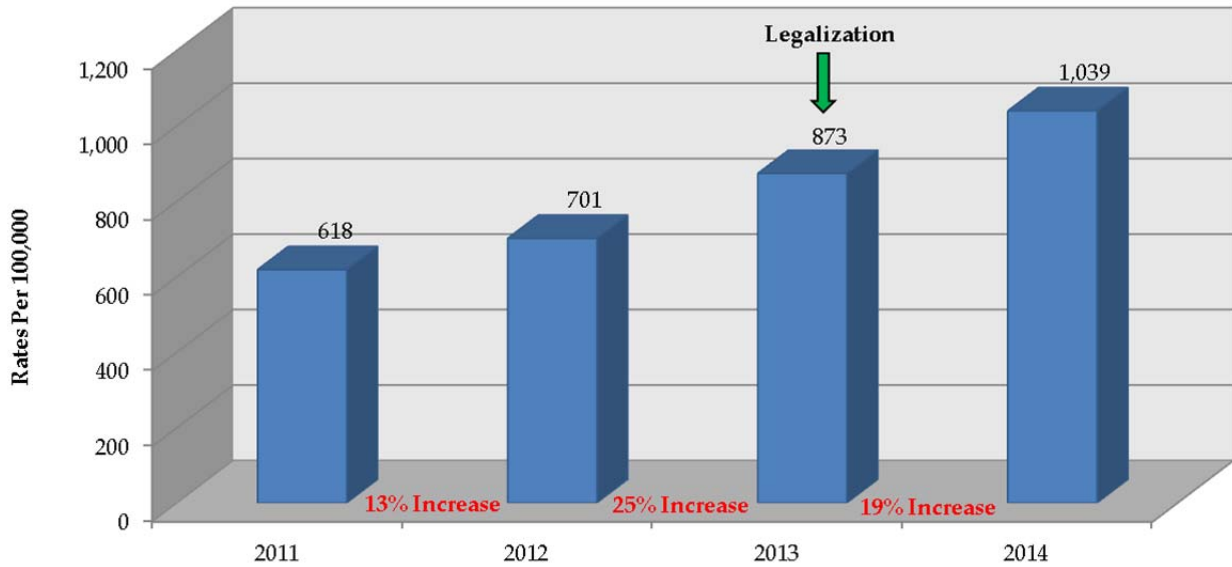
\*Rates of Emergency Department (ED) Visits with Possible Marijuana Exposures, Diagnoses, or Billing Codes in the First Three Diagnosis Codes per 100,000 ED Visits by Year in Colorado

SOURCE: Colorado Department of Public Health and Environment, *Monitoring Health Concerns Related to Marijuana in Colorado: 2014*

**NOTE:** "POSSIBLE MARIJUANA EXPOSURES, DIAGNOSES, OR BILLING CODES IN THE FIRST THREE DIAGNOSIS CODES: THESE DATA WERE CHOSEN TO REPRESENT THE HD AND ED VISITS WHERE MARIJUANA USE WAS LIKELY A CAUSAL OR STRONG CONTRIBUTING FACTOR TO THE UNDERLYING REASON FOR THE HD AND ED VISIT. THESE DATA CONSISTED OF HD AND ED VISITS CODED WITH DISCHARGE CODES RELATED TO POISONING BY PSYCHODYSLEPTICS OR SEPARATE CODES RELATED TO CANNABIS ABUSE IN THE FIRST THREE DIAGNOSIS CODES WHICH ARE MORE LIKELY TO BE CLINICALLY SIGNIFICANT CODES." - COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *MONITORING HEALTH CONCERNS RELATED TO MARIJUANA IN COLORADO: 2014*

**NOTE:** DATA NOT AVAILABLE PRE-2011.

### Colorado Emergency Department Rates that Could be Related to Marijuana\*



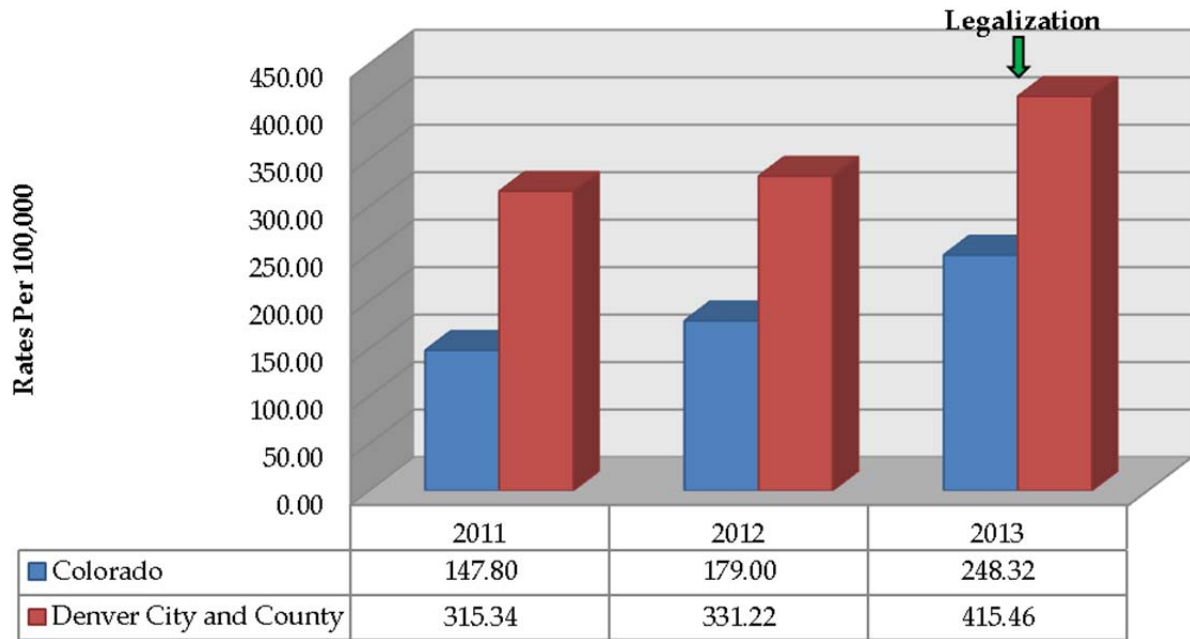
\*Rates of Emergency Department (ED) Visits with Possible Marijuana Exposures, Diagnoses, or Billing Codes per 100,000 ED Visits by Year in Colorado

SOURCE: Colorado Department of Public Health and Environment, *Monitoring Health Concerns Related to Marijuana in Colorado: 2014*

**NOTE:** "POSSIBLE MARIJUANA EXPOSURES, DIAGNOSES, OR BILLING CODES IN ANY OF LISTED DIAGNOSIS CODES: THESE DATA WERE CHOSEN TO REPRESENT THE HD AND ED VISITS WHERE MARIJUANA COULD BE A CAUSAL, CONTRIBUTING, OR COEXISTING FACTOR NOTED BY THE PHYSICIAN DURING THE HD OR ED VISIT. FOR THESE DATA, MARIJUANA USE IS NOT NECESSARILY RELATED TO THE UNDERLYING REASON FOR THE HD OR ED VISIT. SOMETIMES THESE DATA ARE REFERRED TO AS HD OR ED VISITS WITH ANY MENTION OF MARIJUANA." - COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *MONITORING HEALTH CONCERNS RELATED TO MARIJUANA IN COLORADO: 2014*

**NOTE:** DATA NOT AVAILABLE PRE-2011.

## Emergency Department Rates Per 100,000 Marijuana-Related



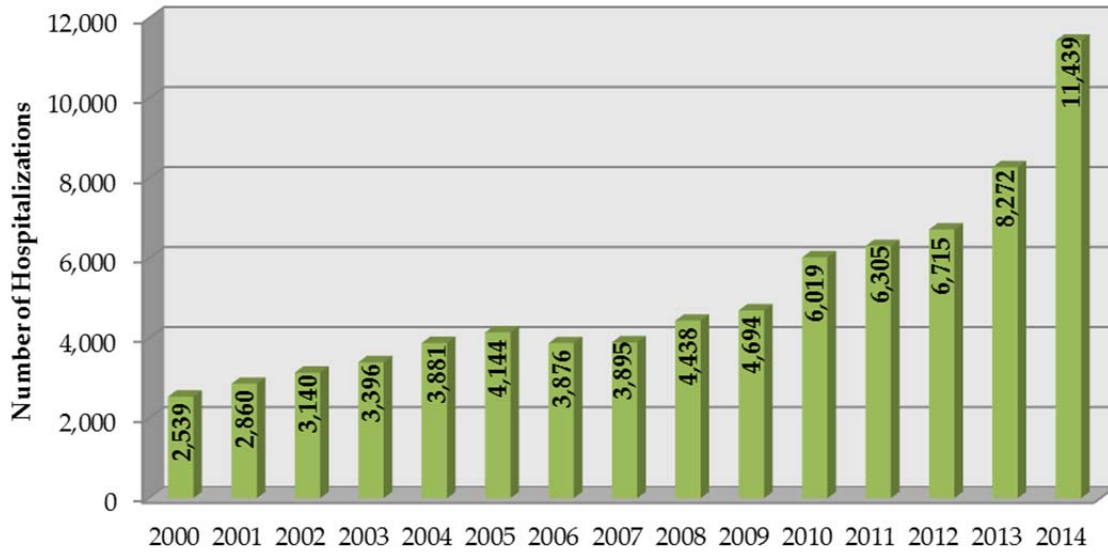
SOURCE: Denver Office of Drug Strategy, The Denver Drug Strategy Commission, *Proceedings of the Denver Epidemiology Work Group (DEWG)*, October 29, 2014

❖ The highest rates from 2011 to 2013 were among young adults (18 to 25 years).

**NOTE:** 2011 AND 2012 EMERGENCY ROOM DATA DOES NOT REPRESENT COMPLETE, STATEWIDE PARTICIPATION. INCREASES OBSERVED OVER THESE THREE YEARS MAY BE DUE PARTLY, OR COMPLETELY, TO INCREASES IN REPORTING BY EMERGENCY ROOMS.

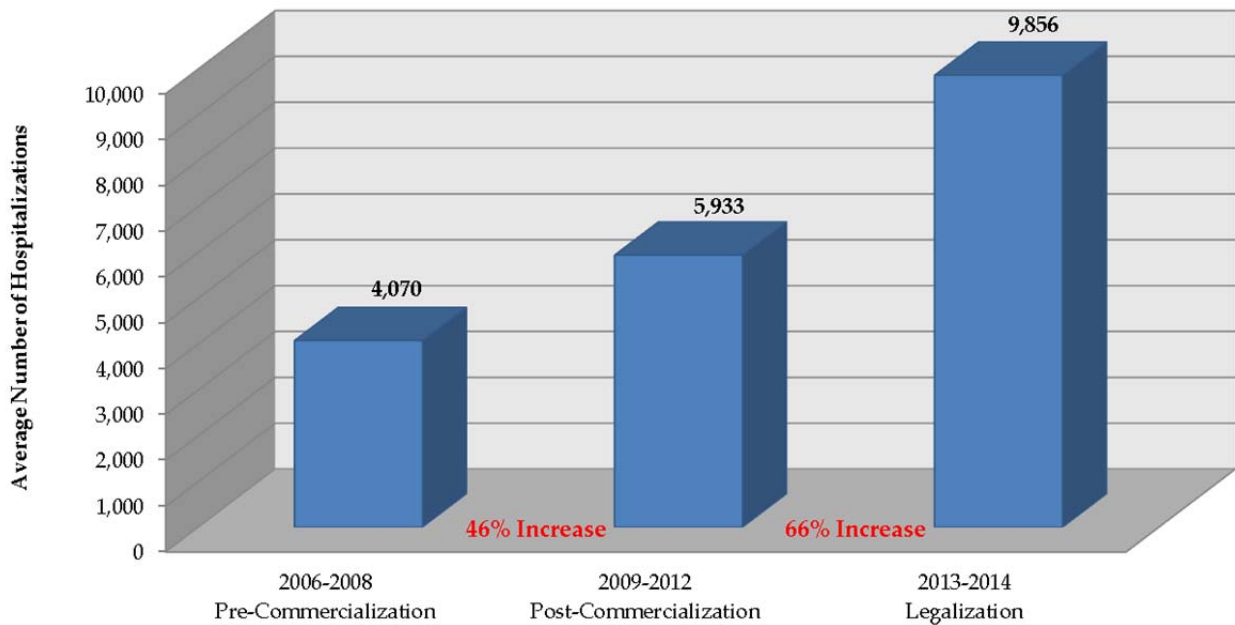
Hospitalization Data

### Hospitalizations Related to Marijuana



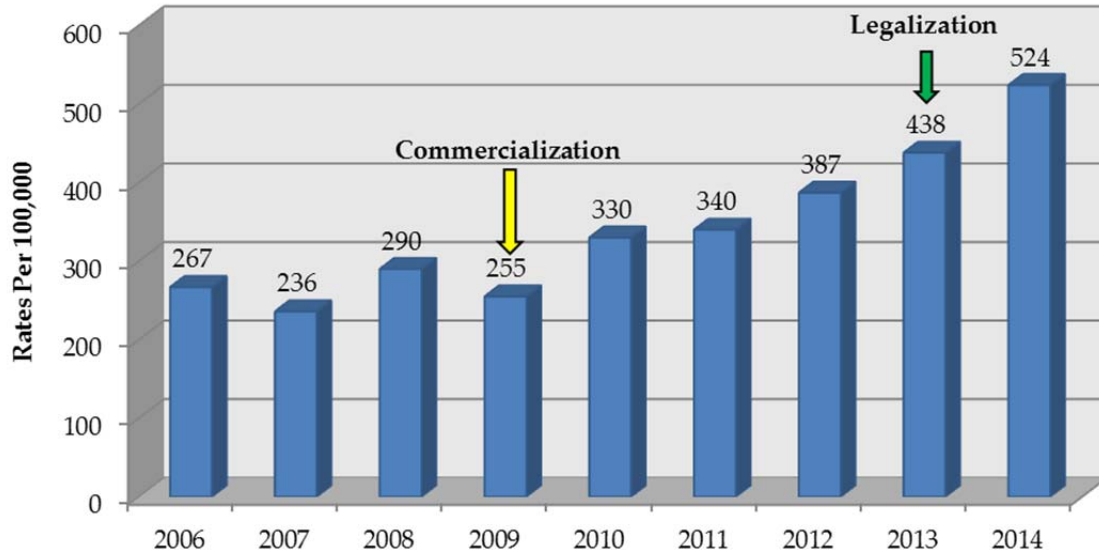
SOURCE: Colorado Hospital Association, Hospital Discharge Dataset. Statistics prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment

### Average Marijuana-Related Hospitalizations



SOURCE: Colorado Hospital Association, Hospital Discharge Dataset. Statistics prepared by the Health Statistics and Evaluation Branch, Colorado Department of Public Health and Environment

## Colorado Hospitalization Rates that are Likely Related to Marijuana\*

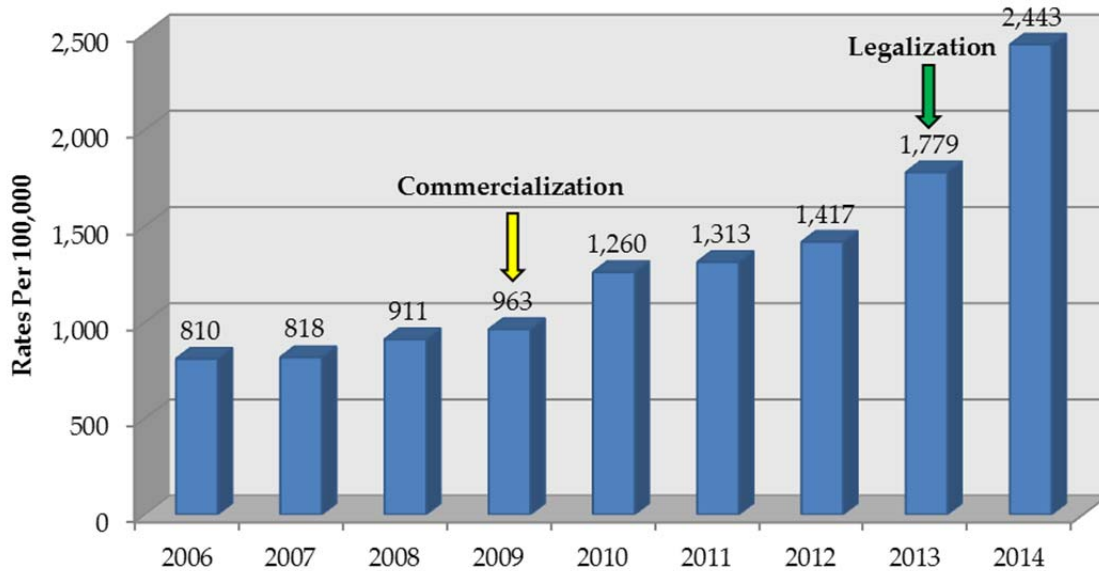


\*Rates of Hospitalization (HD) Visits with Possible Marijuana Exposures, Diagnoses, or Billing Codes in the First Three Diagnosis Codes per 100,000 HD Visits by Year in Colorado

SOURCE: Colorado Department of Public Health and Environment, *Monitoring Health Concerns Related to Marijuana in Colorado: 2014*

**NOTE:** "POSSIBLE MARIJUANA EXPOSURES, DIAGNOSES, OR BILLING CODES IN THE FIRST THREE DIAGNOSIS CODES: THESE DATA WERE CHOSEN TO REPRESENT THE HD AND ED VISITS WHERE MARIJUANA USE WAS LIKELY A CAUSAL OR STRONG CONTRIBUTING FACTOR TO THE UNDERLYING REASON FOR THE HD AND ED VISIT. THESE DATA CONSISTED OF HD AND ED VISITS CODED WITH DISCHARGE CODES RELATED TO POISONING BY PSYCHODYSLEPTICS OR SEPARATE CODES RELATED TO CANNABIS ABUSE IN THE FIRST THREE DIAGNOSIS CODES WHICH ARE MORE LIKELY TO BE CLINICALLY SIGNIFICANT CODES." - COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *MONITORING HEALTH CONCERNS RELATED TO MARIJUANA IN COLORADO: 2014*

## Colorado Hospitalization Rates that Could be Related to Marijuana\*



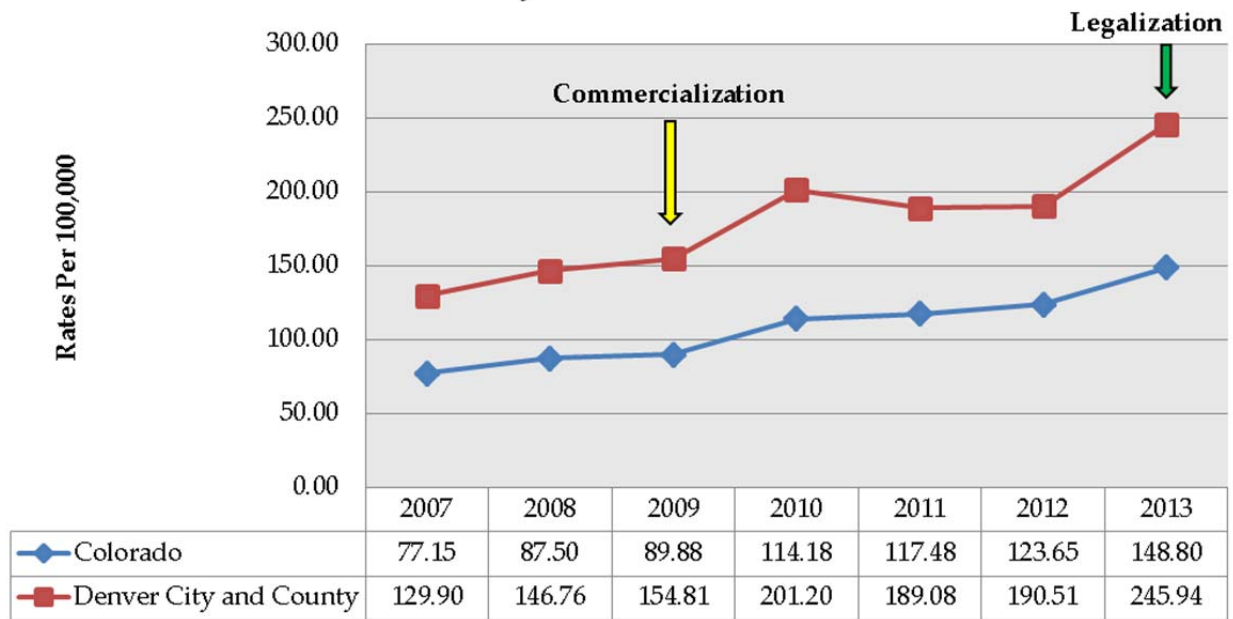
**\*Rates of Hospitalization (HD) Visits with Possible Marijuana Exposures, Diagnoses, or Billing Codes per 100,000 HD Visits by Year in Colorado**

SOURCE: Colorado Department of Public Health and Environment, *Monitoring Health Concerns Related to Marijuana in Colorado: 2014*

**NOTE:** "POSSIBLE MARIJUANA EXPOSURES, DIAGNOSES, OR BILLING CODES IN ANY OF LISTED DIAGNOSIS CODES: THESE DATA WERE CHOSEN TO REPRESENT THE HD AND ED VISITS WHERE MARIJUANA COULD BE A CAUSAL, CONTRIBUTING, OR COEXISTING FACTOR NOTED BY THE PHYSICIAN DURING THE HD OR ED VISIT. FOR THESE DATA, MARIJUANA USE IS NOT NECESSARILY RELATED TO THE UNDERLYING REASON FOR THE HD OR ED VISIT. SOMETIMES THESE DATA ARE REFERRED TO AS HD OR ED VISITS 'WITH ANY MENTION OF MARIJUANA.'" - COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, *MONITORING HEALTH CONCERNS RELATED TO MARIJUANA IN COLORADO: 2014*



## Hospital Discharge Rates Per 100,000 Marijuana-Related

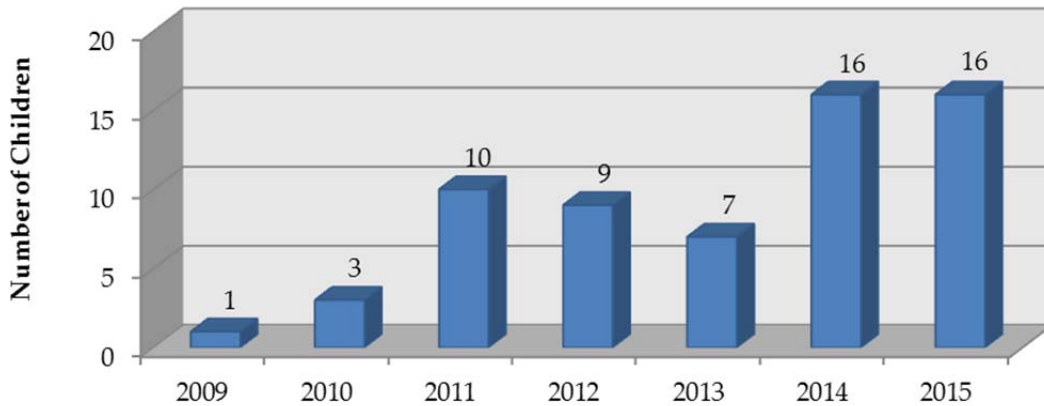


SOURCE: Denver Office of Drug Strategy, The Denver Drug Strategy Commission, *Proceedings of the Denver Epidemiology Work Group (DEWG)*, October 29, 2014

❖ The highest rates from 2011 to 2013 were among young adults (18 to 25 years).

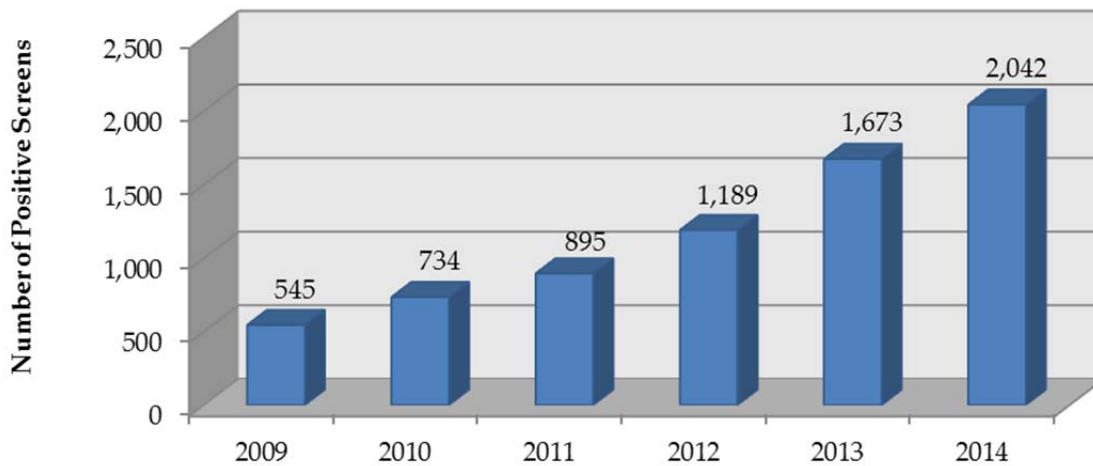
**NOTE:** HOSPITAL DISCHARGE DATA REPRESENTS AN INDIVIDUAL'S INPATIENT STAY AT A HOSPITAL REQUIRING, AT MINIMUM, AN OVERNIGHT STAY AND IS IN REFERENCE TO WHEN THE PATIENT LEAVES THE HOSPITAL. A CODE IS ASSIGNED AS TO WHY THE PATIENT WAS IN THE HOSPITAL, CALLED THE ICD-9 CODE, WHICH IS USED FOR BOTH THE PATIENT'S MEDICAL RECORD AND FOR BILLING PURPOSES.

### Children's Hospital Marijuana Ingestion Among Children Under 9 Years Old



SOURCE: George Sam Wang, MD, Marie-Claire Le Lait, MS, Sara J. Deakyne, MPH, Alvin C. Bronstein, MD, Lalit Bajaj, MD, MPH, Genie Roosevelt, MD, MPH, July 25, 2016

### Penrose Hospital (Colorado Springs) Urine Drug Screens Positive for Cannabis



SOURCE: Kenneth Finn, M.D., president, Springs Rehabilitation, PC

## Cost

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**Cost of Emergency Room:** A study was conducted of a cross section of ER encounters from 2006 to 2008. The study found that, “During our study period, the median charge for outpatient conditions in the emergency room was \$1,233.”<sup>1</sup>

## Related Material

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**Pueblo Hospitals Against Marijuana Commercialization:** Parkview Medical Center, St. Mary-Corwin Medical Center and Pueblo Community Health Center, three local Pueblo, Colorado hospitals, announced their support for a ballot measure aimed at ending commercialization and the promotion of recreational marijuana in the city and county of Pueblo. “All three organizations spoke on behalf of their community boards and strongly believe the impact of retail marijuana is endangering the health of the Pueblo community and draining precious health resources.” Data in support of their position includes a 51 percent increase in the number of children 18 and younger that have been treated at Parkview’s emergency room as well as the fact that nearly half of the newborns who were tested for prenatal drug exposure in March 2016 at St. Mary-Corwin tested positive for marijuana. Pueblo Community Health Center also experienced concerning health trends such as frequent use of marijuana in the prenatal population as well as increased incidence of mental health disorders related to marijuana. According to local doctors in the community:

“We are experiencing a dramatic increase in newborns who test positive for marijuana along with an increase in teenage suicide attempts,” said Steve Simerville, MD, medical director of St. Mary-Corwin’s neonatal intensive care unit and pediatric service line. “While it is not clear that marijuana is directly the cause of all these problems, one might conclude that this surge is the result of the high-risk culture that commercialization of marijuana helps to promote and is not in the best interest of the Pueblo community.”

“The emergency department has seen increased visits for primary care needs, breathing problems related to inhalation of marijuana, including asthma, bronchitis, upper respiratory tract infections, as well as psychiatric needs, accidental or intentional overdoses and, unfortunately, increased pediatric patients with issues related to marijuana,” said Karen Randall, MD, a physician with Southern Colorado Emergency Medical Associates, who treats patients at Parkview Medical Center’s Emergency Department.<sup>2</sup>

**More Kids in the Emergency Room Due to Marijuana:** A study conducted by a group of Colorado doctors found that the number of children’s hospital visits increased between the two years prior to legalization and the two years after legalization. Further, “fifteen of the 32 exposures seen in the children’s hospital in 2014 and 2015 were from recreational marijuana, suggesting that legalization of recreational marijuana did affect the incidence of pediatric exposures.” The study also found that compared with other unintentional pediatric exposures, symptoms after marijuana exposure can be severe for these young patients. “...35% of patients presenting to the hospital required admission, increasing the hospital burden and using more health financial resources.” Additionally the study points out that “ingestion of edible products continues to be a major source of marijuana exposures in children and poses a unique problem because no other drug is infused into a palatable and appetizing form.” As well as, “dosing a drug in a ‘serving size’ less than typically recommended for an equivalent food product also can be a source of confusion.”<sup>3</sup>

**More Colorado Kids in Hospital for Marijuana Since Legalization, Study Says:** A study conducted by a group of Colorado doctors found that “the number of Colorado children who’ve been reported to a poison control center or examined at a hospital for unintentional marijuana exposure annually has spiked since the state legalized recreational cannabis...” The study found that, “eighty-seven cases of children ages 9 and younger ingesting, inhaling or otherwise exposed to cannabis were called in to the state’s regional poison control center from 2014 through 2015 – more than the 76 total cases in the four years preceding legalization, the study says. Exposure-related visits for the same age range also rose at Children’s Hospital Colorado in Aurora: 32 visits for the first two years after legalization, against 30 visits for the four years prior. Nearly half of the hospital visits since 2009 involved edibles such as brownies and candies. And almost half of the hospital cases in 2014 and 2015 involved recreational, as opposed to medical marijuana...”<sup>4</sup>

**Public Health Researchers Look at Rise in Marijuana-Related Hospitalizations:** “The prevalence of marijuana use in the U.S. more than doubled between 2001 and 2013, according to a study published in October 2015 by *JAMA Psychiatry*. Hospital utilization related to the drug appears to have increased in tandem, according to a new analysis, presented at the American Public Health Association’s annual meeting, held in Chicago in November.” Dr. He Zhu, a postdoctoral associate at Duke University Medical Center in Durham, NC, was responsible for the new analysis. According to Dr. Zhu, “The use of cannabis has been found to be associated with adverse physical and mental health outcomes in both the short term and the long term.” She also noted that “...it can be linked to drug use disorder, anxiety, psychotic symptoms, breathing problems, increased heart rate, impaired driving, and an increased risk of other

substance abuse. Thus, the increase of cannabis use and its adverse health effects will potentially place more burden on health care systems.”<sup>5</sup>

**Emergency Room Visits Double for Colorado Tourists:** “Emergency department visits involving marijuana-using visitors doubled from 2013 to 2014, the first year cannabis use was legalized in Colorado, a team of Denver-area doctors said.” According to Dr. Andrew Monte, an emergency room toxicologist at the University of Denver, “At our institution, the rate of ED visits possibly related to cannabis use among out-of-state residents doubled from 85 per 10,000 visits in 2013 to 168 per 10,000 visits in 2014, which was the first year of retail marijuana sales.” Specific reasons for the ED visit generally range from the marijuana use causing an exacerbation of an existing medical condition, intoxication and fear associated with use, or injuries directly related to using the drug. “These would be things like motor vehicle collisions when they are high or smoking,” Monte said. “Cyclic vomiting, which can come with heavy daily use, is another issue,” Monte said.”<sup>6</sup>

**The Hidden Costs of Marijuana Use in Colorado: One Emergency Department’s Experience:** According to a recent study on the economic impact of marijuana use within Colorado, from 2009 to 2014 Penrose-St. Francis Hospital (Colorado Springs, Colorado) reported a true loss of \$20 million in uncollected charges. Additionally, the study demonstrated an increasing number of patients who are seen in the emergency room also have used cannabis. These patients are not always able to pay their bills, resulting in a financial loss to the hospital.

Visits where a diagnosis related to cannabis was identified at the study hospital increased from 545 to 2,042, a 275 percent increase between 2009 and 2014. The percent of cannabis subjects admitted as inpatients from the Emergency Department increased from 9 percent to 15.3 percent during the study period. Emergency Department charges unable to be collected increased 192 percent.

Furthermore, there is data to support transmission of THC to the fetus in pregnant mothers using cannabis. The American Congress of Obstetricians and Gynecologists (ACOG) published a Committee Opinion citing numerous studies to support their recommendations to discourage use of cannabis during pregnancy and lactation, including use of medical cannabis.

Fetal cortical growth may be affected; long-term effects of these children are not fully known or understood, but previous studies report findings that suggest behavioral abnormalities including hyperactivity, difficulty with executive functions into adolescence, depression even if they are not using, and early adolescent addiction.<sup>7</sup>

## Sources

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<sup>1</sup> Caldwell N, Srebotnjak T, Wang T, Hsia R (2013 “How Much Will I get Charged for This?” Patient Charges for Top Ten Diagnoses in the Emergency Department, *PloS ONE* 8(2): e55491. Doi:10.1371/journal.pone.0055491, accessed January 2015

<sup>2</sup> SAMVermont, April 27, 2016, “Health Care Leaders Announce Support of Ballot Measure To Opt Out Of Marijuana Commercialization,” <<http://sam-vt.org/2016/04/28/health-care-leaders-announce-support-of-ballot-measure-to-opt-out-of-marijuana-commercialization/>>, accessed April 27, 2016

<sup>3</sup> George Sam Wang, MD, Marie-Claire Le Lait, MS, Sara J. Deakyne, MPH, Alvin C. Bronstein, MD, Lalit Bajaj, MD, MPH, Genie Roosevelt, MD, MPH, July 25, 2016, *JAMA Pediatrics* doi: 10.1001/jamapediatrics.2016.0971, “Unintentional Pediatric Exposures to Marijuana in Colorado, 2009-2015”, <<http://archpedi.jamanetwork.com/article.aspx?articleid=2534480>>, accessed July 25, 2016

<sup>4</sup> Jason Hanna, CNN, July 27, 2016, “More Colorado kids in hospital for marijuana since legalization, study says”, <http://www.cnn.com/2016/07/27/health/colorado-marijuana-children/>, accessed July 28, 2016

<sup>5</sup> Mollie Durkin, January ACP Hospitalist by the American College of Physicians, “Public health researchers look at rise in marijuana-related hospitalizations”, <<http://www.acphospitalist.org/archives/2016/01/conference-coverage-public-health-marijuana.htm>>, accessed August 9, 2016

<sup>6</sup> Maggie Fox, NBC News, February 25, 2016, “Emergency Room Visits Double for Marijuana-Using Colorado Visitors”, <<http://www.nbcnews.com/storyline/legal-pot/emergency-room-visits-double-marijuana-using-colorado-visitors-n525081>>, accessed February 26, 2016

<sup>7</sup> Kenneth Finn, M.D., January 26, 2015, “The Hidden Costs of Marijuana Use in Colorado: One Emergency Department’s Experience,” *The Journal of Global Drug Policy and Practice*, <[http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado\\_Final.pdf](http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado_Final.pdf)>, accessed May 17, 2016

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# *SECTION 5: Marijuana-Related Exposure*

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## Some Findings

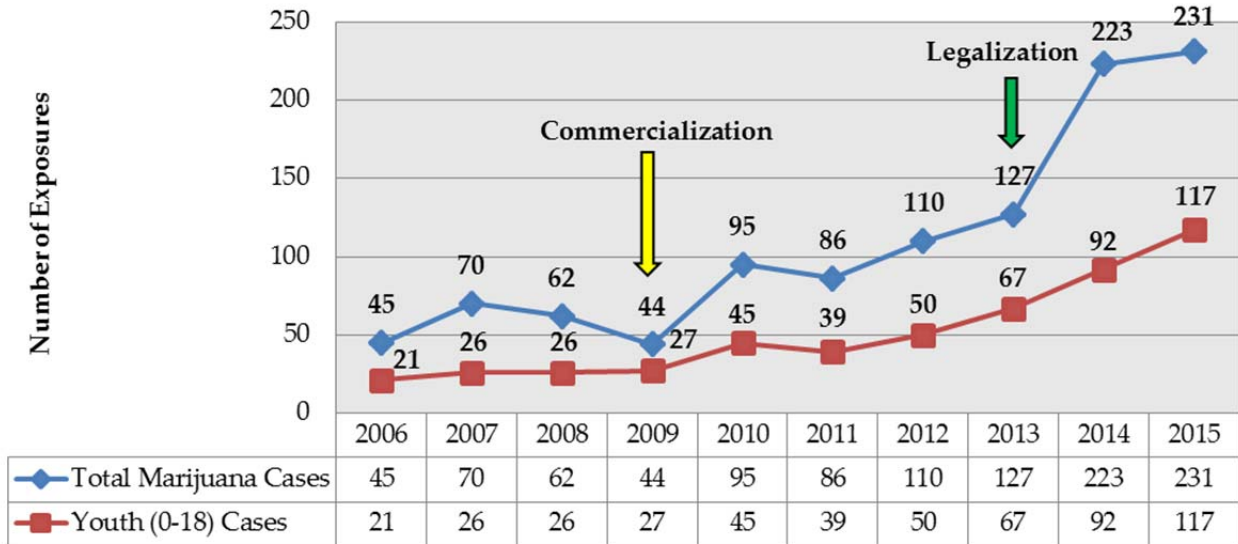
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- Marijuana-related exposures increased **100 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
- Marijuana only exposures increased **155 percent** in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization.
- Children ages 0 to 5 years old marijuana-related exposures increased **169 percent** after legalization of recreational marijuana in Colorado.
- In the years medical marijuana was commercialized (2009–2012), marijuana-related exposures averaged a **42 percent** increase from prior years (2006–2008) average.



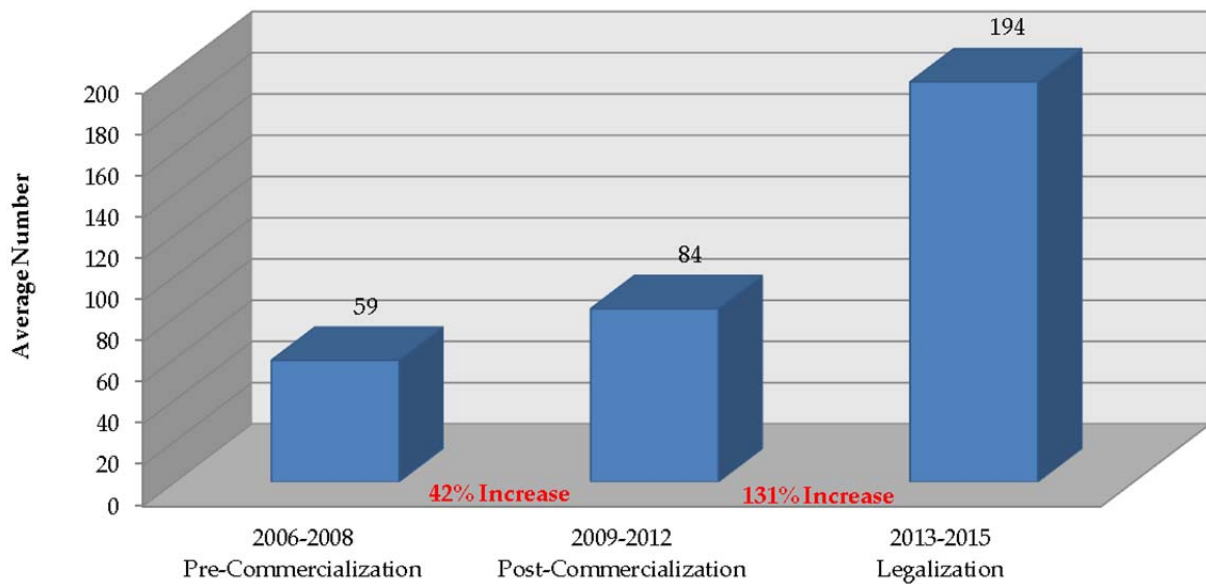
Data

### Marijuana-Related Exposures



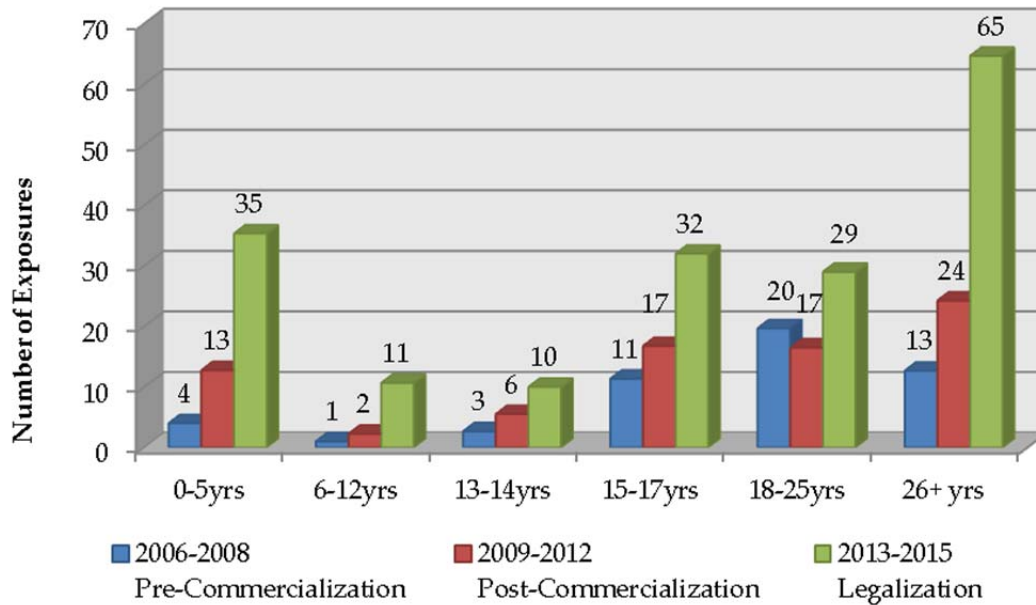
SOURCE: Rocky Mountain Poison and Drug Center Report, Colorado Marijuana Statistics for 2015

### Average Number of Marijuana-Related Exposures All Ages



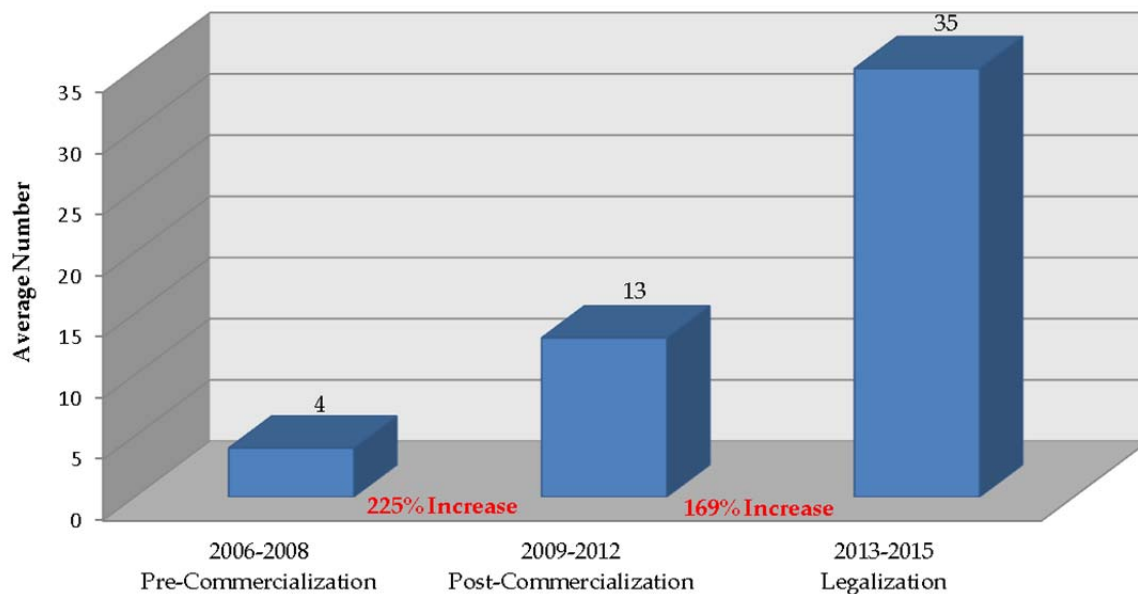
SOURCE: Rocky Mountain Poison and Drug Center

## Marijuana-Related Exposures, By Age Range



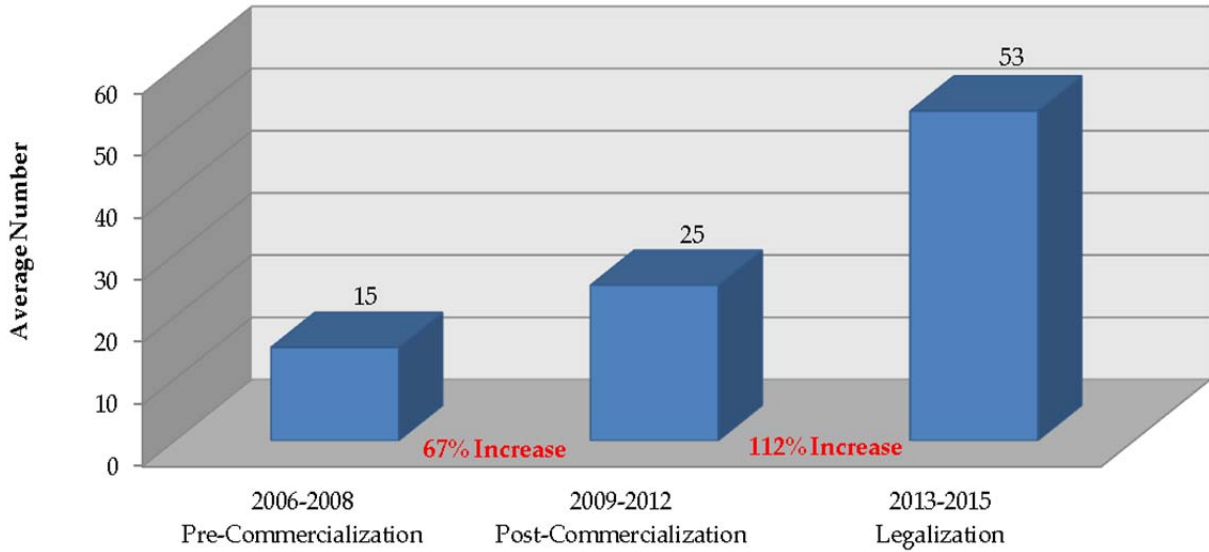
SOURCE: Rocky Mountain Poison and Drug Center

## Average Number of Marijuana-Related Exposures Children Ages 0 to 5 Years Old



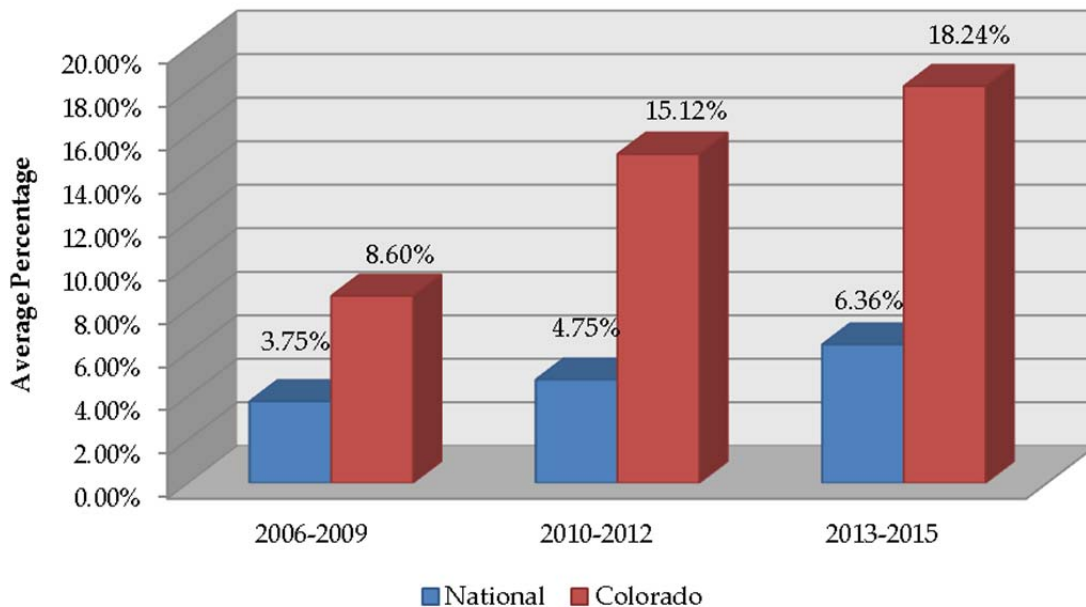
SOURCE: Rocky Mountain Poison and Drug Center

### Average Number of Marijuana-Related Exposures Youth Ages 6 to 17 Years Old



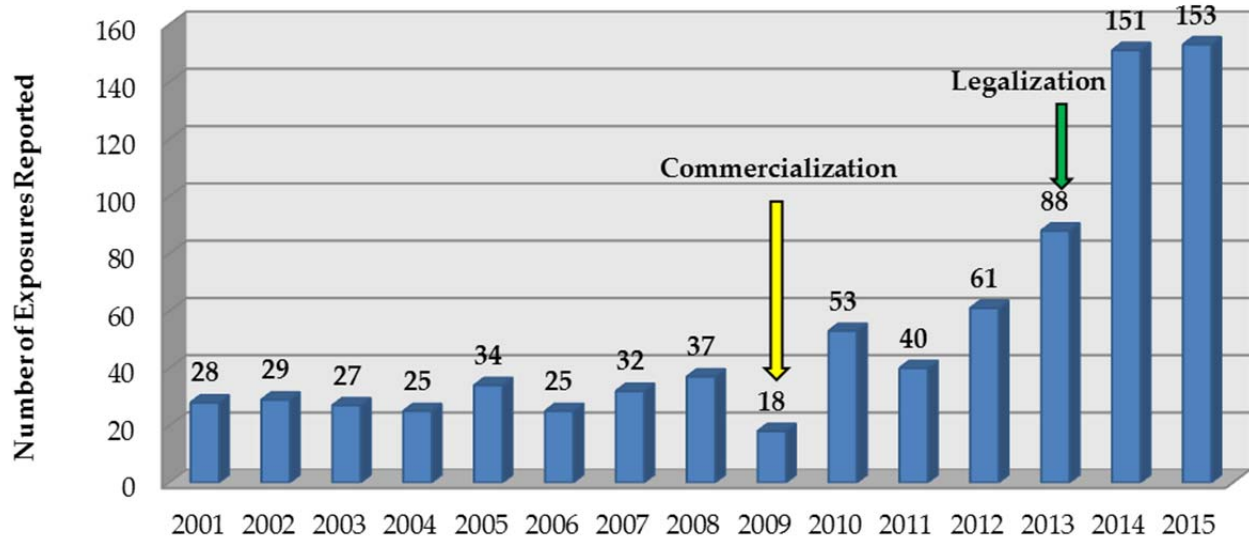
SOURCE: Rocky Mountain Poison and Drug Center

### Average Percent of All Marijuana-Related Exposures, Children Ages 0 to 5 Years Old



SOURCE: Rocky Mountain Poison and Drug Center

## Number of Marijuana Only\* Exposures Reported



\*Marijuana was the only substance referenced in the call to the poison control center

SOURCE: Rocky Mountain Poison and Drug Center

### Related Material

#### Pot Science – Top Marijuana Findings of 2015:<sup>1</sup>

- Between 2003 and 2013, accidental marijuana exposure to youth under age six increased by about 150 percent. More than 75 percent of these exposures involved children younger than three, who accidentally swallowed pot likely found in marijuana brownies, cooked and other food products.
- Exposure rates in children climbed an average of 16 percent a year from 2003 to 2013 in states that legalized marijuana, compared with a rise of about 5 percent in states where pot remained illegal.

#### Study Finds Sharp Increase in Marijuana Exposure Among Colorado Children:

A study published in the *JAMA Pediatrics* journal found that, "...in Colorado the rates of marijuana exposure in young children, many of them toddlers, have increased 150 percent since 2014, when recreational marijuana products, like sweets, went on the market legally." Symptoms from these unintentional exposures can be anything from lethargy or agitation to vomiting and loss of balance. "A handful of patients were admitted to intensive care units and intubated." While doctors and researchers were

anticipating a rise in the number of these cases after Colorado voted to legalize recreational marijuana, “...we were not prepared for the dramatic increase,” said the senior author of the study, Dr. Genie E. Roosevelt, an associate professor of emergency medicine at the University of Colorado School of Medicine and Denver Health Medical Center.”<sup>2</sup>

**Rocky Mountain Poison and Drug Center Report:**<sup>3</sup> “In 2015, there were 231 human exposures involving marijuana, 12 exposures involving dogs and 1 exposure to a cat.

- 91 of these cases involved an ‘edible’ marijuana product such as marijuana-infused brownies, cookies, candies, beverages, etc.
- Of the 231 exposures, 117 (51%) involved children 0 to 18 years of age.
  - The age group with the most marijuana cases (26%) was for individuals 13 to 19 years of age.”

**Pot-Related Calls to Colorado and Washington Poison Centers Up:** In a *Denver Post* article dated January 25, 2015 by Gene Johnson of the Associated Press, it cites the substantial increase in calls to poison control centers related to marijuana. “The spike in numbers since marijuana was legalized includes a troubling jump in cases involving young kids.” Calls to the Colorado poison center in 2014 almost doubled the number of calls in 2013 and tripled the calls in 2012. Calls to the Washington poison center jumped about 50 percent from 2013 to 2014. Calls involving children nearly doubled in both states.<sup>4</sup>

**Child Marijuana Poisoning Incidents Increase After States Legalize Pot:** A study by researchers at the Nationwide Children’s Hospital report, “More young children are exposed to marijuana in states after the drug had become legal for medical or recreational use...” This study, in the journal *Clinical Pediatrics* found: “the rate of marijuana exposures among children 5 years old and under increased 16 percent each year after legalization in those states.” According to the National Poison Database System, child exposures increased 147 percent from 2006- 2013.<sup>5</sup>

**Children and THC-Infused Edibles:** According to a *Colorado Springs Gazette Op/Ed* dated June 21, 2015, titled ‘THC extracts concentrate problems’: “In Colorado, the number of exposures to THC-infused edibles in your children increased fourfold in one year, from 19 cases in 2013 to 95 in 2014, according to the Rocky Mountain Poison and Drug Center.”<sup>6</sup>

## Sources

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<sup>1</sup> Cari Nierenberg, Live Science, December 29, 2015, "Pot Science: Top Marijuana Findings of 2015," <<http://www.livescience.com/53218-top-marijuana-scientific-findings-2015.html>>, accessed December 29, 2015

<sup>2</sup> Jan Hoffman, *The New York Times*, July 25, 2016, "Study Finds Sharp Increase in Marijuana Exposure Among Colorado Children," [http://www.nytimes.com/2016/07/26/health/marijuana-edibles-are-getting-into-colorado-childrens-hands-study-says.html?\\_r=0](http://www.nytimes.com/2016/07/26/health/marijuana-edibles-are-getting-into-colorado-childrens-hands-study-says.html?_r=0), accessed July 25, 2016

<sup>3</sup> Rocky Mountain Poison and Drug Center, "Colorado Marijuana Statistics for 2015"

<sup>4</sup> Gene Johnson, *The Cannabist*, January 23, 2015, "Pot-related poison control calls up in Washington, Colorado," <[www.thecannabist.co/2015/01/23/pot-related-poison-control-calls-washington-colorado/28495/](http://www.thecannabist.co/2015/01/23/pot-related-poison-control-calls-washington-colorado/28495/)>, accessed January 26, 2015

<sup>5</sup> Jackie Borchardt, Northeast Ohio Media Group, June 16, 2015, "Child marijuana poisoning incidents increase after states legalize pot," <[http://www.cleveland.com/open/index.ssf/2015/06/child\\_poisoning\\_cases\\_increase.html%23incart\\_river](http://www.cleveland.com/open/index.ssf/2015/06/child_poisoning_cases_increase.html%23incart_river)>, accessed June 17, 2015

<sup>6</sup> Editorial Board members Wayne Laugesen and Pula Davis in collaboration with journalist Christine Tatum, *The Gazette*, June 21, 2015, "THC extracts concentrate problems," <<http://gazette.com/thc-extracts-concentrate-problems/article/1554097>>, accessed June 2, 2015

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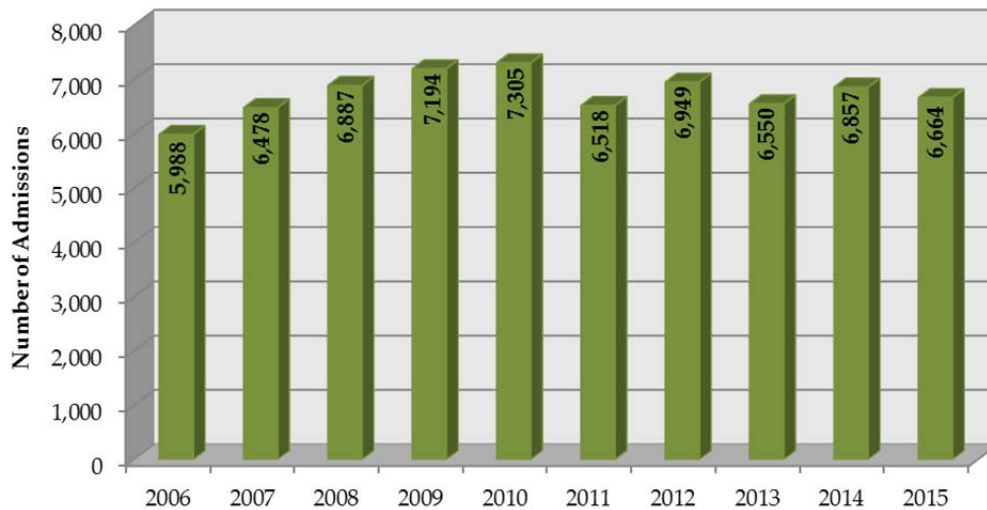
# SECTION 6: Treatment

## Some Findings

- Marijuana treatment data from Colorado in years 2005–2015 does not appear to demonstrate a definitive trend. Colorado averages approximately 6,500 treatment admissions annually for marijuana abuse.
- Over the last ten years, the top three drugs involved in treatment admissions, in descending order, were alcohol (average 13,382), marijuana (average 6,652) and methamphetamine (average 5,298).

## Data

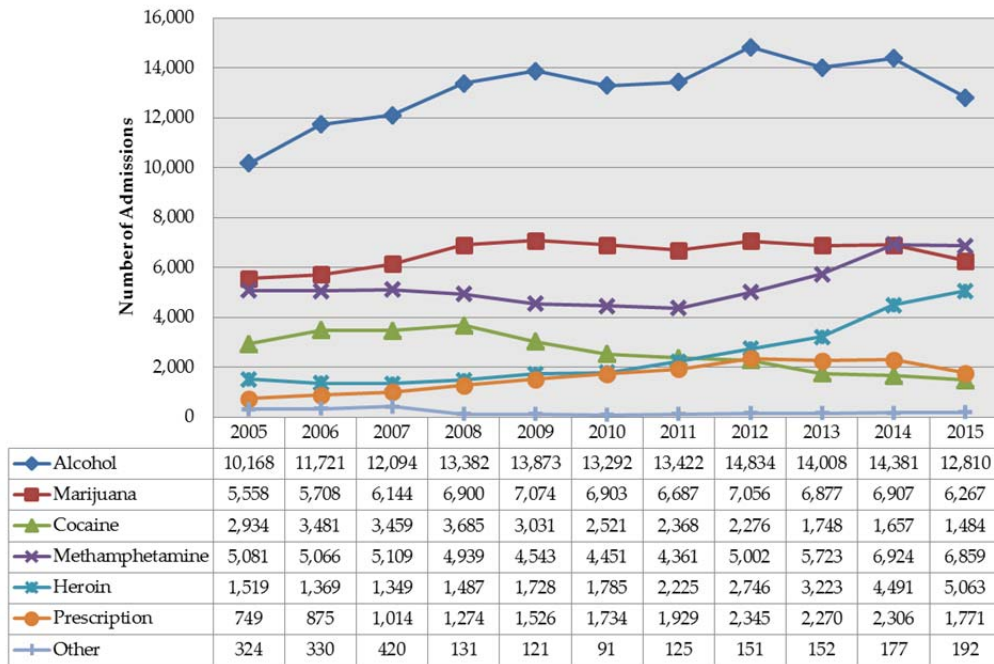
**Treatment with Marijuana as Primary Substance of Abuse, All Ages**



**SOURCE:** Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set (TEDS) Based on administrative data reported by States to TEDS through May 13, 2016

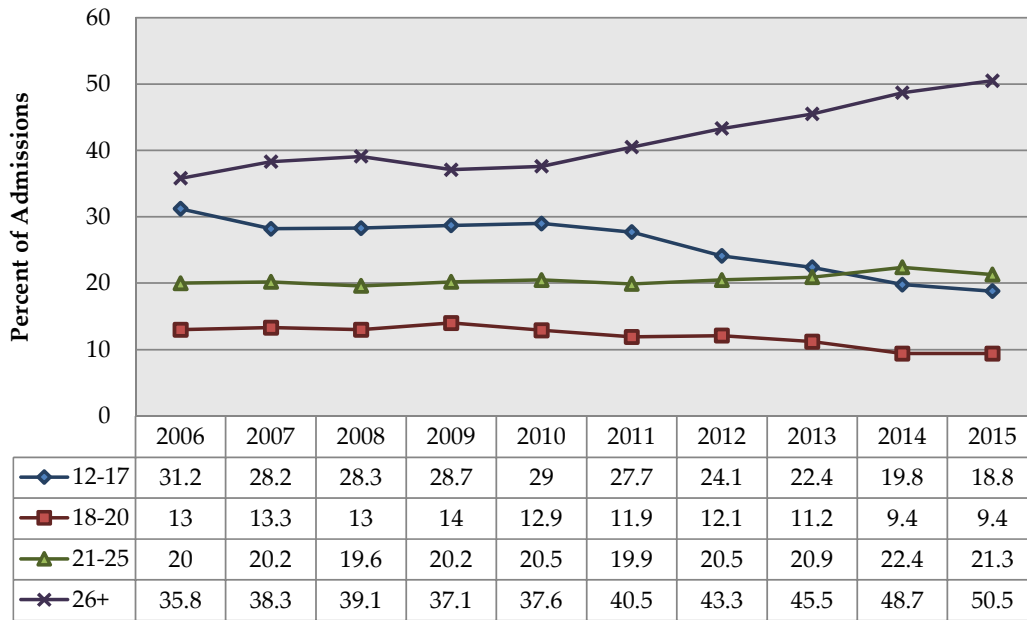


### Drug Type for Treatment Admissions All Ages



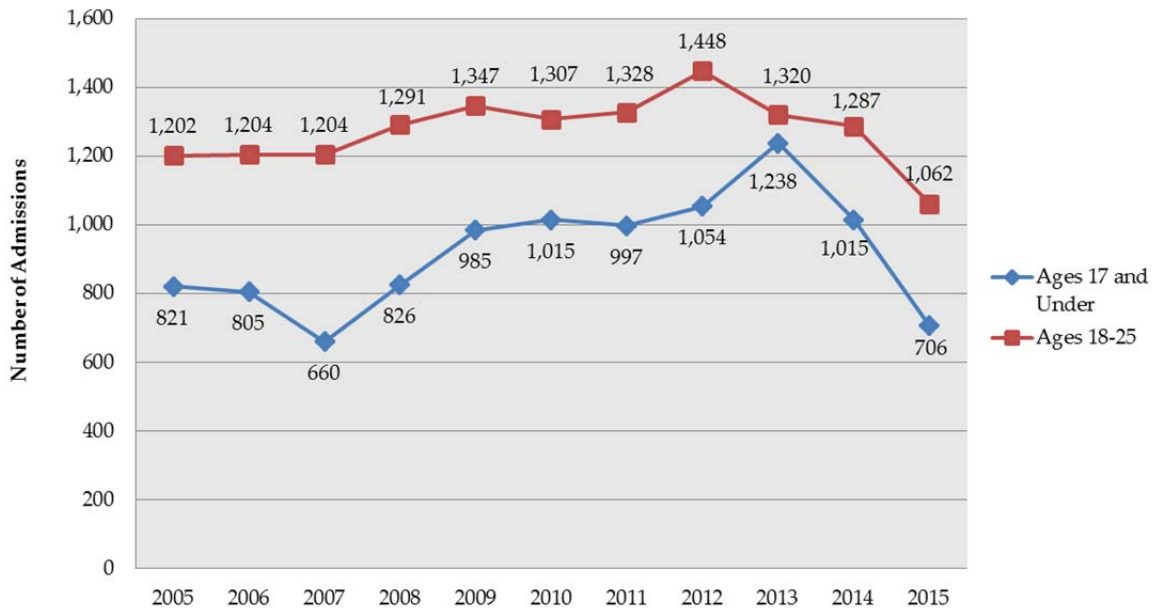
SOURCE: Colorado Department of Health Services, Office of Behavioral Health, 2005-2015

## Percent of Marijuana Treatment Admissions by Age Group



**SOURCE:** Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, Treatment Episode Data Set (TEDS) Based on administrative data reported by States to TEDS through May 13, 2016

### Marijuana Treatment Admissions Based on Criminal Justice Referrals



SOURCE: Colorado Department of Health Services, Office of Behavioral Health, 2005-2015

#### Comments from Colorado Treatment Providers

**“...Symptoms Are So Debilitating...”:** “Many patients minimize the consequences of cannabis use, yet they consistently report that they have become isolated, paranoid and unable to effectively interact with the outside world. In treatment, there has been a consistent increase in psychosis associated with patients who use cannabis. Thought broadcasting, thought insertion, ideas of reference and command hallucinations are not uncommon. These symptoms often occur in the absence of any other psychiatric disorder. The symptoms appear to decrease over time, with more time in recovery, but it is unclear whether the symptoms are long lasting. Since these symptoms are so debilitating, it is crucial to learn more about the long term effects of cannabis use.”<sup>1</sup>

**“...Lives Have Been Completely Disrupted...”:** “In my professional experience, have definitely seen more cannabis use in the individuals I am treating. I’ve also seen an increasing number of young men coming into treatment with symptoms of mania, psychosis and dangerous behaviors associated with cannabis use. Their lives have been completely disrupted due to the cannabis use. Unfortunately, abstinence from the cannabis use alone is not enough to make the symptoms go away. They require mood

stabilizing and anti-psychotic medications to get to a point that they can communicate coherently enough and trust others enough to participate in therapy. I do think this is related to the increased availability and potency, and this is consistent with the scientific literature.

On a personal note, my 10 and 11 year old children know what cannabis smoke smells like, identifying cannabis in the area rather than wondering if it is a skunk. Public use occurs everywhere. Children call each other, 'vapers,' in their less kind moments, and children with anything green are made fun of. One of my 11 year old's friends since preschool was allegedly expelled for selling cannabis on the 5th grade campus. As a parent, I'm terrified for the future of our children."<sup>2</sup>

**"...Psychosis and Cannabis is Well Documented...":** "We recently reviewed data for patients receiving treatment in the residential portion of our substance abuse treatment center, CeDAR. What we found was that patients who met criteria for a cannabis use disorder were markedly younger than those that did not, were much more likely to have other substance use disorders (an average of 2.8 substance use disorder diagnoses vs 1.9 substance use disorder diagnoses when cannabis use disorder was excluded) and there was a trend towards more mental health pathology in this data set as well.

Anecdotally, I and my colleagues have seen the number of patients with cannabis use disorder admitted to our facility increase over time. The amount of cannabis that patients describe consuming is also increasing, while the age they report first starting to use is decreasing. Overall the severity of cannabis use disorder we see appears more severe as do the psychosocial sequelae of this addiction. The link between psychosis and cannabis is well documented and it is becoming routine to admit young men who have used cannabis since early adolescence and who present with psychosis. Many of these patients may suffer long standing neuropsychiatric symptoms as the result of cannabis use. The burden of this illness is disproportionately falling on our younger population."<sup>3</sup>

## Related Material

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**Students "Getting Bored" with Marijuana and "Graduating on to Something Stronger":** When Colorado Matters host Ryan Warner asked Amanda Ingram, a Denver Health therapist staffed at the substance abuse clinic at Bruce Randolph School, in a radio interview about the role of legal marijuana in addiction, she stated:

"What I'm hearing from the children is that it's legal, it's OK to use now, it's also natural. And because it's legal and their families and adult friends are using it, they feel like it's justified. And what they're doing is they're using so much of it now that they're

kind of getting bored with it and graduating on to something stronger. This is just what I'm seeing in Bruce Randolph alone. I can't speak for the state of Colorado."<sup>4</sup>

**America's Youth: The Marijuana Martyrs:** According to data from Arapahoe House, a treatment network in Colorado, "...teenage admissions for marijuana addiction in Colorado increased by 66 percent between 2011 and 2014, correlating with the 2012 passage of Amendment 64." Dr. Christian Thurstone of the University of Colorado stated that, "...95 percent of the teenagers treated for substance abuse and addiction in my adolescent substance-abuse treatment clinic at Denver Health are there because of their marijuana use, and because nationwide, 67 percent of teens are referred to substance treatment because of their marijuana use. Marijuana is the No. 1 reason why adolescents seek substance-abuse treatment in the United States."<sup>5</sup>

**Former National Institute on Drug Abuse (NIDA) Director's Take on Legalized Marijuana:** The lack of public awareness and lack of media attention regarding "...the near-doubling of past year marijuana use nationally among adults age 18 and older and the corresponding increase in problems related to its use," has allowed for a shift in public perception about marijuana according to Robert L. DuPont, M.D (member, RiverMend Health Scientific Advisory Board; President, Institute for Behavior and Health Inc.; First Director, National Institute on Drug Abuse). "Because the addiction rate for marijuana remains stable—with about one in three past year marijuana users experiencing a marijuana use disorder – the total number of Americans with marijuana use disorders also has significantly increased. It is particularly disturbing that the public is unaware of the fact that, of all Americans with substance use disorders due to drugs other than alcohol, nearly 60 percent are due to marijuana. That means that more Americans are addicted to marijuana than any other drug, including heroin, cocaine, methamphetamine, and the nonmedical use of prescription drugs."<sup>6</sup>

**Legal and Addictive:** "We have noticed that those presenting with Cannabis Use Disorder are more committed to their use and harder to get through to than in years past. Patients tell us regularly that they will give up other drugs/alcohol but not marijuana and remind us of its legal status. This logic would obviously hold no water with alcohol and is a disturbing trend given that patients telling us this are often in dire straits. Their use/addiction has had and is having extremely detrimental effects on their lives yet they tell us it can't be an issue because marijuana is 'legal and non-addictive.'"<sup>7</sup>

**Youth in Treatment:** Denver Health Clinic youth are male (73.6 percent), mean age (15.8 years) and there primarily for cannabis use disorder (98.1 percent). Other psychiatric diagnoses include: attention-deficit/hyperactivity disorder, anxiety disorder, major depressive disorder and post-traumatic stress disorder.<sup>8</sup>

## Sources

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<sup>1</sup> Bari K Platter, MS, RN, PMHCNS-BC, Clinical Nurse Specialist, Center for Dependency, Addiction and Rehabilitation (CeDAR), University of Colorado Health, Aurora, Colorado, August 2016

<sup>2</sup> Laura F. Martin, M.D. Distinguished Fellow of the American Psychiatric Association, American Board of Addiction Medicine Diplomate Medical Director, Center for Dependency, Addiction and Rehabilitation (CeDAR), Associate Professor, Department of Psychiatry, University of Colorado School of Medicine, August 2016

<sup>3</sup> Ruth Marie Huhn, M.D., Board Certified Attending Psychiatrist at the Center for Dependency, Addiction and Rehabilitation (CeDAR), Instructor, Department of Psychiatry, University of Colorado School of Medicine, August 2016

<sup>4</sup> Andrea Dukakis, Colorado Public Radio, February 18, 2016, "Schools Become Ground Zero For Substance Abuse Treatment", <http://www.cpr.org/news/story/schools-become-ground-zero-substance-abuse-treatment>, accessed February 18, 2016

<sup>5</sup> Kayleigh McEnany, Abovethelaw.com, December 31, 2015, "America's Youth: The Marijuana Martyrs," <http://abovethelaw.com/2015/12/americas-youth-the-marijuana-martyrs/>, accessed January 4, 2016

<sup>6</sup> Robert L. DuPont, M.D., RiverMend Health, "Marijuana Legalization Has Led To More Use And Addiction While Illegal Market Continues To Thrive", <http://www.rivermendhealth.com/resources/marijuana-legalization-led-use-addiction-illegal-market-continues-thrive/>, accessed August 9, 2016

<sup>7</sup> Clinical Director Michael Barnes, PhD, LMFT, Business Development/Community Liaison, CeDAR/University of Colorado Hospital, September 2015

<sup>8</sup> Thurstone C, Hull M, LeNoue S, Brand N, Riggs PD (accepted for publication), "A Completer's Analysis of an Integrated Psychiatric/Substance Treatment for Adolescents and Young Adults," *University of Colorado Journal of Psychiatry and Psychology*

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# ***SECTION 7: Diversion of Colorado Marijuana***

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## Definitions

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**Colorado Marijuana Interdiction Seizures:** Incidents where state highway patrols stopped a driver for a traffic violation and subsequently found Colorado marijuana destined for other parts of the country. These interdiction seizures are reported on a voluntary basis to the National Seizure System (NSS) managed by the El Paso Intelligence Center (EPIC). These are random traffic stops, not investigations, and do not include local law enforcement data.

## Some Findings

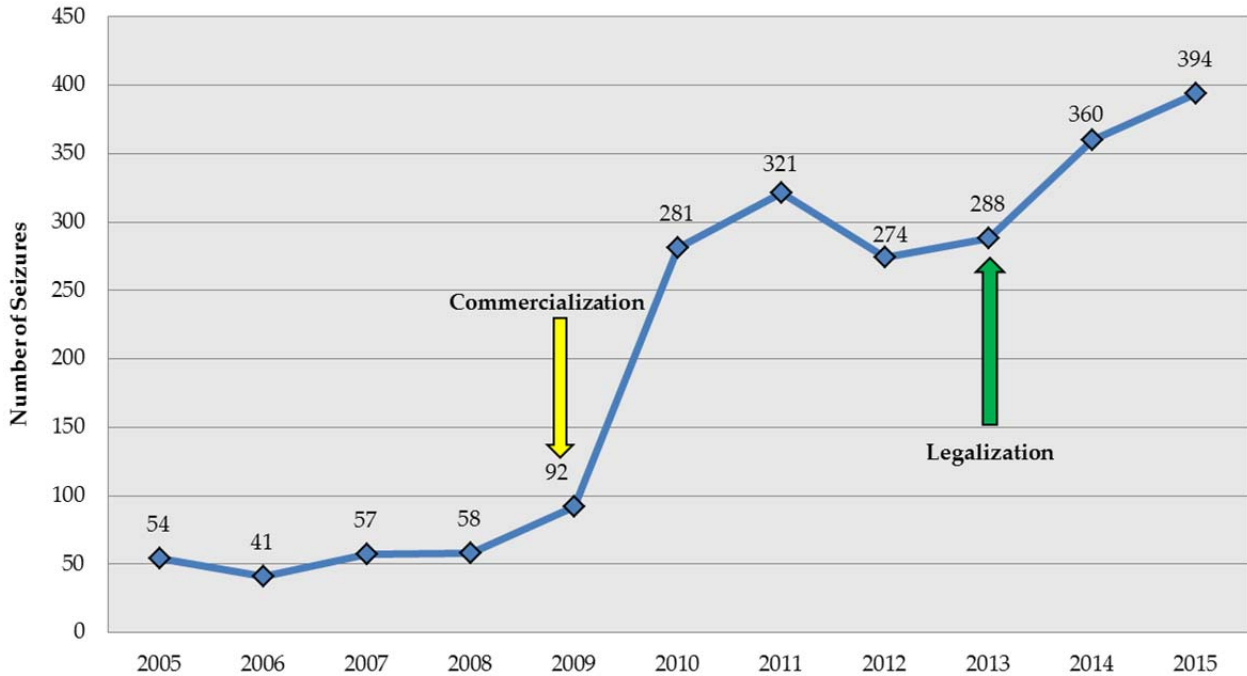
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- During 2009–2012, when medical marijuana was commercialized, the yearly average number interdiction seizures of Colorado marijuana increased **357 percent** from **53** to **242** per year.
- Highway patrol interdiction seizures of Colorado marijuana increased **37 percent** from **288** to **394** during 2013–2015, when recreational marijuana was legalized.
- The total average number of pounds of Colorado marijuana seized from 2005–2008 compared to 2009–2015 increased **30 percent** from **2,763 pounds** to **3,586 pounds**.
- Of the **394** seizures in 2015, there were **36 different states** destined to receive marijuana from Colorado. The most common destinations identified were Missouri, Illinois, Texas, Iowa and Florida.
- More than half of all seizures containing Colorado marijuana originated from Denver.



Data

### Colorado Marijuana Interdiction Seizures

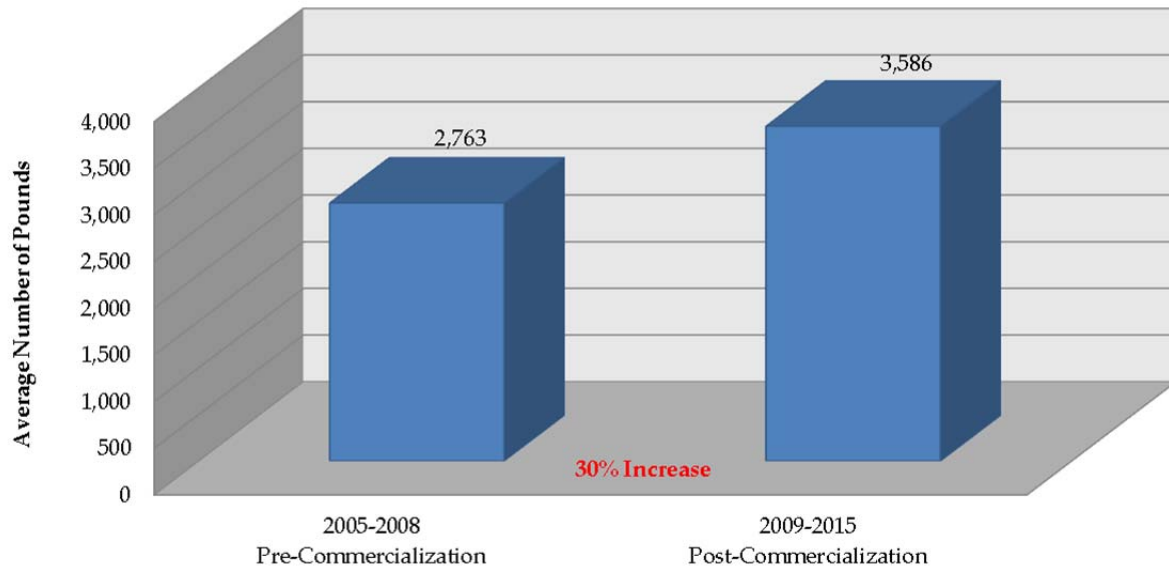


SOURCE: El Paso Intelligence Center, National Seizure System, as of August 15, 2016

- ❖ A 2014 survey of approximately 100 interdiction experts estimates they seize 10 percent or less.

**NOTE:** THE CHARTS ONLY INCLUDE CASES WHERE COLORADO MARIJUANA WAS ACTUALLY SEIZED AND REPORTED. IT IS UNKNOWN HOW MANY COLORADO MARIJUANA LOADS WERE NOT DETECTED OR, IF SEIZED, WERE NOT REPORTED.

### Average Pounds of Colorado Marijuana from Interdiction Seizures



SOURCE: El Paso Intelligence Center, National Seizure System, as of August 15, 2016

- ❖ In the three years (2013-2015) of legalized recreational marijuana in Colorado, highway patrol seizures have resulted in approximately 4.5 tons of Colorado marijuana being seized.

**States to Which Colorado Marijuana Was Destined (2015)  
(Total Reported Incidents per State)**



SOURCE: El Paso Intelligence Center, National Seizure System, as of August 15, 2016

❖ There were 38 seizures for which the destination was unknown.

Top Three Cities for Marijuana Origin

Originating City Ranking	Number of Seizures from Originating City	Percentage
1. Denver	178	65%
2. Colorado Springs	22	8%
3. Aurora	10	4%

\* Of the 394 seizures, only 272 seizures had an origin city associated to them. The numbers above represent the top three cities where marijuana seizures originating from within Colorado.

## A Few Examples of Interdictions

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**150 Pounds of Colorado Marijuana Destined for Missouri:** In December of 2015, a Kansas Highway Patrol trooper stopped a tractor trailer traveling eastbound on I-70 through Kansas. Upon further investigation, 150 pounds of hydroponic-grade marijuana was discovered in the load. The marijuana was from Denver, Colorado and was headed to **Missouri**.

**100 Pounds of Colorado Marijuana:** In December 2015, Wichita drug task force seized 100 pounds of Colorado marijuana being transported in a Cadillac Escalade bound for **Tampa, Florida**. The three Cuban males from Florida claimed they did not know who the drugs belonged to but found it in a dumpster.

**Marijuana as a Christmas Present:** On December 22, 2015, an Oklahoma Highway Patrol trooper stopped a vehicle traveling eastbound along I-40. When questioned about a Christmas present in the vehicle, the driver became nervous and provided an improbable reason for the package. A service dog performed an “air sniff” on the vehicle and its contents, indicating on the Christmas present only. Inside the package was approximately 3 pounds of hydroponic marijuana and 40 small containers of THC wax. The male driver was traveling from Colorado Springs, Colorado to **Seale, Alabama**.

**Felon with a Gun:** On December 22, 2015, a Nebraska State Patrol trooper stopped a vehicle with two adult males and one woman traveling from Arvada, Colorado to **Sioux Falls, South Dakota**. Upon further investigation, the occupants were found to be in possession of 4 pounds of hashish, 4 pounds of marijuana and a .40 caliber Glock firearm. Both males were arrested for possession with intent to deliver and possession of a firearm while committing a felony. The woman was released. One of the males was from Colorado and one from South Dakota.

**Edibles and Wax to Oklahoma:** In July of 2016, a Kansas Highway Patrol trooper stopped a vehicle for traffic violations. Subsequent to the stop, the trooper discovered 5 pounds of marijuana, 5 pounds of marijuana-infused edibles and 69 grams of THC wax inside the vehicle. This vehicle, registered in Oklahoma, was coming from Denver, Colorado en route to **Oklahoma**.

**11 Pounds to Kentucky:** On January 8, 2015, a Colorado State Patrol officer conducted a traffic stop of a vehicle traveling from Colorado Springs, Colorado to **Kentucky** resulting in the arrest of the driver and the seizure of 11 pounds marijuana.

The marijuana was vacuum sealed and concealed in a duffel bag. It is suspected that the marijuana came from a grow operation a residence in Colorado Springs.

**Two Iowa Dealers Purchase 33 Pounds of Marijuana in Colorado for \$50,000:** In late October of 2015, two Iowa men were pulled over by local law enforcement in Douglas County, Nebraska. The two were heading eastbound along I-80 after departing Colorado and heading for **Fort Dodge, Iowa**. After the Douglas County deputy sheriff smelled marijuana coming from inside the vehicle, a search revealed more than 33 pounds of marijuana. The two men admitted to bringing \$50,000 with them to purchase marijuana from a Colorado source for the purpose of re-selling it in the Fort Dodge area.<sup>1</sup>

**123 Pounds of Marijuana Found in Car with Colorado Plates During Ohio Traffic Stop:** On January 13, 2016, a Subaru station wagon with Colorado license plates was pulled over on I-70 between Dayton and Columbus, Ohio for following too closely. A search warrant was obtained after a drug-sniffing dog alerted to the vehicle. A total of 123 pounds of marijuana (a \$615,000 value) was discovered inside the vehicle. The two men, both Colorado residents, face charges for possession and trafficking marijuana.<sup>2</sup>

**Florida to Receive 75 Pounds of Marijuana:** On January 22, 2016, a Missouri State Patrol trooper stopped a rental vehicle registered in Colorado for a traffic violation. A subsequent search revealed 75 pounds of marijuana dispersed between three duffel bags located in the rear cargo area of the vehicle. The vehicle was coming from Denver, Colorado en route to **Miami, Florida**.

**37 Pounds of Marijuana at a Bus Depot:** On November 20, 2015, a Kansas City, Missouri Police Department Interdiction Squad officer located a suspicious bag at a commercial bus depot. A subsequent search revealed 37.4 pounds of marijuana inside the bag. The baggage was coming from Denver, Colorado en route to **Knoxville, Tennessee**.

**Speeding to Texas:** In August of 2015, Texas Highway Patrol pulled over a driver for speeding while the subject was traveling southbound along US Route 81 near Rhome, Texas. Upon further investigation, 25.5 pounds of marijuana was being transported in the vehicle. The vehicle was from Texas, and the driver was traveling from Denver, Colorado to **Dallas, Texas**.

**Marijuana Seeds Destined for the East Coast:** On March 14, 2016, a Missouri State Highway Patrol trooper stopped a vehicle registered in Colorado for a traffic violation. A subsequent search revealed 70 marijuana seeds, 2 ounces of marijuana, 3 vials of THC

oil and 40 ml of psilocybin mushrooms spores hidden inside a locked safe in the trunk of the vehicle. The vehicle was coming from Boulder, Colorado en route to **Sterling, Virginia**.

**New York Jet-Setters:** In August of 2015, an Iowa State Patrol trooper pulled-over a vehicle traveling eastbound on I-80 while following another vehicle too-closely. During the investigation, it was discovered that the subjects in the vehicle had flown from New York to Denver and were now driving back to **New York** in a rental car. The subjects provided consent to search the vehicle. When the search was performed, officers found 55 syringes containing cannabis oil, 10 containers of THC containing gummies, and approximately 6 pounds of THC infused edibles.

**Marijuana and THC Wax Found in Autotransport:** In February of 2016, a Kansas Highway Patrol trooper stopped a vehicle registered in Massachusetts for a traffic violation. A subsequent search revealed 41 pounds of marijuana and 2.5 pounds of THC wax was concealed in duffle bags located in the trunk of the vehicle being hauled by the tractor trailer. The vehicle was coming from Denver, Colorado en route to **Massachusetts**.

**15 Pounds of Colorado Marijuana to Florida:** In August of 2016, a 27-year-old man was arrested in Colorado Springs, Colorado on suspicion of attempting to transport 15 pounds of marijuana to **Florida**. When police contacted the suspect, he was drunk, had \$28,000 U.S. currency, 3 grams of cocaine and a pistol.<sup>3</sup>

**Marijuana by Train:** In November 2015, Kansas City Police Interdiction Squad arrested a 62-year-old Colorado woman traveling on an Amtrak train from Boncarbo, Colorado to **St. Louis, Missouri**. In her suitcases were several vacuum-sealed packages containing 5 pounds of high-grade marijuana and 50 grams of THC wax.

## A Few Examples of Investigations

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**NOTE: THE EXAMPLES BELOW ARE ONLY A SMALL SAMPLE OF THE MANY INVESTIGATIONS INVOLVING COLORADO MARIJUANA CITED BY VARIOUS DRUG UNITS.**

**Increase in Organized Crime:** “Since 2014, there has been a notable increase in organized networks of sophisticated residential grows in Colorado that are orchestrated and operated by drug trafficking organizations. These organizations currently operate hundreds of large-scale home grows throughout Colorado. Harvested marijuana is

shipped or transported out of Colorado to markets in the Midwest and East Coast. Home grows have significantly increased illicit production of marijuana in Colorado.”<sup>4</sup>

### **Organized Crime Comes to Colorado to Cash in on Illegal Marijuana Home**

**Grows:** “On March 31, [2016] sheriff’s deputies from the Special Investigations Narcotics Section raided a single-family home that was in the process of being converted into a ‘grow house’. Authorities discovered 127 marijuana plants, over \$100,000 in growing equipment, and two Cuban nationals.” In the following weeks four more individuals were arrested in regards to similar cases. Like the first two, all of the individuals had similar backgrounds, were Cuban nationals, were transforming residential homes into elaborate marijuana grow operations, and all were recent transplants to Colorado. According to DEA Assistant Special Agent in Charge Kevin Merrill, “It’s not just Cubans. We have Vietnamese-based organizations, Russian organized people. But we have seen a large influx of Cubans coming here. And we believe that all the organizations are here because we have a perceived lack of enforcement.”

Colorado Springs Mayor John Suthers, who previously served 10 years as attorney general of Colorado, “...calls ‘the total nightmare’ scenario a byproduct of the state’s recent legalization of first medicinal, and later recreational, marijuana. People from out of town or even foreign countries move to Colorado and ‘buy or lease houses by the hundreds if not thousands’,” explains Suthers. This type of criminal activity is undermining a key argument used for legalizing marijuana in the first place, which is to eliminate the black market. These new Colorado residents are converting residential homes to industrial grow operations and then “...transporting it out of state to marijuana markets nationally and internationally.”<sup>5</sup>

### **Diversion of Colorado Marijuana Violates Both State and Federal Laws:**

Organized crime elements with out-of-state ties increasingly are using Colorado homes to grow large amounts of marijuana illegally for transport and sale across the nation. “Anytime there’s money to be made, crime comes with it,” said Huerfano County (Colorado) Sheriff Bruce Newman. “There’s a lot of law enforcement activity focused on this,” said John Walsh, Colorado’s U.S. attorney. “These operations violate federal law but also state law.”

In the past, many of these illicit operations gravitated to rural areas of Colorado; however this trend has shifted to criminals renting or buying homes and quickly converting the homes to begin cultivating hundreds, or even thousands, of plants.

“Law enforcement flexed its muscle Thursday [April 14, 2016] morning by raiding about 30 locations — many of them homes — between El Paso County and the north Denver area as part of an operation targeting a pot trafficking organization.” In each of the eight cases the county sheriff’s office discovered that the residents were not only

from out of state, but many had international ties. “Their plan is to send it out of state,” said Pueblo County Sheriff Kirk Taylor. “That’s well-documented.”

“They can kind of hide in plain sight,” said Barbra Roach, special agent in charge of the Drug Enforcement Administration’s (DEA) Denver division. “They don’t try to abide by the law in any way. For a while, they were going into warehouses. Now they are just going into homes.” “Roach said the unintended consequences of the illicit grows can be vast, from fires to water pollution to devaluing rental property.”

Walsh said “The DEA has been working with local police departments and sheriff’s offices to address the problem. He pointed to an operation last year that targeted 20 people in southern Colorado’s Fremont and Custer counties accused of harvesting marijuana at eight properties and shipping it to Florida via UPS. Federal agents and local police confiscated 28 guns, more than \$25,000 and 50 pounds of processed marijuana as part of that case.”<sup>6</sup>

**Drug Traffickers Hiding in Plain Sight:** In April 2016, a multi-state investigation into the illegal distribution of marijuana outside Colorado resulted in police and federal agents arresting more than 40 people and seized piles of pot plants. “Officers searched about 30 properties during the raids, which spanned from the Denver area south to Colorado Springs.”

“The case involved people who moved to Colorado from Texas specifically to grow marijuana that would be illegally exported.”

“Authorities described the case as the latest example of drug traffickers seeking safe haven in the state’s flourishing marijuana industry in order to ship the drug out of state, where it can sell for more than double what it would in Colorado.”

“Traffickers hide among the state’s sanctioned warehouses and farms, but also in neighborhoods where concerned neighbors sometimes tip police, authorities say.”<sup>7</sup>

**Criminal Organization Coordinated Marijuana to North Carolina:** In January 2016, a member of a criminal organization coordinated a delivery of marijuana with the driver of a tractor trailer at a truck stop in Denver. The driver of the tractor trailer was stopped in Kansas in route to North Carolina with 27 pounds of marijuana hidden in the tractor’s cab.<sup>8</sup>

**Interstate Drug Trafficking Organization:** In April 2015, an interstate marijuana trafficking organization headed by a Denver-based trafficker identified ten to fifteen marijuana grow houses in the Denver and Colorado Springs metro areas. This drug trafficking organization utilized several rental properties for their marijuana-grow operations. The organization grew marijuana in Colorado and then distributed their finished product to customers in other states that included North Carolina, Georgia and



Texas. The marijuana was transported to the other states by tractor trailer, personal vehicles and other mail service.<sup>8</sup>

**City of Pueblo Cracking Down:** Pueblo authorities were notified by concerned citizens regarding illegal marijuana home grows. Between March and August 2016, authorities targeted various illegal home grows. Search warrants for over 30 residential homes were executed. First responders entered homes that were overrun with marijuana plants and various grow equipment, worth well over \$450,000 in value, throughout the house. The homes were primarily occupied by growers for the sole purpose of cultivating marijuana and exporting the finished products for profit. Approximately 82 pounds of prepackaged marijuana ready for distribution was seized during this timeframe. In some cases, there were children living in these toxic environments. Several of these homes were declared condemned by the health department for excessive mold and unsafe electrical work. In some cases, high-volume THC extraction labs were located. To date, 41 arrests have been made. Parties arrested were primarily from Florida, Cuba, Russia and Vietnam. Over 7,250 plants were seized from various Pueblo neighborhoods.<sup>9</sup>

**\$620,000 and Over 2,000 Marijuana Plants:** In June 2015, numerous agencies investigated a multi-faceted marijuana cultivation and drug trafficking organization. This enterprise grew marijuana in numerous warehouses and residences in the greater Denver metro area, then shipped the marijuana to Texas, Kansas, Ohio, New York and Nebraska for retail distribution. Money laundering was identified when members of the drug trafficking organization used businesses and financial institutions to launder the illegal drug proceeds. A coordinated take down of the organization occurred at 11 marijuana grow warehouses, 21 residences, 15 bank accounts and 4 safe deposit boxes. "As a result agents and detectives seized \$620,000 cash; 2,139 marijuana plants; 438 pounds of finished marijuana; 20 vehicles; one boat; two jet skis; one snowmobile; approximately 600 grow lights and 600 ballasts; jewelry with an estimated value of over \$100,000; silver coins and silver bullion. Arrests were not made at this time as the investigation is ongoing. It is anticipated that indictments and arrests will occur in the coming months."<sup>10</sup>

**5 Tons of Illegal Marijuana:** As of March 2016, Pueblo County authorities have conducted 17 illegal marijuana home grow eradication operations resulting in 25 arrests and over 5,100 illegal marijuana plant seizures from the home grows.<sup>11</sup>

**It Wasn't Supported to Work This Way:** Authorities were notified of a possible illegal grow operation by a local vigilante in Pueblo, CO just days before 127 marijuana plants, over \$100,000 in growing equipment, and two Cuban nationals were discovered

by sheriff's deputies. The single family home that was occupied by 28-year-old Adriel Trujillo Daniel and 41-year-old Leosbel Ledesma Quintana was in the process of being converted into a "grow" house. Over the course of the next few weeks, authorities discovered several other instances of Cuban transplants moving to Colorado in order to set up illegal marijuana grow houses.

"We have quite a bit of evidence" to believe they are member of "Cuban cartels," Pueblo Sheriff Kirk Taylor stated in an interview.

Local, state, and federal officials believe it's not just isolated to Pueblo. "It's across the entire state of Colorado," DEA assistant special agent in charge Kevin Merrill says. "It's just basically taken over the state, these residential grows."

It is what Colorado Springs Mayor John Suthers calls "the total nightmare" scenario, a byproduct of the state's recent legalization of first medicinal, and later recreational, marijuana.

People from out of town or even foreign countries move to Colorado and "buy or lease houses by the hundreds if not thousands," explains Suthers, who previously served 10 years as attorney general of the state.<sup>12</sup>

**Seven Men Indicted for Illegal Marijuana Home Grows:** In March 2016, Southern Colorado DEA Drug Task Forces secured search warrants and raided five homes in Pueblo West. Some of these illegal home grow operations are located directly across the street from each other. Authorities seized 1,879 marijuana plants, butane hash oil lab equipment, 16 pounds of processed marijuana and nine hand guns and shotguns. Seven men have been indicted in Denver U.S. District Court on 13 counts of illegal marijuana production and distribution to Florida.<sup>13</sup>

**Anticipate Hundreds of Marijuana Busts:** In March 2016, Colorado Springs Mayor John Suthers will be targeting unregistered, commercial-sized operations run by out-of-state residents, mainly from Florida and with ties to cartels. "Florida's proximity to Cuba has increasingly made it an entry point for drug cartels looking to penetrate markets in the U.S., officials say. 'If you look at who is being busted in Pueblo and who will be busted in Colorado Springs over the summer, you can tell: These are organized crime,' Suthers said."

The Denver Drug Enforcement Agency agents said they have identified at least 186 large-scale marijuana grows operating in Colorado Springs and trafficking products to the Midwest and East Coast.

"Since March 31, the Pueblo County Sheriff's Office and DEA agents have raided 23 illegal grows and arrested 35 people. Of those arrests, 26 people have been from out of state, all but one with ties to Florida. At least six residents were Cuban nationals, the sheriff's office said."

Tim Scott, resident agent in charge for DEA's Colorado Springs Bureau told the City Council in April, "You have to understand what Colorado is. Afghanistan is the source country for heroin. Venezuela and Columbia are source countries for cocaine. Mexico is the source country for methamphetamines. You [Colorado] are the source state for marijuana."<sup>14</sup>

**Georgia Couple Traveling with Infant Trafficking Colorado Marijuana:** In February 2016, a couple and their infant traveled in a vehicle from Georgia to Colorado Springs to purchase marijuana. During their time in Colorado Springs, the couple made multiple cash deposits at several banks totaling about \$20,000, which was payment for marijuana. The couple later met in Colorado Springs with a courier who delivered to them three suitcases filled with marijuana. The couple was later stopped in Kansas en route to Georgia with 32 pounds of marijuana contained in the suitcases.<sup>15</sup>

**Floridians Moving to Colorado for Drug Trafficking:** In June 2016, DEA's Grand Junction, Colorado Office seized 675 illegal marijuana plants, 3 guns and 3 ounces of cocaine from 5 different residential rental properties in Mesa and Delta counties Colorado. Turns out the group of Cuban nationals rented the homes for the sole purpose of setting up illegal marijuana home grows. These individuals obtained doctor recommendations to grow or to possess up to 99 plants for personal use when in reality this marijuana was being shipped to Florida and New Jersey. "...despite having doctor recommendations to use marijuana for chronic pain, there was no items located during the search warrants that indicated any of the defendants were using any marijuana at all."<sup>16</sup>

**2,700 Pot Plants Seized:** In July 2015, Delta County (Colorado) Sheriff's Office served a search warrant on an illegal marijuana home grow. Authorities seized 2,700 pot plants. Sheriff Mckee said the agencies were worried that the marijuana was being processed with the intent to distribute, which is banned in Delta County. "Two people were investigated, but charges or citations have yet to be issued."<sup>17</sup>

**Drugs, Guns and Money:** "Throughout 2015, DEA Denver and counterparts in Larimer and Douglas counties investigated a network of marijuana grows operated by an out-of-state drug trafficking organization. The marijuana was going to Chicago and to Florida. In August, September, and December, state search warrants resulted in the seizures of over 1,800 plants, over 100 pounds of processed marijuana, almost \$1 million in assets, and 45 firearms, many of which were military-style automatic rifles."<sup>18</sup>

**Home Grow Owner Kills to Protect His Illegal Marijuana:** In March 2016, three individuals attempted to burglarize an illegal home grow containing 400 marijuana

plants. The Florida residents occupying the home shot and killed one of the three. The residents have been arrested on charges linked to the marijuana operation. Huerfano County Sheriff Newman attributes this incident to the influx of Florida residents moving to Colorado to illegally grow marijuana and taking it back to their states.<sup>19</sup>

**Licensed Marijuana Store Source for Diversion?:** In July 2016, an eye witness reports a young man enter a medical marijuana dispensary and order one pound of marijuana. This was well beyond the legal limit for possession and for distribution at any single transaction. The customer argued with the clerk about price and they agreed on a price of \$2,500. The young man walked happily out the front door of the medical marijuana dispensary with one entire pound of marijuana in his hand.<sup>20</sup>

**Residents Harassed by Marijuana Growers:** “In September 2015, the DEA Colorado Springs Resident Office investigated a network of marijuana grow houses in southern Colorado. At least nine marijuana grows houses were operated by members of a Florida-based drug trafficking organization who had recently relocated to Colorado to produce large amounts of marijuana for their customers along the East Coast. During the investigation, one of the grow houses was destroyed by fire, and neighbors were repeatedly intimidated and harassed by the growers. In September 2015, the execution of search warrants at the grow sites resulted in the seizure of over 1,000 marijuana plants, 50 pounds of harvested marijuana, and 28 firearms”.<sup>21</sup>

**Money Laundering Schemes:** “The financial system is often exploited by marijuana traffickers based in Colorado and their customers in other states. A myriad of money laundering schemes are used to integrate marijuana cash into the financial system. Most recently, there is widespread use of funnel accounts. Cash from marijuana purchases is deposited into the sources’ bank accounts at branches throughout the Midwestern and eastern U.S. Within a day or two, the money is withdrawn at ATMs in Colorado or transferred to additional accounts. Reporting by banks documents millions of dollars in cash deposits related to out-of-state marijuana sales on a monthly basis.”<sup>21</sup>

**12-Pound Seizure Leads to a Large-Scale Drug Trafficking Operation:** In February 2016, Texas State Patrol conducted a traffic stop resulting in 12 pounds of high grade marijuana being seized in route from Colorado destined for Florida. This led to the identification of 5 homes in Pueblo, Colorado that were actively cultivating marijuana with the intent to transport to Florida. In March 2016, search warrants were executed at the five properties resulting in the seizure of 2 active BHO extraction labs, 1,895 marijuana plants, approximately 17 pounds of processed marijuana and a small amount of marijuana “shatter.” In addition, approximately \$75,000 worth of marijuana grow equipment, approximately \$2,000.00 USC and 9 firearms were seized from the

properties. Seven defendants were arrested on various charges to include possession with intent to manufacture or distribute marijuana.<sup>22</sup>

## Comments

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### **Kansas Attempting to Prove Colorado Marijuana is Wreaking Havoc on the State:**

As of January of 2016, Derek Schmidt, Kansas Attorney General, is in the process of gathering evidence related to the illegal export of marijuana from the neighboring state of Colorado. The Kansas Office of the Attorney General has recently announced that it is sending surveys to prosecutors and law enforcement officials within the state. The underlying purpose of the efforts to collect information on the negative effect of Colorado marijuana is geared towards supporting a lawsuit filed with the U.S. Supreme Court by Oklahoma and Nebraska. Currently, criminal justice information systems are not tracking the origin of marijuana encountered by Kansas law enforcement.

“There are numerous and persistent anecdotal accounts of marijuana acquired in Colorado and illegally transported into Kansas causing harm here,” Schmidt is quoted as saying. “But because of technology limits, the confirming data is elusive. Since Colorado’s experiment with legalization is affecting Kansas, we need to know more about what is actually happening here so policymakers can make informed decisions.”<sup>23</sup>

**Nebraska Resources Inundated by Colorado Marijuana:** “Nebraska Sheriff Adam Hayward says his resources have been stretched thin as more marijuana legally purchased in Colorado crosses into Nebraska.”

Potential pot customers will see a handmade sign in retail dispensaries: “It is illegal to take marijuana out of the state.” But this does not stop individuals from breaking the law. Since legalization, Nebraska law enforcement across the border is busier than ever, as eastward drivers attempt to leave Colorado with their pot products. In January of this year, Nebraska authorities booked 23 possession of marijuana cases coming from Colorado. Licensed dispensary products such as joints to psychedelic glass pipes to edibles, such as cannabis-infused gummy bears, chips and cookies are the items being purchased in Colorado and immediately become illegal contraband once it crosses over to Nebraska.

“Sheriff Hayward says most drivers who are caught with weed are pulled over for basic traffic violations like speeding or failing to signal a lane change.”

“During a recent traffic stop, Sheriff Hayward confiscated four large plastic bags with six pounds of marijuana. The driver, who Hayward said purchased the cannabis from a Colorado dispensary and planned to sell it in Nebraska, was convicted on felony charges.”<sup>24</sup>

## Sources

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<sup>1</sup> KETV ABC 7/ Omaha, Nebraska, October 26, 2015, “2 men pulled over with more than 33 lbs. of marijuana in car,” <<http://www.ketv.com/news/2-men-pulled-over-with-more-than-33-lbs-of-marijuana-in-car/36056424>>, accessed June 16, 2016

<sup>2</sup> Chris Loveless, KRDO.com, January 21, 2016, “123 pounds of marijuana found in car with Colorado plates during Ohio traffic stop,” <<http://www.krdo.com/news/123-pounds-of-marijuana-found-in-car-with-colorado-plates-during-ohio-traffic-stop/37557470>>, accessed June 9, 2016

<sup>3</sup> Chhun Sun, *The Gazette*, August 1, 2016, “Police: Man wanted to take 15 pounds of marijuana from Colorado Springs to Florida”, <<http://gazette.com/police-man-wanted-to-take-15-pounds-of-marijuana-from-colorado-springs-to-florida/article/1581726>>, accessed August 2, 2016

<sup>4</sup> Drug Enforcement Administration Intelligence Report, June 2016, “Residential Marijuana Grows in Colorado: The New Meth Houses?”

<sup>5</sup> Daniel Halper, *The Weekly Standard*, May 23, 2016, “It Wasn’t Supposed to Work This Way”, <<http://www.weeklystandard.com/it-wasnt-supposed-to-work-this-way/article/2002373>>, accessed May 23, 2016A

<sup>6</sup> Jesse Paul, *The Denver Post*, April 15, 2016, “More illicit pot being grown in Colorado homes, shipped out of state”, <<http://www.denverpost.com/2016/04/15/more-illicit-pot-being-grown-in-colorado-homes-shipped-out-of-state/>>, accessed June 8, 2016

<sup>7</sup> Sadie Gurman, Associated Press, April 14, 2016, “Dozens arrested in Denver-area pot raids targeting exporters”, <<http://bigstory.ap.org/article/807b6023984b40d793324a1b0187e1cd/dozens-arrested-denver-area-pot-raids-targeting-exporters>>, accessed April 14, 2016

<sup>8</sup> Drug Enforcement Administration, Denver Field Division, July 2016

<sup>9</sup> Pueblo Sheriff’s Office, Media Center/Press Releases since March 2016–August 2016, <<http://www.sheriff.co.pueblo.co.us/pio/?m=201608>>, accessed 08/12/16

<sup>10</sup> Drug Enforcement Administration, Denver Field Division, March 2016

<sup>11</sup> *The Denver Post*, May 7, 2016, "Latest Pueblo Bust Nets 200 More Plants," <<http://www.pressreader.com>>, accessed May 7, 2016

<sup>12</sup> Daniel Halper, *The Weekly Standard*, May 29, 2016, "It Wasn't Supposed to Work This Way," <<http://www.msn.com/en-us/news/crime/it-wasnt-supposed-to-work-this-way/ar-BBtpIoY?ocid=se>>, accessed June 10, 2016

<sup>13</sup> Kirk Mitchell, *The Denver Post*, July 12, 2016, "7 indicted in wide-scale illegal pot operation in Pueblo West; Ties to Florida," <<http://www.denverpost.com/2016/07/12/wide-scale-illegal-pot-operation-pueblo-west-florida/>>, accessed July 13, 2016

<sup>14</sup> *The Gazette* as published in *The Denver Post* May 30, 2016, "Colorado Springs Mayor: Day of reckoning coming for city's illegal marijuana growers," <<http://www.denverpost.com/2016/05/30/colorado-springs-mayor-day-of-reckoning-coming-for-citys-illegal-marijuana-growers/>>, accessed June 2, 2016

<sup>15</sup> Drug Enforcement Administration, Denver Field Division, July 2016

<sup>16</sup> Drug Enforcement Administration, Denver Field Division, June 2016

<sup>17</sup> Associated Press, *The Daily Sentinel*, July 10, 2015, "Authorities seize 2,700 pot plants in Delta County", <<http://www.gjsentinel.com/breaking/articles/authorities-seize-2700-pot-plants-in-delta-county>>, accessed July 10, 2015

<sup>18</sup> Drug Enforcement Administration - Denver Field Division and Larimer County (Colorado) Sheriff's Office, May 2016

<sup>19</sup> Jesse Paul, *The Denver Post*, March 30, 2016, "Feds, sheriff probe intruder's killing at Huerfano home filled with illegal pot," <<http://www.denverpost.com/2016/03/30/feds-sheriff-probe-intruders-killing-at-huerfano-home-filled-with-illegal-pot-2/>>, accessed June 8, 2016

<sup>20</sup> Monte Stiles, "The mellow world of pot, Shangri-La in Denver," e-mail message, July 1, 2016

<sup>21</sup> Drug Enforcement Administration, Denver Field Division, May 2016

<sup>22</sup> Drug Enforcement Administration, Denver Field Division, April 2016

<sup>23</sup> Michael Roberts, *Westword*, January 5, 2016, "Kansas Attempting to Prove Colorado Marijuana is Wreaking Havoc on State," <<http://www.westword.com/news/kansas-attempting-to-prove-colorado-marijuana-is-wreaking-havoc-on-state-7484055>>, accessed June 16, 2016

<sup>24</sup> Hannah Yi, Rocky Mountain PBS, February 14, 2015, "Illegal crossing: See the confiscated weed at the Colorado-Nebraska border," <<http://www.pbs.org/newshour/updates/illegal-crossing-heres-weed-authorities-confiscated-nebraska-colorado-border/>>, accessed August 9, 2016



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# SECTION 8: *Diversion by Parcel*

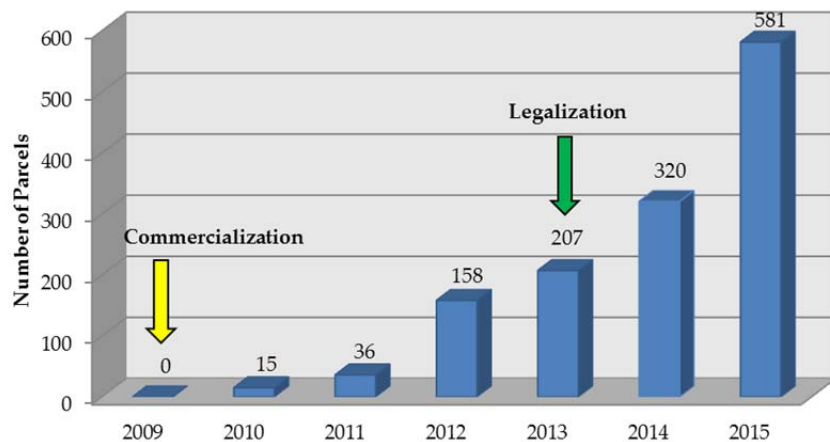
## Some Findings

- Seizures of Colorado marijuana in the U.S. mail has **increased 427 percent** from an average of 70 parcels (2010-2012) to 369 parcels (2013-2015) in the three-year average that recreational marijuana has been legal.
- Seizures of Colorado marijuana in the U.S. mail has **increased 471 percent** from an average of 129 pounds (2010-2012) to 736 pounds (2013-2015) in the three-year average that recreational marijuana has been legal.

## Data

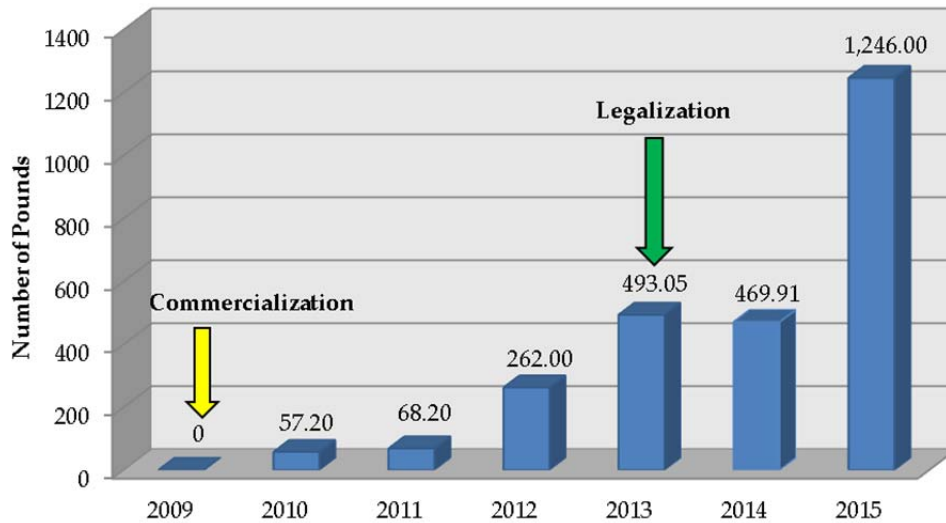
**NOTE:** THESE FIGURES ONLY REFLECT PACKAGES SEIZED; THEY DO NOT INCLUDE PACKAGES OF COLORADO MARIJUANA THAT WERE MAILED AND REACHED THE INTENDED DESTINATION. INTERDICTION EXPERTS BELIEVE THE PACKAGES SEIZED WERE JUST THE "TIP OF THE ICEBERG."

**Parcels Containing Marijuana Mailed from Colorado to Another State**



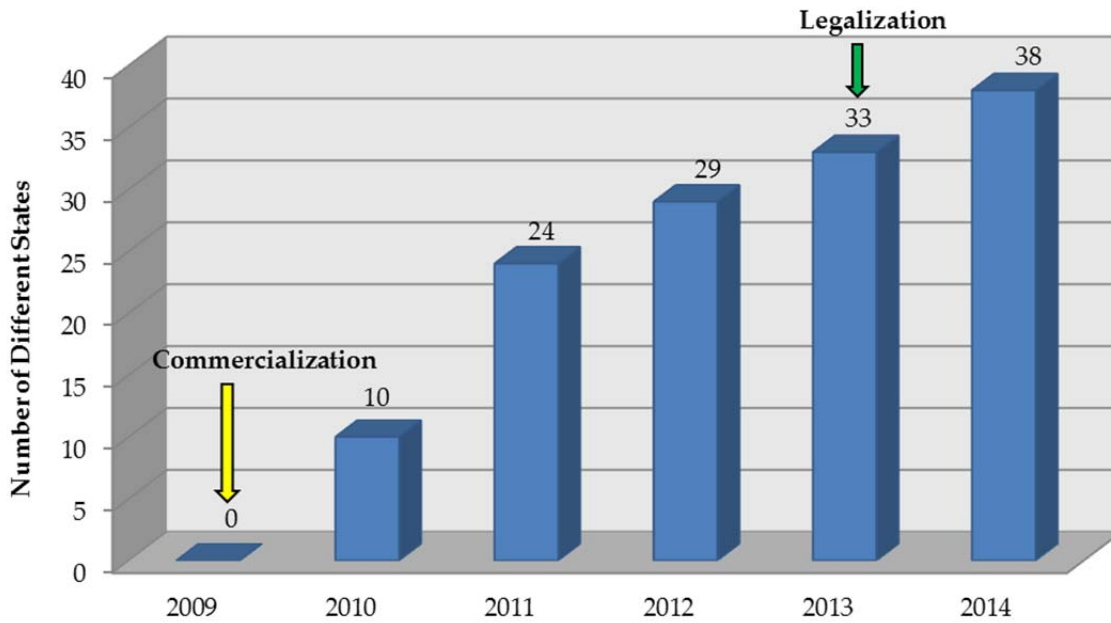
SOURCE: United States Postal Inspection Service, Prohibited Mailing of Narcotics

### Pounds of Colorado Marijuana Seized by the U.S. Postal Inspection Service



SOURCE: United States Postal Inspection Service, Prohibited Mailing of Narcotics

### Number of States Destined to Receive Marijuana Mailed from Colorado



SOURCE: United States Postal Inspection Service – Prohibited Mailing of Narcotics

## Private Parcel Companies

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- ❖ **There are courier delivery service companies, with locations throughout the country, from which Colorado marijuana destined for other states have been seized. Unlike the U.S. Postal Service, a central data system does not exist for these various private couriers.**

An inquiry of some HIDTAs related to the random seizure of Colorado marijuana in their region through parcel services other than the U.S. Postal Service:

**Appalachia:** 14 packages of marijuana weighing a total of 80 pounds with a third of the packages destined for Florida.

**Chicago:** 24 packages of bulk marijuana, concentrate, and edibles weighing a total of 10.5 pounds.

**Gulf Coast:** 85 packages of bulk marijuana, concentrates, and edibles weighing a total of 97 pounds with 31 different states identified as the destinations.

**Houston:** 7 packages of bulk marijuana and concentrates weighing a total of 8 pounds.

**Midwest:** 8 packages with various forms of marijuana headed to Missouri weighing a total of 8 pounds.

**Ohio:** 18 packages of bulk marijuana and edibles weighing a total of 21 pounds.

**Washington/Baltimore:** 12 packages with marijuana weighing a total of 4 pounds.

## Some Examples

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**North Metro Task Force Parcel Seizures:** During calendar year 2015, North Metro Drug Task Force worked closely with FedEx, UPS and USPS. North Metro intercepted 32 separate packages containing marijuana from Colorado that were destined to 17 different states. The combined weight of these packages exceeded 84 pounds.<sup>1</sup>

**Bad Luck in Marijuana Industry Leads to Arrest:** In April 2015, a major parcel company alerted Chicago Police to a package coming from Colorado that had a strong odor of marijuana. Police obtained a search warrant and seized nearly 7 pounds of marijuana. The individual to whom the package was delivered was arrested. This individual was identified as part of the young entrepreneurs who went to Colorado about five years prior to make money in the medical marijuana industry. Apparently he moved to Colorado and grew marijuana plants in a warehouse outside of Denver. At the same time, his wife operated a small medical marijuana dispensary in Denver. Prior to this arrest in 2015, he was arrested in 2010 by Chicago Police for a parcel post package containing 40 pounds of marijuana. The individual reflected on his hard luck in the medical marijuana business and stated, “Some people in the industry have gotten lucky. Other guys like me have gotten caught in the system.”<sup>2</sup>

**Medical Marijuana Store Owner to Receive \$16,000:** In February 2015, three suspicious parcels were identified. A search warrant was obtained and revealed the packages contained over \$16,000 in cash. These three parcels, all coming from different locations including Idaho, Pennsylvania and Illinois, were destined for a Colorado Springs metro area medical marijuana store owner.<sup>1</sup>

**22 Pounds of Boulder (Colorado) Marijuana Sent to New Jersey:** “Police arrested a 26-year-old man they say was running a pot-distribution operation out of a Lawrence [New Jersey] home after he claimed a 22-pound package of marijuana that came through the mail Wednesday. Michael Lester, who faces seven drug charges, was released on \$75,000 bail. His arrest followed a six-month investigation by Lawrence police and the Mercer County Narcotics Task Force. Police say the package had more than 300 edible marijuana products with a street value of \$9,000. During a search of the Greenfield Avenue home, police also uncovered additional edible marijuana products, marijuana extracts, hashish and oils, packaging materials, scales, packing machines, a money counter and more than \$50,000 in cash. Two vehicles were also seized as suspected narcotics proceeds, police said.” It was later determined through investigation that the marijuana came from Boulder, Colorado.<sup>4</sup>

**Colorado Marijuana to Texas:** In February 2015, a Texas man was arrested for trying to send himself marijuana and marijuana products he purchased in Pueblo, Colorado. Apparently the subject purchased the marijuana in Pueblo and then mailed it to himself in San Angelo, Texas where he resides. The package, when seized, contained 9 pounds of “high-grade marijuana” and marijuana edibles as well as cough syrups, skin patches and “wax” that had been “legally purchased” from two separate dispensaries in Pueblo. This individual was arrested in Texas.<sup>5</sup>

**Traffic Stop Leads to Parcel Interception:** In September 2015, “Federal prosecutors charged 20 people in Colorado suspected of trafficking marijuana out of state.” A traffic stop in Pennsylvania revealed 34 pounds of marijuana. “Authorities say they also followed a vehicle to a Colorado Springs UPS store and found the suspects intended to ship marijuana to Florida. Authorities say warrants conducted in the southern Colorado towns of Cotopaxi and Westcliffe led to the seizure of 1,000 marijuana plants, 50 pounds of dried marijuana, and 28 firearms.”<sup>6</sup>

**Brownies to Florida:** In March 2015, the West Metro Task Force responded to a parcel company that opened a suspicious package and found two baggies with marijuana brownies, along with a business card. The card read “Sweet Mary Jane – Merciful Chocolate.” The package was destined for Sulphur Springs, Florida.<sup>1</sup>

**Stuffed Animals with Marijuana:** In June 2015, Loveland Police Department was called out on a suspicious package from a parcel company. They discovered that the package contained stuffed animals full of marijuana and weighing over 2 ounces. The package was coming from Colorado en route to Navarre, Florida.<sup>1</sup>

**Helping a Friend:** In September 2014, West Metro Task Force investigators responded when a 29-year-old male attempted to send an overnight package containing miscellaneous food items and marijuana concentrate. When arrested, the individual told the investigators he was attempting to “help” a friend who lived in Hawaii.<sup>1</sup>

**Suspicious Package Contained Colorado Marijuana:** In January 2016, Kansas City Missouri Police Department Interdiction Squad located a suspicious parcel at the commercial sorting hub. The package was seized and contained 10.4 pounds of Colorado marijuana. The package originated out of Lakewood, Colorado and destined for Kansas City, Missouri.<sup>6</sup>

**K-9 Alerts on High Grade Marijuana:** In November 2015 a Washington/Baltimore HIDTA interdiction team intercepted a package from Aurora, Colorado destined for Blacksburg, Virginia. A canine alerted to the package, which was subsequently found to contain approximately ½ pound of high-grade marijuana and about 1 pound of marijuana edibles.<sup>7</sup>

**Aspen, Colorado to Neptune Beach, Florida:** In March 2016, a North Florida HIDTA interdiction team seized a little over 11 pounds of high-grade marijuana sent from Aspen, Colorado to an address in Neptune Beach, Florida.<sup>8</sup>

**Over 30 Pounds of Marijuana to the East Coast:** In May 2015, an Appalachia HIDTA interdiction unit seized over 33 pounds of marijuana coming from Denver, Colorado en route to New York.<sup>9</sup>

**K9 Alert in Kansas City, Missouri:** In December 2015, a canine alerted to a parcel with 24 pounds of marijuana that was destined to Georgia from Denver, Colorado.<sup>6</sup>

## Sources

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<sup>1</sup> Rocky Mountain High Intensity Drug Trafficking area, 2015

<sup>2</sup> CBS2 Local/Chicago, April 6, 2015, "Man Busted Again For Colorado-To-Chicago UPS Marijuana Shipment," <<http://chicago.cbslocal.com/2015/04/06/man-busted-again-for-colorado-to-chicago-ups-marijuana-shipment/>>, accessed April 6, 2015

<sup>3</sup> Cristina Rojas, NJ.com, July 28, 2016, "Lawrence man busted with 22-pound marijuana package," <[http://www.nj.com/mercer/index.ssf/2016/07/lawrence\\_man\\_busted\\_with\\_22-pound\\_marijuana\\_packag.html](http://www.nj.com/mercer/index.ssf/2016/07/lawrence_man_busted_with_22-pound_marijuana_packag.html)>, accessed August 11, 2016

<sup>4</sup> Jesse Paul, *The Denver Post*, February 5, 2015, "Pueblo police: Texas man arrested after trying to send \$63,000 of marijuana," <[http://www.denverpost.com/news/ci\\_27465615/pueblo-police-texas-man-arrested-after-trying-send?source=infinite](http://www.denverpost.com/news/ci_27465615/pueblo-police-texas-man-arrested-after-trying-send?source=infinite)>, accessed February 5, 2015

<sup>5</sup> CBS Denver/Channel 4, September 3, 2015, "20 People In Colorado Face Federal Pot Trafficking Charges", <<http://denver.cbslocal.com/2015/09/03/20-people-in-colorado-face-federal-pot-trafficking-charges/>>, accessed September 3, 2015

<sup>6</sup> Midwest High Intensity Drug Trafficking Area

<sup>7</sup> Washington/Baltimore High Intensity Drug Trafficking Area

<sup>8</sup> North Florida High Intensity Drug Trafficking Area

<sup>9</sup> Appalachia High Intensity Drug Trafficking Area

## *SECTION 9: Related Data*

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### Topics

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- Crime
- Revenue
- Event Planners' Views of Denver
- Homeless
- Suicides
- Environmental Impact
- THC Potency
- Marijuana Use and Alcohol Consumption
- Medical Marijuana Registry
- Licensed Marijuana Businesses as of January 2015
- Business Comparisons as of January 2015
- Demand and Market Size
- 2014 Reported Sales of Marijuana in Colorado
- 2014 Price of Marijuana
- Local Response to the Medical and Recreational Marijuana Industry in Colorado

**NOTE: SOME OF THE DATA REPORTED IN THIS SECTION IS BECAUSE THERE HAVE BEEN SO MANY INQUIRIES ON THE PARTICULAR SUBJECT, SUCH AS CRIME AND SUICIDES. THIS IS NOT TO INFER THAT THE DATA IS DUE TO THE LEGALIZATION OF MARIJUANA.**

### Some Findings

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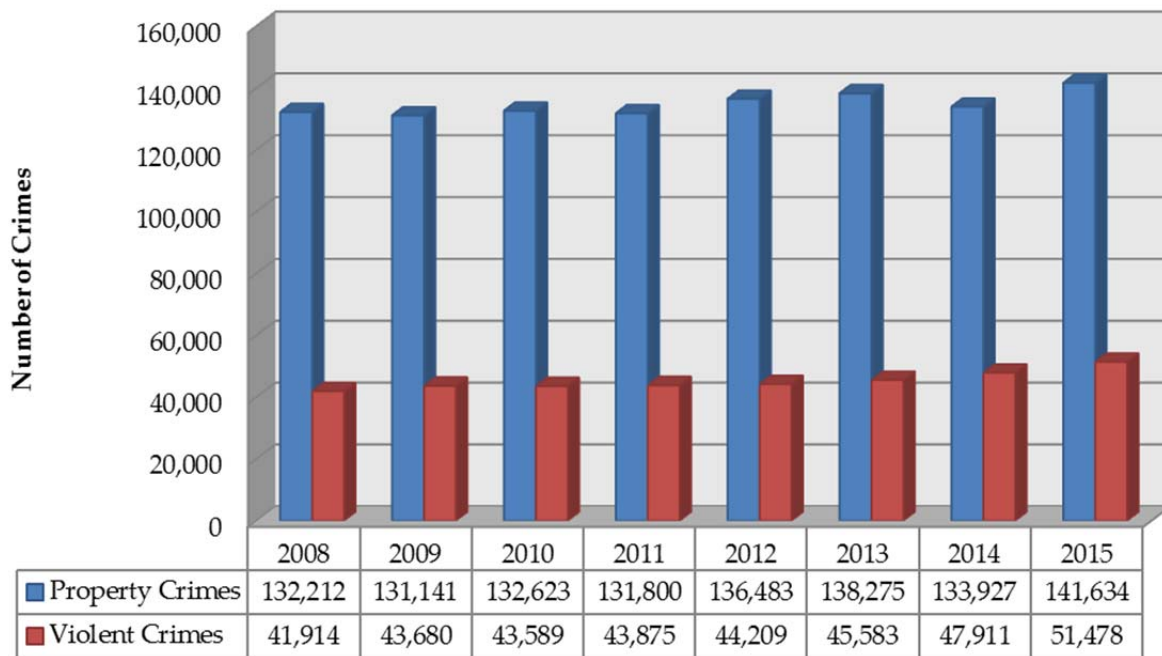
- Crime in Denver and Colorado has increased from 2013 to 2015.
- Colorado annual tax revenue from the sale of recreational and medical marijuana was \$115,579,432 (CY2015) or about **0.5 percent** of Colorado's total statewide budget (FY2016).
- "Denver is losing visitors and valuable convention business as a result of these overall safety (or perception of safety) issues..." – VISIT DENVER report



- As of January 2016, there were **424 retail marijuana stores** in the state of Colorado compared to **322 Starbucks** and **202 McDonald's**.
- **68 percent** of local jurisdictions have banned medical and recreational marijuana businesses.

Crime

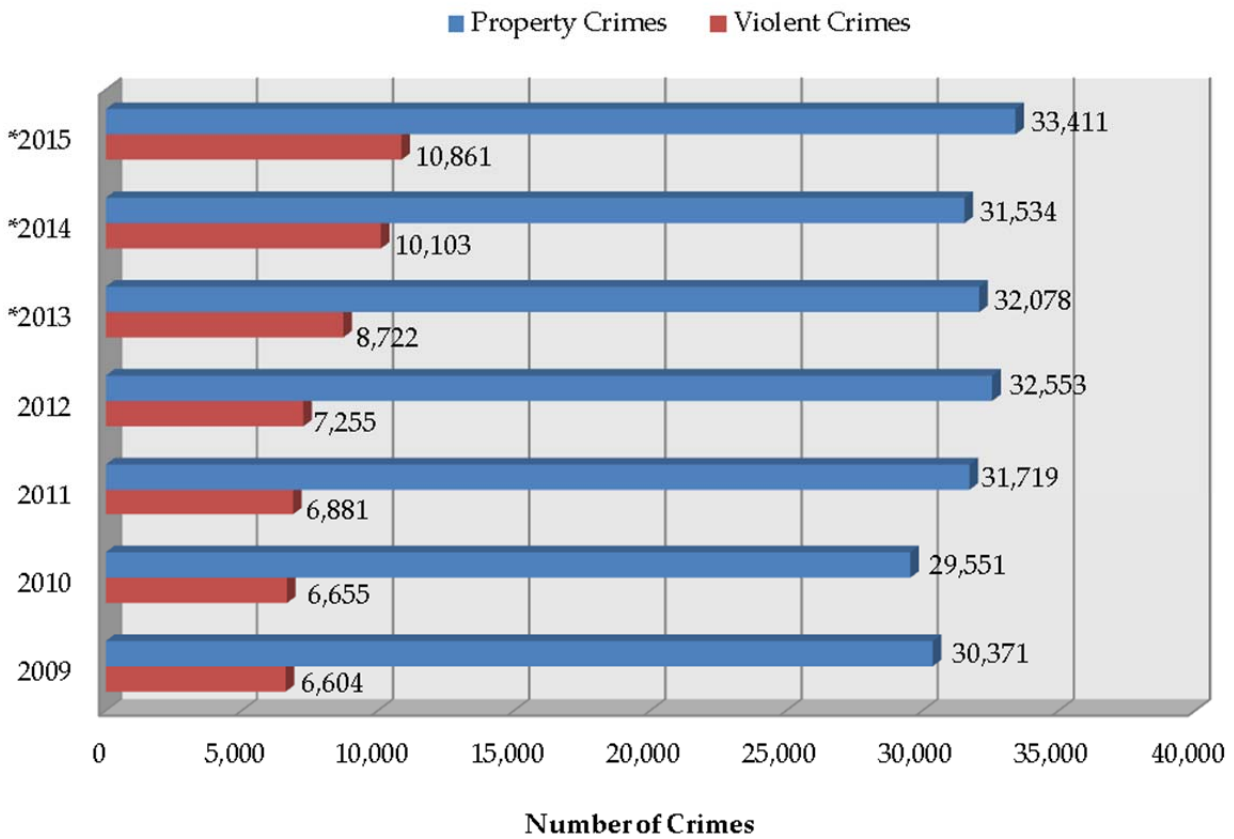
Colorado Crime



SOURCE: Colorado Bureau of Investigation, <http://crimenco.cbi.state.co.us/>

- ❖ From 2014 to 2015:
  - Property crime increased 6.2 percent
  - Violent crime increased 6.7 percent
  - All crime increased 6.2 percent

## City and County of Denver Crime



\*In May 2013 the Denver Police Department implemented the Unified Summons and Complaint (US&C) process. This process unifies multiple types of paper citations, excluding traffic tickets, into an electronic process. That information is transmitted to the Denver Sheriff, County Court, City Attorney and District Attorney through a data exchange platform as needed. As a result of this process a reported offense is generated which was previously not captured in National Incident Based Reporting System (NIBRS).

SOURCE: City and County of Denver, Denver Police Department, Crime Statistics and Maps, April 2016

<b>*All Reported Crime in Denver</b>			
<b>2013</b>	<b>2014</b>	<b>2015</b>	
<b>55,115 reported crimes</b>	<b>61,276 reported crimes</b>	<b>63,816 reported crimes</b>	<b>8,701 reported crimes increase from 2013 to 2015 (16 percent increase)</b>

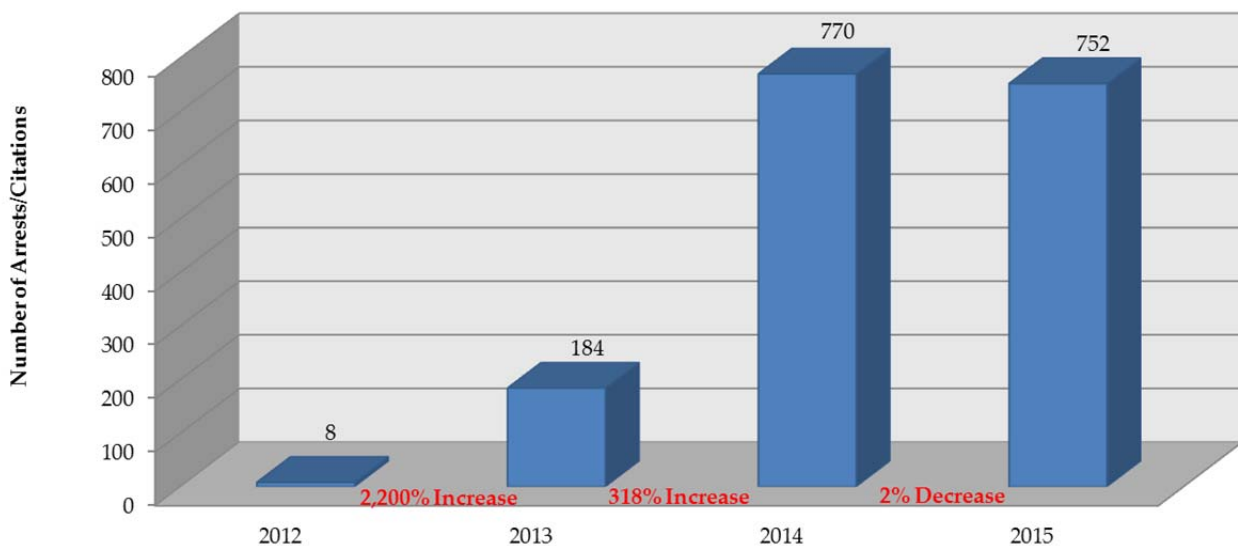
\* Actual number of crimes in Denver (new process began in May 2013)

❖ From 2014 to 2015:

- Crimes against persons increased 7.5 percent
- Crimes against property increased 6 percent
- Crimes against society increased 15.6 percent
- All other offenses decreased 5.7 percent
- All Denver crimes increased 4.1 percent

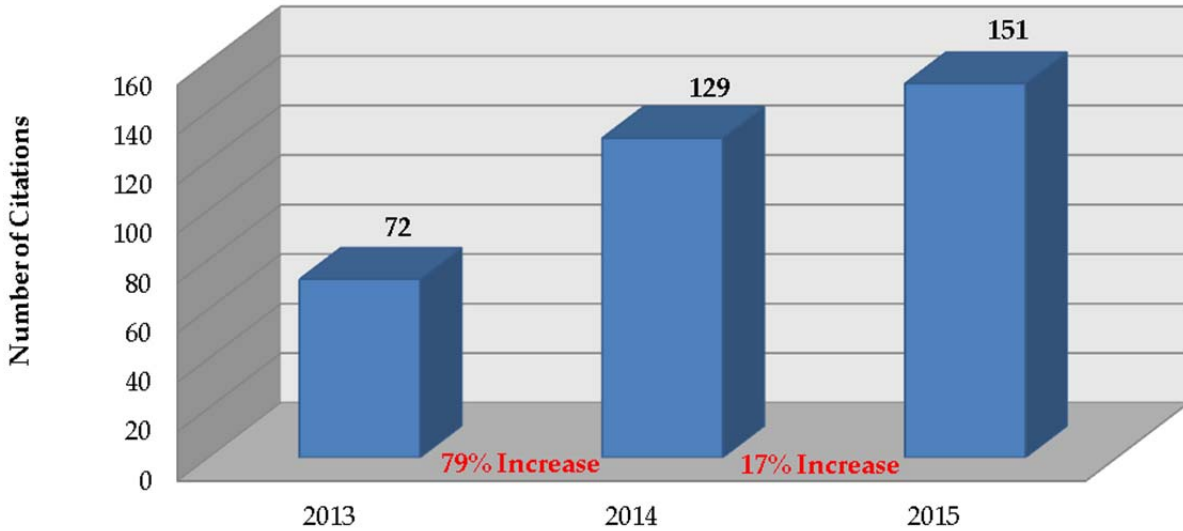
SOURCE: National Incident Based Reporting System definitions in the City and County of Denver, April 2016

### Denver Police Department Unlawful Public Display/Consumption of Marijuana



SOURCE: Denver Police Department, Traffic Operations Bureau/Vice/Drug Bureau via Data Analysis Unit

## Boulder Police Department Marijuana Public Consumption Citations



SOURCE: Boulder Police Department, Records and Information Services

**NOTE: THE CITY OF BOULDER DID NOT HAVE A MUNICIPAL STATUTE SPECIFIC TO PUBLIC CONSUMPTION OF MARIJUANA UNTIL MID-2013.**

### Related Material

**Legalized Marijuana Brings Violence to Downtown Denver’s 16<sup>th</sup> Street Mall:**

Video was posted to Facebook of a man wielding PVC pipes and violently swinging them at anyone within reach. According to police, the man from Indiana had only been in Denver for a week before the incident occurred. In response to the attack, Denver Mayor Michael Hancock stated, “Let’s be clear. Marijuana is drawing people to the mall. The travelers are very clear. I can tell you this because I’ve talked to the travelers,” said Hancock. “This is one of the results of the legal marijuana industry in Denver and we’re going to have to deal with it.” Due to several such incidents occurring in the area the Mayor and Denver Police Department announced they would be increasing patrols on the 16<sup>th</sup> Street Mall. “The strategy for improved safety involves spending over half a million dollars to increase police patrols and add resources.”<sup>1</sup>

**Violent Crimes are Up in Colorado:** According to the Colorado Bureau of Investigation’s annual crime report, “officials say homicides increased by nearly 15

percent statewide last year while rapes increased by almost 11 percent.” Additionally, “Robberies rose nearly 10 percent and motor vehicle thefts rose about 28 percent. Burglaries were up about 1 percent.” Compared with 2014 numbers, overall crimes in Colorado rose more than 6 percent in 2015. “The report is based on statistics from 245 law-enforcement agencies statewide,” and “It didn’t speculate on the reasons behind any of the trends.”<sup>2</sup>

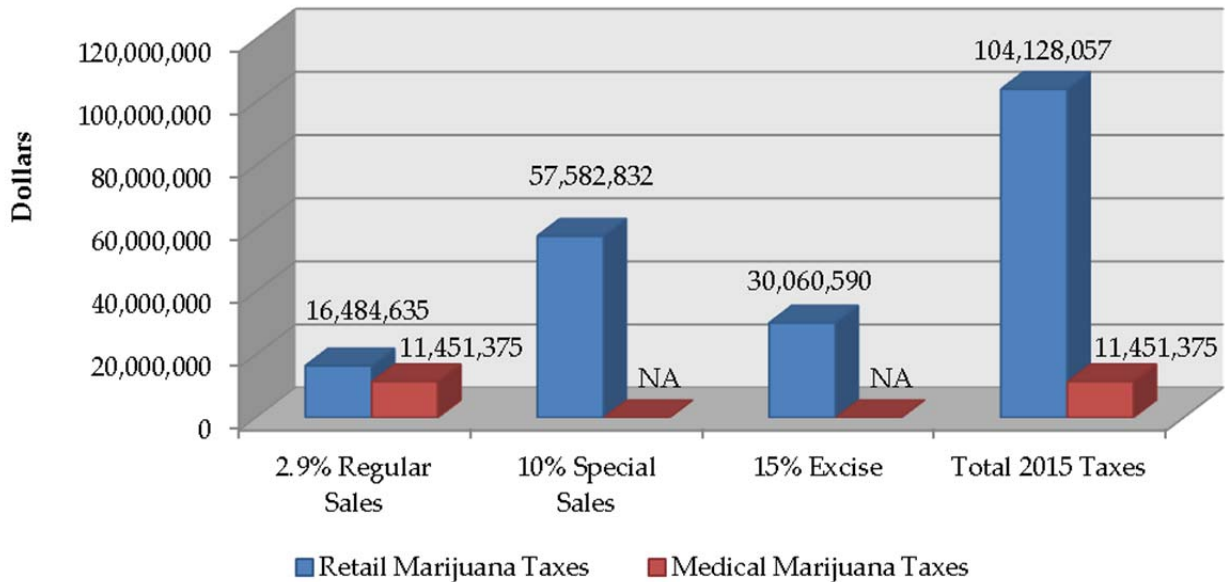
**Halloween Mass Shooter:** On October 31, 2015, a Colorado Springs man shot and killed three people in a rampage that ended in a shootout with police. Noah Harpham was seen pacing outside of his home with an AR-15 in hand. Concerned bystanders reported the situation to police but were initially turned away because Harpham did not appear threatening to anyone at the time. Minutes later, the shooter got into a confrontation with a passing bicyclist. With little warning, the shooter fired five rounds, striking and killing the three-tour Iraq War veteran. The gunman then walked down the street and opened fire on two innocent women sitting out in front of their residence. Both women died shortly after due to their injuries. Police officers responding to the call confronted the gunman, killing him after being shot at several times.

An investigative report released by authorities included a toxicology report on the shooter. The shooter tested positive for marijuana only, which may have been a contributing factor to the rampage which claimed the lives of four.<sup>3</sup>

**Marijuana-Motivated Armed Robbery:** In August 2016, five males armed with firearms assaulted, robbed and burglarized an ex-Crip gang member for marijuana in Adams County, Colorado. The victim was shot three times and severely beaten on his porch by the five assailants. The victim was targeted because his residence is known for dealing drugs, especially marijuana. Suspects admitted that this was premeditated as they sat and watched six cars drive up to the residence with several individuals walking away with “baggies” in their hands. The suspects were primarily after marijuana, money and any valuables. One individual had the assignment of duct-taping the victim’s wife and children if they were present at the time of the attack.<sup>4</sup>

Revenue

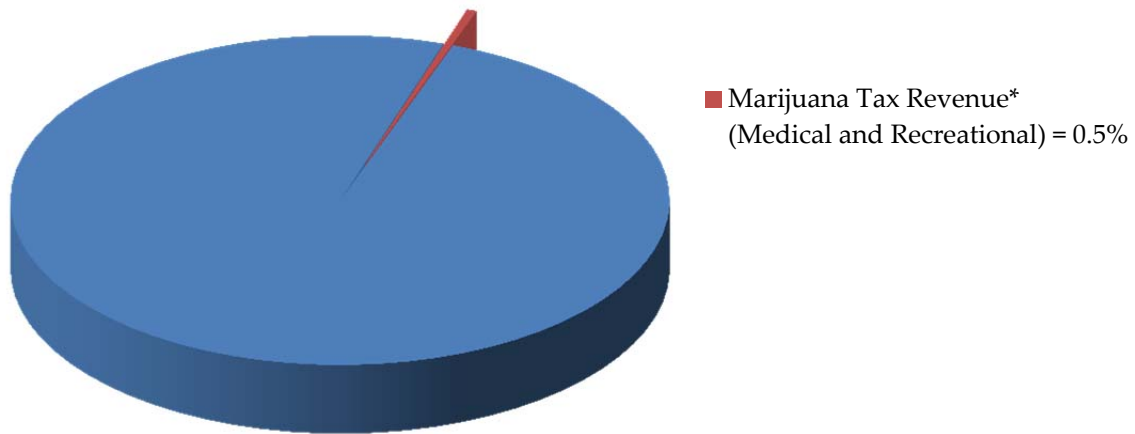
### Total Revenue from Marijuana Taxes, Calendar Year 2015



SOURCE: Department of Revenue, Monthly Marijuana Taxes, Licenses and Fees Transfers and Distribution

**NOTE: FIGURES DO NOT INCLUDE ANY CITY TAXES: THE STATE DOES NOT ASSESS OR COLLECT THOSE TAXES.**

## Colorado's Statewide Budget, FY 2016



\*Revenue from marijuana taxes as a portion of Colorado's total statewide budget

SOURCE: Governor's Office of State Planning and Budgeting

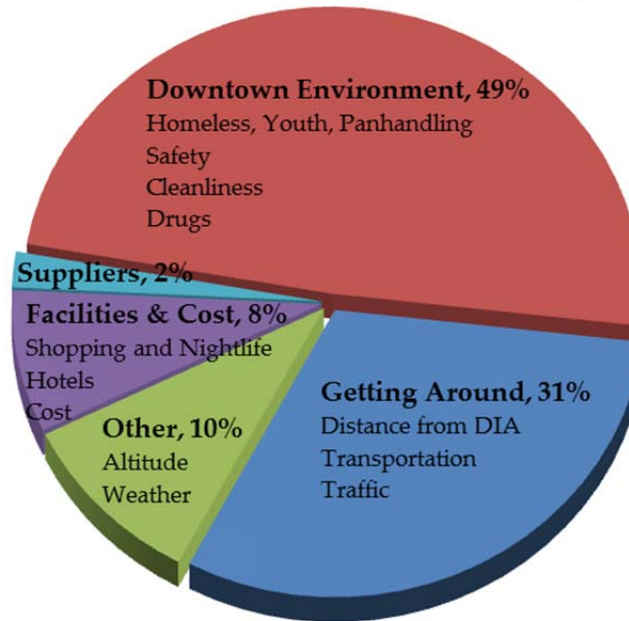
### Related Material

**Colorado State Revenue Gains Are A Myth:** "You do not legalize for taxation. It is a myth. You are not going to pave streets. You are not going to be able to pay teachers," Andrew Freedman, director of Marijuana Coordination for Colorado, said on Boston Herald Radio. "The big red herring is the whole thing that the tax revenue will solve a bunch of crises. But it won't."<sup>5</sup>

**Is The Tax Revenue Worth It?:** The Roaring Fork School District's Rob Stein stated, "It was a pretty smart move of those people who are trying to get the marijuana legislation passed to try to tie it to schools because it's certainly where people have that impression. It's just not accurate that marijuana excise taxes are the difference makers for schools or school facilities." While Stein's school district was awarded some grant money from the marijuana tax revenue to contribute towards building a new addition, and he is "not ungrateful for the marijuana tax money" he is still left wondering if it is truly worth it. "What we don't know yet is the total societal costs of marijuana legalization," Stein said.<sup>6</sup>

## Event Planners' Views of Denver

## Negative Meeting Planner Perceptions, 2014



SOURCE: VISIT DENVER, *Impacts of the Downtown Environment on the Tourism Industry and Visitor Perceptions* report

VISIT DENVER is the marketing organization for the city and it measures, records and reports hundreds of data points, to include safety trends and feedback received from convention and leisure visitors. Based on data collected they came away with three key takeaways:

- “The downtown environment is the #1 complaint from meeting planners, far surpassing any other categories. The severity of this issue has increased and as of 2014 nearly 50% of meeting planners negatively commented on homeless, youth, panhandling, safety, cleanliness, and drugs including public marijuana consumption.”
- “Denver ranks very high on walkability, affordability, facilities, and other factors. However, Denver as a ‘safe city’ ranks significantly lower according to interviews with key convention planners conducted by an independent third-party.”
- “Denver is losing visitors and valuable convention business as a result of these overall safety (or perception of safety) issues. Unfortunately, word is beginning to spread among meeting planners about the safety challenges Denver is facing.



As the market organization for the city, we fear not being able to brand Denver away from this growing reputation.”

Comments made by the Colorado Convention Center clients and visitors to Denver:

- ❖ “I’m sorry but I would never consider putting attendees in danger by holding a convention in your city. We are staying at Embassy Suites downtown on 16<sup>th</sup>, and last night witnessed a group of about 30 teenagers attack a man walking along 16<sup>th</sup> street. I am told this is not an unusual occurrence. The homeless situation is very sad, and public streets reek of weed. The Denver police should be more alert to large groups of minors congregating on city streets attacking tourists. My feedback from this meeting will be to never locate here again; I have felt much safer in downtown NYC, Philly, Seattle, and Chicago.”
- ❖ “I am a 5<sup>th</sup> generation Colorado native. I am downtown for a national convention and within 10 minutes of walking to the Convention Center I was so disheartened: I didn’t feel safe and it was 2:00 in the afternoon. I passed drunks, disheveled people, smelled weed being smoked in the open. It was disgusting and I thought so this is where the current government is taking us. I use [sic] to be so proud of Denver and Colorado; today I was heart sick and embarrassed, knowing I’d be apologizing to colleagues coming from other states that didn’t have sanctuary cities, legalized pot etc. Mayor Hancock, you need to rethink what you’re doing before the Denver that was beautiful and safe is gone.”
- ❖ “This client chose to contract with the Hyatt Regency San Antonio. I would like to share with you why Denver dropped off his list. This client does a lot of business in Denver and was disappointed to see, in his opinion, how things have changed in the city since marijuana was legalized. He says he sees lots of people walking around looking ‘out of it’ and does not want to expose his attendees to this. I hope you don’t mind the honestly [sic] but I wanted you to know exactly ‘why’.”
- ❖ “Greetings, we wanted to pass along some comments based on a national meeting we hosted for our industry in Denver in July [2015]. It was held with delegates arriving as early as July 11 and continued through July 15. This is a meeting of industry executives and business owners from around the entire country. The meeting was headquartered at the Sheraton downtown. The chairman commented, ‘We will most likely not return to Denver based on the current situation with all the street people.’ This was followed up by comments from the President who echoed these comments about a reluctance to return to Denver based on the condition of the City and the abundance of homeless people walking the mall and in and about the downtown area. The attendees were also less than complementary with Denver and in particular the downtown area.

Some of the comments received from attendee in survey after the conference were:

- 'Denver seems less safe now that pot is legalized.'
- 'Don't have a meeting in downtown Denver...what a depressing downtown area.'
- 'The neighborhood had way too many vagrants. I don't remember Denver being that bad.'
- 'Poor area, lots of crime as we sat outside on a patio on the 16<sup>th</sup> Street mall on Sunday evening having a beer, I turned my head to look at a television, when I turned back a street person was drinking my beer. I am sure this is not an image Denver wants portrayed around the country.'"

## Homeless

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**Marijuana Legalization in Colorado: How Recreational Weed is Attracting People, but Spiking the State's Homeless Rate:**<sup>7</sup> In this two-part reporting piece, a 25 year old man named Devin Butts is followed around by a reporter during his first two days in Pueblo, Colorado. Devin self-admitted he moved to Colorado due to the legal marijuana industry where he can freely use without harassment. After beginning to use marijuana as a youth, Devin graduated to hydrocodone pills, methamphetamine and crack and did stints in and out of jail related to the drug use. As a final determining factor, Devin decided to move to Colorado from Texas when "...his lawyer had told him the new marijuana charge was finally moving forward in the courts. He was looking at another 120 days behind bars." As the reporter follows Devin around, he applies for jobs at the local mall and takes several hits of marijuana throughout the day. While he is determined to become a success story in Colorado, he also is in line with the belief that tax revenue from marijuana "...should go to help those like himself that have been lured to the region because of cannabis." Likewise, various other individuals involved with the marijuana industry as well as homeless services believe that more money "...should go to understanding and addressing the needs of the people who've arrived in the state with an interest in marijuana and not much else."

Further information from the series: According to the report, "Interviews with people at homeless shelters in Denver and other Colorado cities like Pueblo suggest that since Colorado launched its legalized cannabis system in 2014, the percentage of newcomers to the facilities who are there in part because of the lure of marijuana has swollen to 20 to 30 percent." "All told, several hundred marijuana migrants struggling with poverty appear to be arriving in Colorado each month."

Posada, a homeless services center in Pueblo, Colorado:

- According to Anne Stattelmann, Posada's director:
  - "Shelters currently have enough beds for just 1 percent of the area's total homeless population."

Denver's St. Francis Center day shelter in Denver, Colorado:

- According to Tom Luehrs, executive director:
  - "A survey conducted by a grad student last year found that between 17 and 20 percent of the 350 or so new people the center was seeing each month said they'd come to the area in part because of medical marijuana."

Salvation Army Crossroads Shelter in Denver, Colorado:

- According to Lt. Col. Daniel L. Starrett, Intermountain divisional commander for the Salvation Army:
  - "An informal survey of 500 newcomers in the summer of 2014 determined that nearly 30 percent were there because of cannabis."
  - "Not only has that number been sustained, but it has continued to grow."

Urban Peak, a shelter for people ages 15 to 24 in Denver, Colorado:

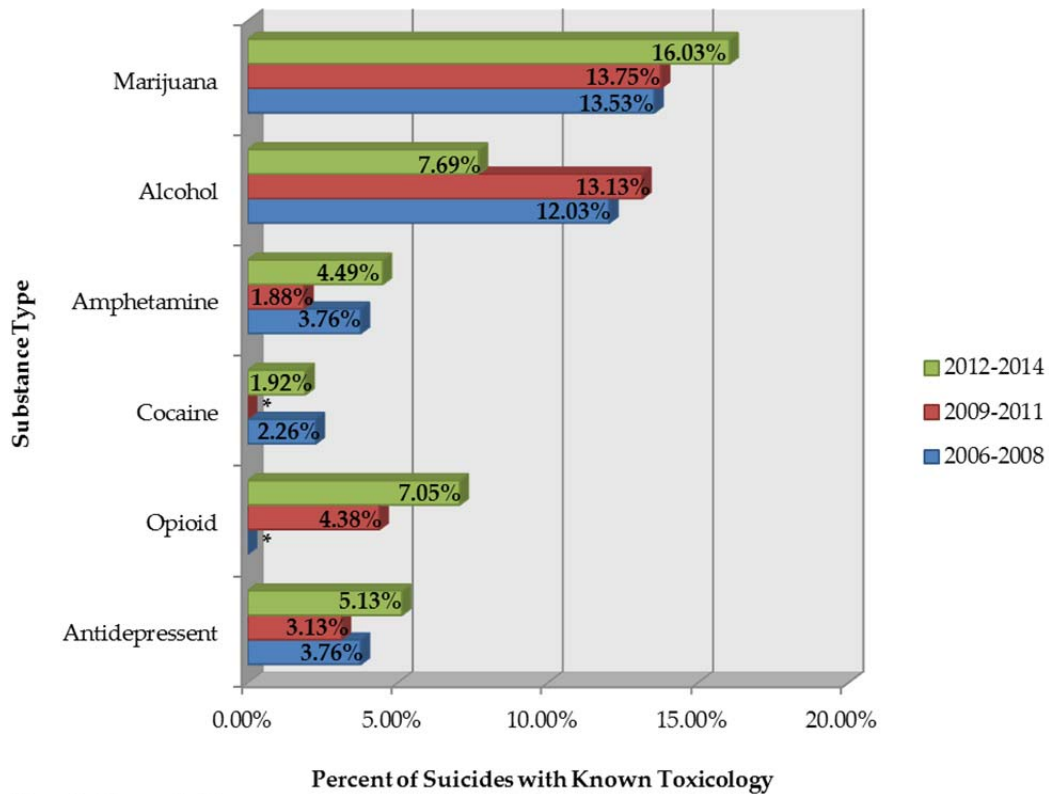
- According to Kim Easton, CEO:
  - "For a while, we informally collected information, and at least one in three of the youth were saying said [sic] they were here in Denver because of the legalization of marijuana."
  - "In the spring following legalization, we had a dramatic increase in the number of youth seeking services, a 150 percent increase just coming in the door. That has become our new normal."

**Posada+, Pueblo County (Colorado):** Posada has seen a 102 percent increase in the number of homeless served since 2013 when recreational marijuana was legalized. Director Anne Stattelmann cites three major reasons poor people are coming to Pueblo; including legalized marijuana, expanded Medicaid, and the reputation as a cheap place to live.<sup>8</sup>

**"Urban Travelers":** Denver Mayor Michael Hancock has blamed recent trouble on downtown Denver's 16<sup>th</sup> Street Mall on "urban travelers" and marijuana. Mayor Hancock said, "...he personally talked to some and they were candid about the attraction of marijuana." During a news conference where Mayor Hancock described new security measures to counteract the ongoing trouble on the popular downtown mall, Hancock referred to these individuals as a "scourge of hoodlums" and went on to say that "They're taking beds from our chronically homeless people."<sup>9</sup>

Suicide Data

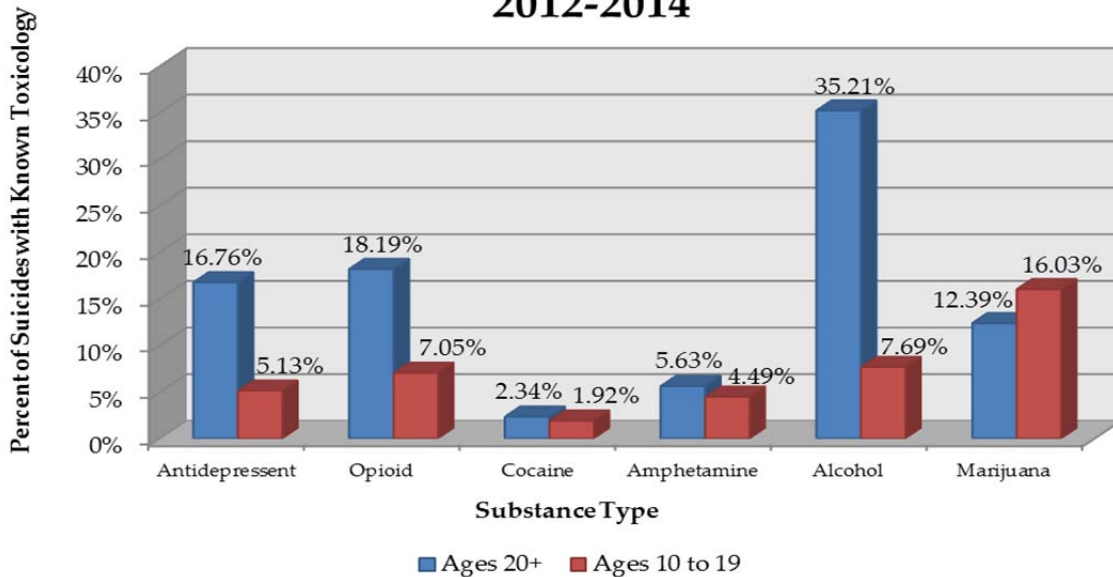
### Average Toxicology of Suicides Among Adolescents Ages 10 to 19 Years Old



\*Results Unavailable

SOURCE: Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System

### Average Toxicology Results by Age Group, 2012-2014



SOURCE: Colorado Department of Public Health and Environment (CDPHE), Colorado Violent Death Reporting System

### Environmental Impact

**Growing Marijuana is Doing More Damage than You Think:** Environmental pollution is especially troublesome among illegal marijuana grow operations. Many illegal growers prefer indoor locations due to being relatively discreet, the increased control, and the year-long production capability. Roughly one-third of America’s marijuana supply is cultivated indoors and the energy needed to power these indoor grow ops is enough to power around 1.7 million homes. As energy is used, greenhouse gases such as carbon dioxide and methane are produced at a rate of 2 pounds of CO<sub>2</sub> per joint.

Additionally, outdoor cultivation operations pose their own environmental threats including:

- Water resource abuse
- Trespass grows on federal land or a stranger’s private property
- Unauthorized land conversion
- Toxic rat poisons
- Excessive energy use

These illegal grow operations don’t necessarily account for the damage they cause and, therefore, often leave a negative impact on the environment.<sup>10</sup>

**Mind-Blowing Facts About Marijuana Production in America:**<sup>11</sup>

- Trespass grows accounted for 72 percent of outdoor plants seized in California in 2013. Nearly half of the cannabis eradicated by law enforcement nationwide was on public or tribal land.
- During California's growing season, outdoor grows consume roughly 60 million gallons of water a day – 50 percent more than is used by all the residents of San Francisco.
- An indoor grow module accommodating 4 plants sucks as much electricity as 29 refrigerators.
- In California, indoor marijuana grows account for about 9 percent of household electricity use.
- For every pound of pot grown indoors, 4,600 pounds of CO<sub>2</sub> goes into the atmosphere.
- The production and distribution of pot in America emits as much carbon as 3 million cars.

**Water Consumption More than Doubles with Illegal Marijuana Home Grows in Colorado:** Public utility records revealed that water usage in one illegal marijuana home grow ranged from 13,200 to 18,000 gallons per month. Water consumption by previous tenants within the same exact residence averaged 6,000 to 7,000 gallons per month.<sup>12</sup>

**Illegal Marijuana Home Grows are the New Meth Houses:** Illegal home grows present significant potential risks to public health and public safety. Colorado homes used for cultivating marijuana often sustain extensive damage. In many cases these operations have caused house fires, blown electrical transformers, mold throughout the residences, and environmental damages. Growing conditions consume high levels of power and water and results in the drainage of chemical-laden waste water often disposed of improperly.

Growers often alter the interior structure of these homes to enhance their ability to grow year round. Most of these alterations are not to code which presents serious risks to first responders. Holes are cut into the floors, tampering with high voltage electrical systems, loose and extension cords present entrapment hazards, explosive chemicals such as propane and butane all present clear hazards for fire fighters and police officers responding to the residence in an emergency situation.

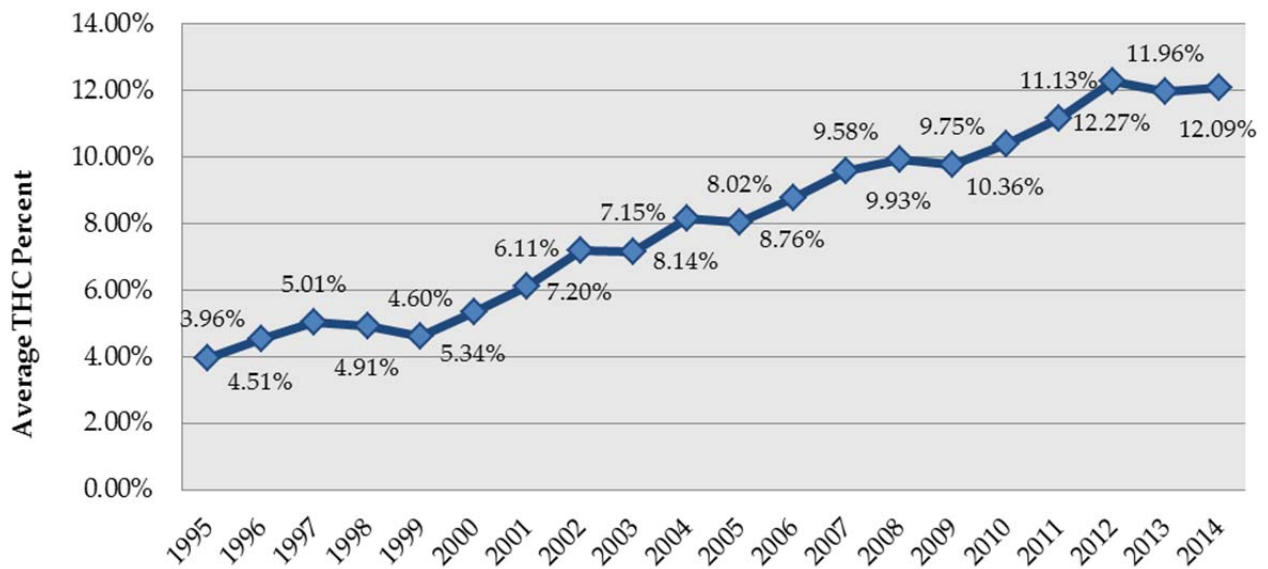
“Much like the ‘meth houses’ of the 1990’s, many of these homes may ultimately be rendered uninhabitable.”<sup>13</sup>

**Stealing Electricity for Home Grows:** “In some cases, growers tap directly into utility lines outside the residence in order to ‘steal’ electricity before its consumption is

registered on the property’s meter. This practice is encountered increasingly in Colorado residential grows. Aside from the power theft involved, hot tapping also poses an increased fire and safety risk to occupants, landlords, neighbors and first responders.”<sup>14</sup>

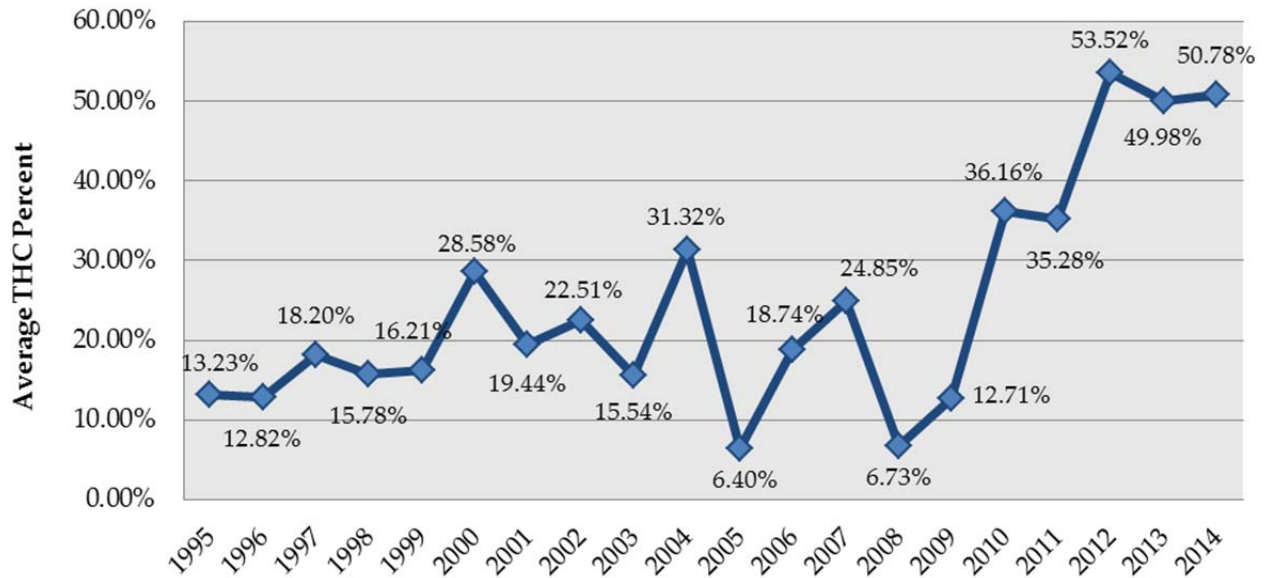
THC Potency

### National Average THC Potency Submitted Cannabis Samples



SOURCE: Potency Monitoring Program, Quarterly Report Number 132, National Center for Natural Products Research (NCNPR) at the University of Mississippi, under contract with the National Institute on Drug Abuse.

## National Average THC Potency Submitted Hash Oil Samples



SOURCE: Potency Monitoring Program, Quarterly Report Number 132, National Center for Natural Products Research (NCNPR) at the University of Mississippi, under contract with the National Institute on Drug Abuse.

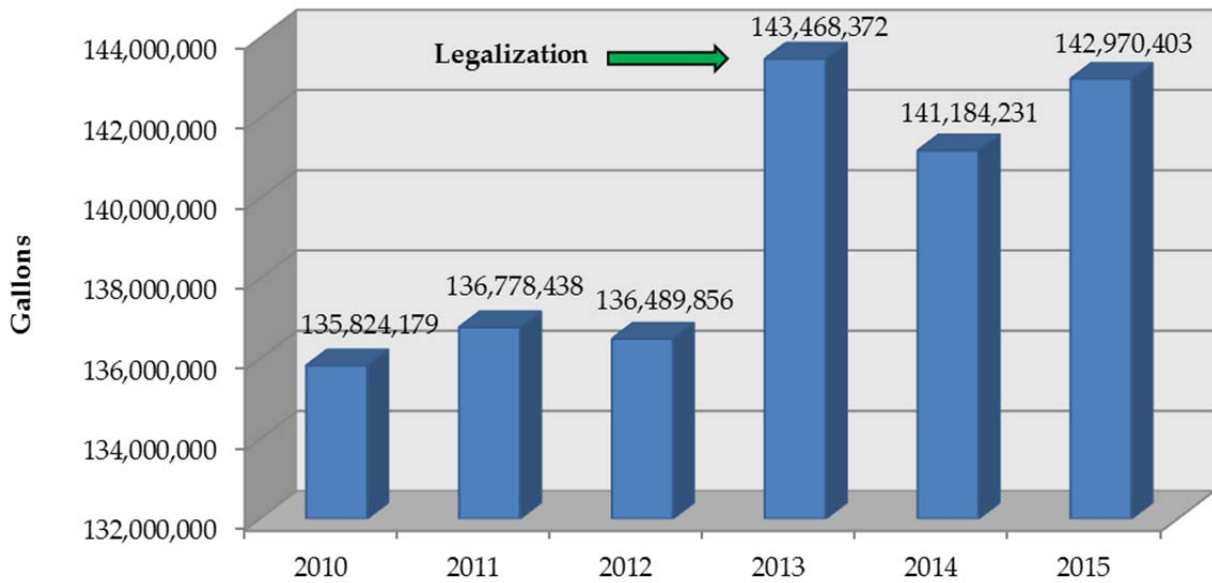
### Marijuana Use and Alcohol Consumption

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- ❖ There are some who have theorized that legalizing marijuana would reduce alcohol consumption. Thus far that theory is not supported by the data.

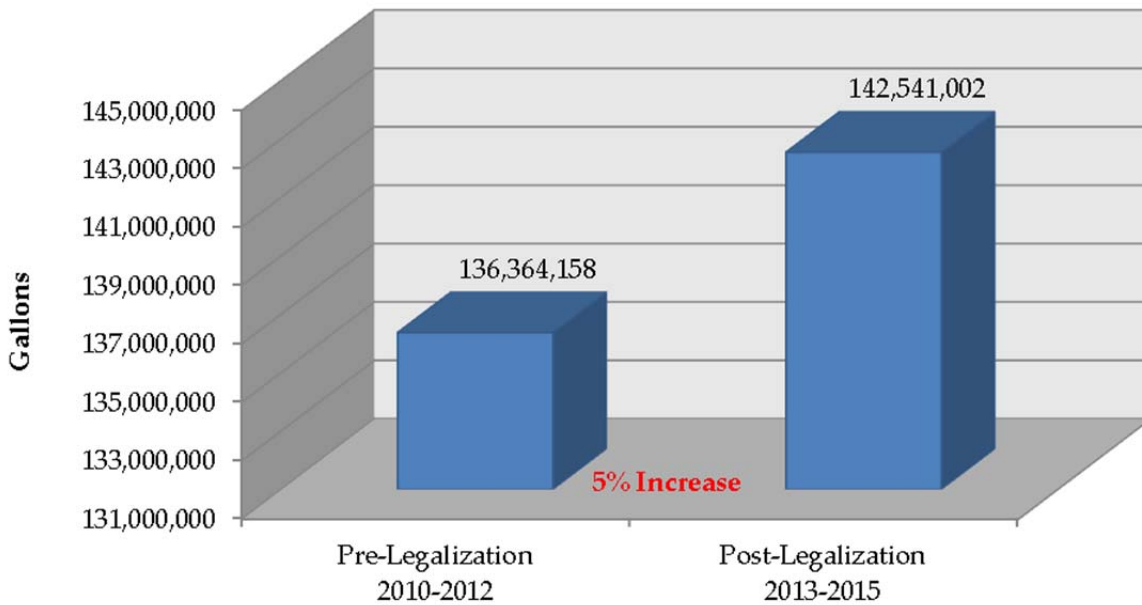


### Colorado Consumption of Alcohol



SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax

### Colorado Average Consumption of Alcohol



SOURCE: Colorado Department of Revenue, Colorado Liquor Excise Tax

## Related Material

**Colorado Stands out for Consuming Drugs and Alcohol:** “The Substance Abuse and Mental Health Services Administration annually surveys Americans age 12 and older about whether they use opioid painkillers for non-medical reasons or consume any marijuana, alcohol or cocaine. States are ranked into quintiles based on what proportion of their population uses each substance, thereby creating a ‘top 10 list’ for all four. Colorado stands out as the only state which is a top consumer of all four substances.”<sup>15</sup>

## Medical Marijuana Registry

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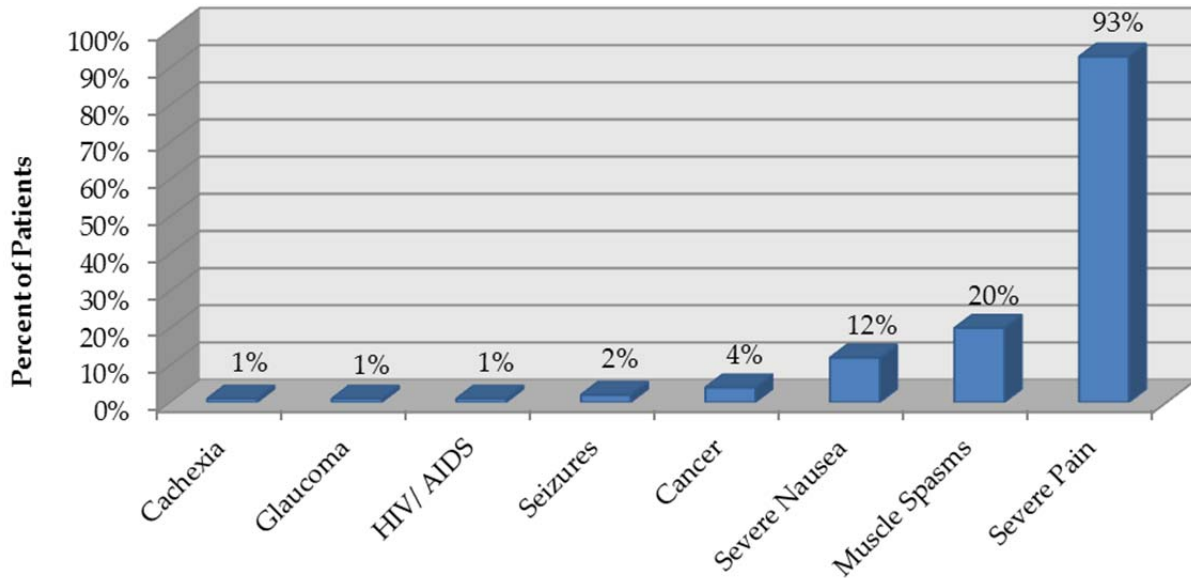
### Medical Marijuana Registry Identification Cards<sup>16</sup>

- December 31, 2009 – 41,039
- December 31, 2010 – 116,198
- December 31, 2011 – 82,089
- December 31, 2012 – 108,526
- December 31, 2013 – 110,979
- December 31, 2014 – 115,467
- December 31, 2015 – 107,534

### Profile of Colorado Medical Marijuana Cardholders:<sup>17</sup>

- Age of cardholder
  - 65 percent male, with an average age of 42 years
  - 0.3 percent between the ages of 0 and 17
  - 49 percent between the ages of 18 and 40
    - 23 percent between the ages of 21 and 30
- Reporting medical condition of cardholder
  - 93 percent report severe pain as the medical condition
  - 6 percent collectively report cancer, glaucoma and HIV/AIDS
  - 2 percent report seizures

## Percent of Medical Marijuana Patients Based on Reporting Condition



SOURCE: Colorado Department of Public Health and Environment, Medical Marijuana Statistics

**NOTE: TOTAL DOES NOT EQUAL 100 PERCENT AS SOME PATIENTS REPORT USING MEDICAL MARIJUANA FOR MORE THAN ONE DEBILITATING MEDICAL CONDITION.**

### Related Material

**Docs Gone Wild on Pot Referrals:** For the first time the medical board has taken action against some doctors for over-recommending plant count grows for medical marijuana cardholders. “State records current through the end of May show that 478 patients have recommendations for more than 75 plants. Another 1,324 patients have permission to grow between 50 to 75 plants. More than 2,200 have been recommended to grow between 26 and 50 plants.” With that much product available, even considering a patient’s tolerance level or complicated cooking processes to create edible products, it is foolish to assume “...no one with that amount of marijuana would ever be tempted to engage in black-market or underground sales.”<sup>18</sup>

Colorado Licensed Marijuana Businesses as of January 2016

**Medical Marijuana:**<sup>19</sup>

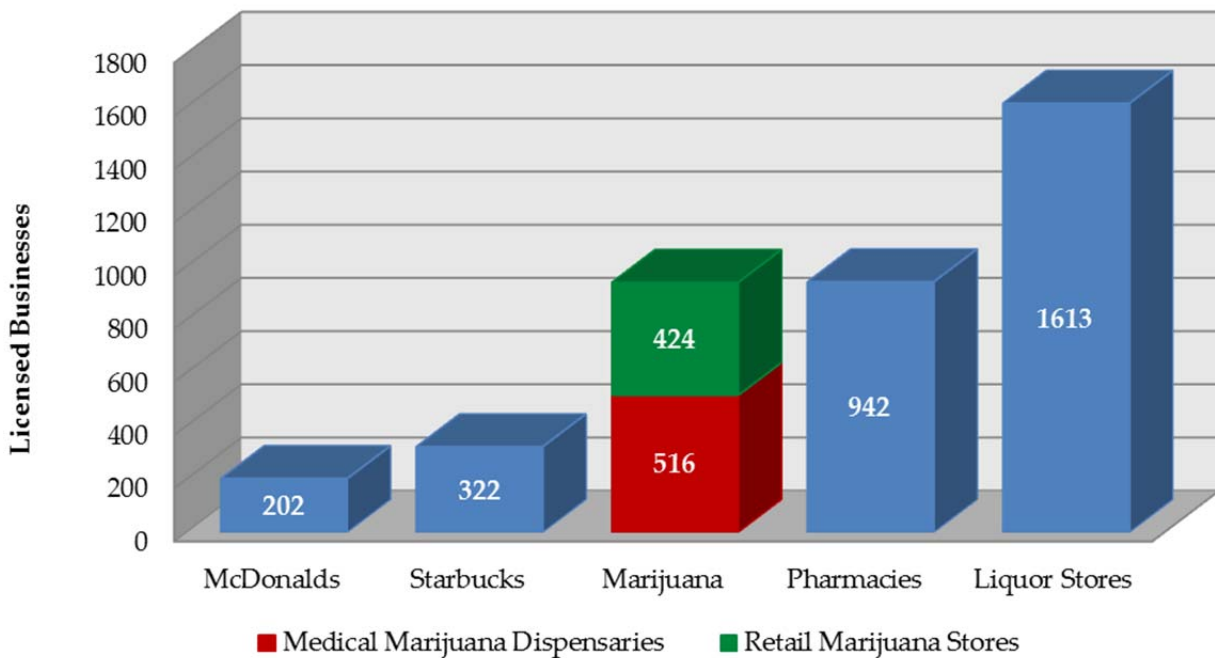
- 516 medical marijuana centers (dispensaries)
- 751 marijuana cultivation facilities
- 202 infused products (edibles) businesses

**Recreational Marijuana:**<sup>20</sup>

- 424 marijuana retail stores
- 514 marijuana cultivation facilities
- 168 infused product (edibles) businesses
- 17 testing facilities

Business Comparisons, January 2016

**Colorado Business Comparisons, January 2016**



SOURCE: Colorado Department of Revenue; Starbucks Coffee Company, Corporate Office Headquarters; McDonalds Corporation, Corporate Office Headquarters

## Demand and Market Size

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The Colorado Department of Revenue published a report in July 2014 called, “Market Size and Demand for Marijuana in Colorado.” Some of the information included:<sup>21</sup>

### Demand

- In 2014, the established demand for marijuana by Colorado residents 21 years and older is **121.4 metric tons (267,638.44 pounds)** of marijuana.
- In 2014, the estimated demand for marijuana by out-of-state visitors 21 years and older is **8.9 metric tons (19,620.94 pounds)**.
- The potential range of demand for the above two groups is between **104.2–157.9 metric tons** (between **229,719.32** and **348,106.34** pounds).

### Market Size

- There are an estimated **485,000 Colorado adult regular marijuana users** (at least once per month), which is **9 percent** of the total Colorado population of all ages (5.363 million).
- Heavy users who consume marijuana nearly daily make up the top **21.8 percent** of the user population but account for **66.9 percent** of the demand for marijuana.
- Out-of-state visitors represent about **44 percent** of the metro area marijuana retail sale of marijuana and approximately **90 percent** of sales in heavily-visited mountain communities.
- Colorado has **23 percent** of its users consume nearly daily compared to **17 percent** nationally; that is **35.29 percent** higher.

### Third Quarter 2015 Reported Sales of Marijuana in Colorado (January – September)<sup>22</sup>

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- 111,046 pounds of medical marijuana flower
- 77,964 pounds of recreational marijuana flower

- 1,719,551 units of medical edible products
- 3,932,215 units of recreational edible products
  
- ❖ **A single ounce of marijuana, depending on the solvent type and production method, can produce between 347 and 413 edibles of 10 mg THC strength.**

**2014 Price of Marijuana<sup>23</sup>**

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	<b>1 Gram</b>	<b>Ounce</b>
Buds/Flowers	\$14.03	\$264.14
Edibles	\$24.99 (100 mg)	N/A
Concentrates	\$55.00	N/A

**Local Response to the Medical and Recreational Marijuana Industry in Colorado<sup>24</sup>**

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**Recreational Marijuana Business and Local Jurisdiction Response:**

- 272 municipalities\*
- 234 municipalities have taken action on the issue
  - 75 percent have prohibited (168) or have a moratorium (8)
  - 25 percent have allowed (58)
  
- 62 counties\* (unincorporated areas)
  - 63 percent have prohibited or have a moratorium (39)
  - 37 percent have allowed (23)
  
- 296 local jurisdictions have addressed the issue
  - 73 percent have prohibited or have a moratorium (215)
  - 27 percent have allowed (81)
  
- 334 total of all local jurisdictions
  - 64 percent have prohibited or have a moratorium (215)
  - 24 percent have allowed (81)
  - 11 percent have not addressed the issue (38)

\* Broomfield and Denver are both a city and county but included only once in municipalities data.

**Medical and Recreational Business and Local Jurisdiction Response:**<sup>25</sup>

- 68 percent have banned (218)
- 32 percent have allowed (104)

**Sources:**

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<sup>1</sup> CBS Denver/Channel 4, June 30, 2016, “Man With PVC Pipe Goes After People On 16<sup>th</sup> Street Mall,” <<http://denver.cbslocal.com/2016/06/30/man-wielding-pvc-pipe-goes-after-people-on-16th-street-mall/>>, accessed June 30, 2016

<sup>2</sup> Associated Press, *The Washington Times*, July 5, 2016, “Colorado homicides up 15 percent; rapes up by 11 percent”, <<http://www.washingtontimes.com/news/2016/jul/5/colorado-homicides-up-15-percent-rapes-up-by-11-pe/>>, accessed July 5, 2016

<sup>3</sup> Andy Koen, KOAA TV Channel 5, June 28, 2016, “Family tried to get Halloween mass shooter committed,” <<http://www.koaa.com/story/32330489/family-tried-to-get-halloween-mass-shooter-committed>>, accessed August 9, 2016

<sup>4</sup> Adams County (Colorado) Sheriff’s Office

<sup>5</sup> Megan Arellano, Colorado Public Radio, June 12, 2015, “Colo. Pot Director Tells Mass. That State Revenue Gains Are a Myth”, <<https://www.cpr.org/news/newsbeat/colo-pot-director-tells-mass-state-revenue-gains-are-myth>>, accessed August 9, 2016

<sup>6</sup> Nelson Garcia, KUSA/9News.com, August 16, 2016, “Marijuana Tax Revenue Impacts Small Districts,” <<http://www.9news.com/news/marijuana-tax-money-impacts-small-school-districts/299656466>>, accessed August 16, 2016

<sup>7</sup> Joel Warner, *International Business Times*, June 20, 2016, “Marijuana Legalization In Colorado: How Recreational Weed Is Attracting People, But Spiking The State’s Homeless Rate [PART ONE]”, <<http://www.ibtimes.com/>>, accessed June 20, 2016

<sup>8</sup> Anne Stattelmann, “Links and PowerPoint”, e-mail message, August 19, 2016

<sup>9</sup> Noelle Phillips, *The Denver Post*, June 30, 2016, "Denver mayor says violence won't be tolerated on 16<sup>th</sup> Street Mall," <<http://www.denverpost.com/2016/06/30/16th-street-mall-video-attack/>>, accessed June 30, 2016

<sup>10</sup> Abby Hutmacher, PotGuide.com Colorado, February 1, 2016, "Growing Marijuana is Doing More Damage Than You Think," <<https://www.coloradopotguide.com/colorado-marijuana-blog/2016/february/01/growing-marijuana-is-doing-more-damage-than-you-think/>>, accessed June 17, 2016

<sup>11</sup> Josh Harkinson, Brett Brownell and Julia Lurie, *Mother Jones*, "24 Mind-Blowing Facts About Marijuana Production in America," March/April 2014 Issue, <<http://www.motherjones.com/print/244516>>, accessed June 17, 2016

<sup>12</sup> Drug Enforcement Administration, Denver Field Division, July 2016

<sup>13</sup> "Residential Marijuana Grows in Colorado: The New Meth Houses?" DEA Intelligence Report: UNCLASSIFIED, DEA-DEN-DIR-041-16, June 2016

<sup>14</sup> Drug Enforcement Administration, Denver Field Division, May 2016

<sup>15</sup> *The Washington Post* as published in *The Denver Post*, May 23, 2016, "Survey: Colorado stands out for consuming drugs, alcohol," <<http://www.denverpost.com/2016/05/23/colorado-first-in-drugs-survey/>>, accessed June 9, 2016

<sup>16</sup> Colorado Department of Public Health and Environment, "Medical Marijuana Registry Program Update (as of March 31, 2015)", <[https://www.colorado.gov/pacific/sites/default/files/03\\_2015\\_%20MMR\\_report\\_draft.pdf](https://www.colorado.gov/pacific/sites/default/files/03_2015_%20MMR_report_draft.pdf)>, accessed May 15, 2015

<sup>17</sup> Colorado Department of Public Health and Environment, "Medical Marijuana Registry Program Update (as of March 31, 2015)", <[https://www.colorado.gov/pacific/sites/default/files/03\\_2015\\_%20MMR\\_report\\_draft.pdf](https://www.colorado.gov/pacific/sites/default/files/03_2015_%20MMR_report_draft.pdf)>, accessed May 15, 2015

<sup>18</sup> "The Post Editorials: Docs gone wild on pot referrals," *The Denver Post*, Wednesday, July 27, 2016, Opinion Section, p. 17A, col. 1

<sup>19</sup> Colorado Department of Revenue, Marijuana Enforcement Division



<sup>20</sup> John Ingold, *The Denver Post*, February 20, 2014, “Lot of green will roll in”

<sup>21</sup> Marijuana Policy Group for the Colorado Department of Revenue, Executive Summary, “Market Size and Demand for Marijuana in Colorado,” July 2014

<sup>22</sup> Colorado Department of Revenue Enforcement Division – Marijuana, January 28, 2015, “MED 2015 Third Quarter Update”

<sup>23</sup> Colorado Department of Revenue, “Marijuana Equivalency in Portions and Dosage”, August 10, 2015

<sup>24</sup> Colorado Municipal League and Colorado Counties, Inc.

<sup>25</sup> Colorado Department of Revenue Marijuana Enforcement Division, 2015 Third Quarter Update

# ***SECTION 10: Reference Materials***

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## Reports and Articles

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### Government

- ❑ ***Washington State Marijuana Impact Report by Northwest High Intensity Drug Trafficking Area (NWHIDTA), March 2016***

The Northwest HIDTA wrote this in-depth report in order to discuss the regulatory functions set by marijuana policy, present data on the impacts of the industry, and to depict where Washington State stands after one year of commercialization. Topics addressed include a regulatory overview, impact on youth, impact on adults, impaired driving, diversion of marijuana, THC extraction, marijuana-related crime, current markets and the upcoming market.<sup>1</sup>

- ❑ ***Review of Literature and Subcommittee Reports by the Wyoming Governor's Marijuana Impact Assessment Council, February 2016***

The recent legalization of marijuana in Colorado and other states creates an environment where it is important to have access to unbiased scientific information and reports from reliable sources on the subject. With that in mind, the Wyoming Governors Marijuana Impact Assessment Council (GMIAC) was created in July of 2015. This group consists of legislators, division directors, physicians, law enforcement personnel, executive directors, statisticians, professors, research scientists and others who all come together for the purpose of assisting legislators and the public in making informed decisions concerning varying levels of marijuana legalization. Within this report, areas of possible impact that are addressed include education, health, agriculture, revenue, criminal justice and more.<sup>2</sup>

- ❑ ***Report of the Special Senate Committee on Marijuana by the Special Senate Committee on Marijuana, March 8<sup>th</sup>, 2016***

The Massachusetts Senate created the Special Senate Committee on Marijuana in February, 2015. The purpose of the committee was to research and analyze the policy ramifications if Massachusetts were to legalize the adult recreational use and

sale of marijuana. The committee was given the responsibility of conducting an objective review of marijuana policy in Massachusetts as well as lessons to be learned from other states, particularly Colorado and Washington. In this report, the committee recommends actions for the state to address numerous policy issues if marijuana were to be legalized in Massachusetts.<sup>3</sup>

❑ ***Marijuana Legalization in Colorado: Early Findings by the Colorado Department of Public Safety, March 2016***

Since the passage of Amendment 64, which allows for the retail sale and possession of marijuana in Colorado, the Division of Criminal Justice within the Department of Public Safety has studied the impacts of Amendment 64 (particularly as these relate to law enforcement activities). This report describes early findings of marijuana legalization within the state. More specifically, the impact on public safety, public health, and youth are studied and discussed.<sup>4</sup>

❑ ***Impacts of the Downtown Environment on the Tourism Industry and Visitor Perceptions by VISIT DENVER, November 12<sup>th</sup>, 2015***

VISIT DENVER is the marketing organization for the City of Denver. This presentation highlights the safety trends and feedback that VISIT DENVER has received from convention and leisure visitors over the span of several years. Some issues discussed include the homeless, youth, panhandling, safety, cleanliness, and drugs including public marijuana consumption on the streets of Denver.<sup>5</sup>

❑ ***Report to the Joint Budget Committee by the Colorado Department of Revenue, Enforcement Division – Marijuana, April 1<sup>st</sup>, 2016***

This report details the progress being made by the State Licensing Authority in processing licenses, in addition to providing an overview of the retail marijuana markets, revenue generated by medical and recreational marijuana businesses, expenses incurred by the State Licensing Authority, the number of medical establishments applying to convert to retail establishments, and enforcement measures taken against licensed persons.<sup>6</sup>

❑ ***Third Quarter Update by the Colorado Department of Revenue, Enforcement Division – Marijuana, January 28<sup>th</sup>, 2016***

This report includes information on marijuana business licensing status, number of plants cultivated for medical and recreational purposes, volume of marijuana sold within both recreational and medical markets, units of infused edibles and non-edibles sold, mandatory retail testing for edibles, enforcement activity and administrative actions taken by the State Licensing Authority from January through September 2015.<sup>7</sup>

❑ ***Marijuana Equivalency in Portion and Dosage by the Colorado Department of Revenue, August 10<sup>th</sup>, 2015***

This study provides unbiased, scientific information that can be used to suggest appropriate equivalencies between flower and alternative marijuana products. It is a summary of how different marijuana products are produced and consumed. The information in this study can be used to convert concentrate and infused products into their flower weight equivalents from both a production and consumption viewpoint.<sup>8</sup>

❑ ***Residential Marijuana Grows in Colorado: The New Meth Houses by the Drug Enforcement Administration (DEA) Denver Division, June 2016***

In this report, the proliferation of large-scale marijuana grow operations is examined. The effects of these large-scale marijuana grow operations are discussed, along with an outlook from the perspective of the DEA.<sup>9</sup>

❑ ***Marijuana Enforcement in Nebraska by the Nebraska Center for Justice Research, 2016***

This report details trends in law enforcement and corrections related to the possession and sale of marijuana in Nebraska in the first full year of recreational legalization in Colorado.<sup>10</sup>

## Youth

❑ ***The Impact of Marijuana Policies on Youth – Technical Report, by the American Academy of Pediatrics, March 2015***

This technical report updates the 2004 American Academy of Pediatrics (AAP) report on the legalization of marijuana. Epidemiology of marijuana use is presented, as are definitions and biology of marijuana compounds, side effects of marijuana use, and effects of use on adolescent brain development. In addition, four different approaches to the legalization of marijuana in the United States are discussed and compared. Lastly, three separate policy approaches on adolescent marijuana use are discussed.<sup>11</sup>

❑ ***The Impact of Marijuana Policies on Youth – Policy Statement, by the American Academy of Pediatrics (AAP), March 2015***

This policy statement is an update of the American Academy of Pediatrics (AAP) policy statement “Legalization of Marijuana: Potential Impact on Youth,” 2004. In this position statement, the AAP examines the issue of marijuana legalization; more

specifically, the effects of marijuana, decriminalization efforts and effects, conclusions. Recommendations in regard to the legalization of marijuana are provided by the AAP.<sup>12</sup>

❑ ***Marijuana Use: Detrimental to Youth by the American College of Pediatricians, April 2016***

According to the American College of Pediatricians (ACP), marijuana is addicting, has adverse effects upon the adolescent brain, is a risk for both cardio-respiratory disease and testicular cancer, and is associated with both psychiatric illness and negative social outcomes. Evidence indicates limited legalization of marijuana has already raised rates of unintended marijuana exposure among young children, and may increase adolescent use. Therefore, the American College of Pediatricians opposes the legalization of marijuana for recreational use and urges extreme caution in legalizing marijuana for medicinal use.<sup>3</sup>

❑ ***Cannabis Does Alter Your Brain by Lisa Ryan, February 11<sup>th</sup>, 2016***

This article describes research by lead study author Dr. Francesca Filbey, of the University of Texas at Dallas. The research described was focused on looking deeper into the effects of using marijuana early in life. Specifically, the study found that subjects who began use of marijuana prior to age 16 had underdeveloped prefrontal cortexes. Furthermore, subjects who began their use after the age of 16 experienced accelerated brain aging<sup>14</sup>

❑ ***Cannabis Use is Quantitatively Associated with Nucleus Accumbens and Amygdala Abnormalities in Young Adult Recreational Users by Jodi M. Gilman et al., 16 April 2014***

This article describes a study performed by Harvard and Northwestern University researchers which aims to look closely at the effects of tetrahydrocannabinol (THC) on brain development. More specifically, researchers examined the brain morphometry on young adult recreational marijuana users.<sup>15</sup>

### Driving Under the Influence of Drugs (DUID)

❑ ***Prevalence of Marijuana Involvement in Fatal Crashes: Washington, 2010-2014 by the AAA Foundation for Traffic Safety, May 2016***

This report quantifies the prevalence of marijuana involvement in fatal crashes in the state of Washington from 2010-2014. The study investigated whether the prevalence changed after Washington legalized recreational use of marijuana, in

addition to creating a new *per se* limit for driving under the influence of marijuana which took effect on December 6<sup>th</sup>, 2012.<sup>16</sup>

❑ ***An Evaluation of Data from Drivers Arrested for Driving Under the Influence in Relation to Per se Limits for Cannabis by the AAA Foundation for Traffic Safety, May 2016***

One of the major concerns shared by both opponents and proponents of greater access to cannabis is its impact on driver performance and relationship to adverse effects on traffic safety. Several states have implemented *per se* delta-9-tetrahydrocannabinol THC blood limits that define the offense of driving while impaired by cannabis, and others are actively considering such limits. This report describes the findings of a study that was undertaken to determine whether data from the Drug Recognition Expert (DRE) program consisting of physiological indicators of drug use, and performance in roadside cognitive and psychomotor tests, supported any particular quantitative threshold for a *per se* law for THC within the blood.<sup>17</sup>

❑ ***Advancing Drugged Driving Data at the State Level by the AAA Foundation For Traffic Safety, March 2016***

The objective of this project is to identify and recommend strategies for improving state-level data on the nature and extent of drugged driving in the United States by addressing the most significant barriers that impede state efforts to collect and compile such data. This report discusses barriers to effective data and describes expert panel recommendations for addressing those barriers.<sup>18</sup>

❑ ***Drug-Impaired Driving by The Governors Highway Safety Association (GHSA), September 30<sup>th</sup>, 2015***

This report summarizes the current state of knowledge on drug-impaired driving, including what little is known about the costs and effectiveness of these actions, and identifies actions states can take to reduce drug-impaired driving. Specifically, this report highlights the increase of marijuana use and its role in impaired driving.<sup>19</sup>

❑ ***Overview of Major Issues Regarding the Impacts of Alcohol and Marijuana on Driving by the AAA Foundation for Traffic Safety, March 2016***

This report provides an overview of issues related to marijuana consumption, driving impairment and blood testing as well as the potential impacts of social and legal factors. Comparisons to alcohol are provided to serve as a single point of reference.<sup>20</sup>

❑ ***Drug Recognition Expert (DRE) Examination Characteristics of Cannabis Impairment by Hartman et al., April 22<sup>nd</sup>, 2016***

The Drug Evaluation and Classification Program (DECP) is commonly utilized in driving under the influence (DUI) cases to help determine categories of impairing drugs present in drivers. Cannabis, one of the categories, is associated with approximately doubled crash risk. This article describes a study which set-out to determine the most reliable DECP metrics for identifying cannabis-driving impairment.<sup>21</sup>

❑ ***Delays in DUI Blood Testing: Impact On Cannabis DUI Assessments by Ed Wood, Ashley Brooks-Russell and Phillip Drum, June 11<sup>th</sup> 2015***

This study examined the time from law enforcement dispatch to the first blood draw in cases of driving under the influence (DUI) vehicular homicide and a subset of DUI vehicular assault cases in Colorado in 2012. Laboratory toxicology results were also examined to understand the implications of delays in blood draws in cases of driving while under the influence of marijuana's delta-9-tetrahydrocannabinol (THC).<sup>22</sup>

❑ ***Cannabis Effects on Driving Lateral Control With and Without Alcohol by Hartman et al., June 23<sup>rd</sup>, 2015***

Effects of cannabis, the most commonly encountered non-alcohol drug in driving under the influence cases, are heavily debated. This article describes a study performed by researchers aimed at determining how blood THC concentrations relate to driving impairment, both with and without alcohol.<sup>23</sup>

❑ ***Medical Marijuana Involved in CA Fatal Crashes by Al Crancer, M.A. and Phillip Drum, Pharm.D.***

The relationship between driver fatalities, marijuana use and alcohol use are examined in this report. The contributing data for this report was obtained from the National Highway Traffic Safety Administration (NHTSA) Fatality Analysis Reporting System (FARS), 2010-2014.<sup>24</sup>

## Health

❑ ***The Health and Social Effects of Nonmedical Cannabis Use by the Management of Substance Abuse (MSB) Unit in the Department of Mental and Substance Abuse (MSD) of the World Health Organization, 2016***

This report is an update on the health and social consequences of non-medical cannabis use, with a special focus on the effects on young people and on long-term

frequent use. Furthermore, this report builds on contributions from a broad range of experts and researchers from around the world. It aims to present current knowledge on the impact of non-medical cannabis use on health, from its impact on brain development to its role in respiratory diseases.<sup>25</sup>

❑ ***Update of Cannabis and its Medical Use by Bertha K. Madras, 2015***

This report was commissioned by the Secretariat of the Expert Committee on Drug Dependence, Department of Essential Medicines and Health Products, World Health Organization (WHO). This document serves as a summary of the current status of the medical marijuana field and a framework to incorporate new information as it arises.<sup>26</sup>

❑ ***Association Between Lifetime Marijuana Use and Cognitive Function in Middle Age by Reto Auer, M.D., et al., March 2016***

This article describes the findings of a study aimed at understanding the association between cumulative lifetime exposure to marijuana use and cognitive performance in middle age.<sup>27</sup>

❑ ***NAMI Mass Comes Out Against Legalizing Recreational Marijuana by the National Alliance on Mental Illness of Massachusetts (NAMI Mass), May 23<sup>rd</sup>, 2016***

The National Alliance on Mental Illness Massachusetts seeks to improve the quality of life both for people with mental illness and for their families. This article describes the organization's strong opposition to the legalization of marijuana, citing, "detrimental effects for those with mental illness and for people predisposed to mental illness."<sup>28</sup>

❑ ***Prevalence of Marijuana Use Disorders in the United States Between 2001-2002 and 2012-2013, by Deborah S. Hasin, PhD, et al., December 2015***

Laws and attitudes toward marijuana in the United States are becoming more permissive, but little is known about whether the prevalence rates of marijuana use and marijuana use disorders have changed in the 21st century. This study set out to present nationally-representative information on the past year prevalence rates of marijuana use and marijuana use disorder among marijuana users in the US adult general population, and whether this has changed between 2001-2002 and 2012-2013.<sup>29</sup>

❑ ***Public Health Researchers Look At Rise In Marijuana-Related Hospitalizations by Mollie Durkin, January 2016***



Dr. Zhu, a postdoctoral associate at Duke University Medical Center in Durham, N.C., describes the issues surrounding an increasing prevalence of marijuana use in the U.S., and a seemingly related increase in hospital utilization related to the drug.<sup>30</sup>

❑ **Colorado Visitors Using Marijuana More Likely to End Up In Emergency Room by Marla Paul (Northwestern University Journalist), February 25<sup>th</sup>, 2016**

This article summarizes the findings of a joint study out of Northwestern University Feinberg School of Medicine and the University of Colorado School of Medicine, by lead investigator Dr. Howard Kim. The study, published in the *New England Journal of Medicine*, set out to investigate and compare the number of Colorado residents, and out of state visitors, who ended up in the emergency room with marijuana-related symptoms.<sup>31</sup>

❑ **Legalizing Marijuana Will Increase Our Opiate Epidemic by Heidi Heilman of the New Boston Post, March 2016**<sup>32</sup>

- A study of rodents, conducted at the Hurd Laboratory at the Mount Sinai School of Medicine, showed that rodents exposed to THC in the adolescent years had offspring that were primed for addiction. The research has yet to be reproduced in humans, but other studies on trans-generational effects of other drugs in humans appear consistent with the discoveries in rodents.
- Science suggests that legalizing marijuana will not only expose more people to a serious decline in cognitive and mental health functioning, but possibly also prime certain segments of the population – including unborn children – for more opiate addiction and brain changes.

## Use Surveys

❑ **Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health (NSDUH) by the Substance Abuse and Mental Health Services Administration (SAMHSA), September 2015**

This national report summarizes findings from the 2014 National Survey on Drug Use and Health (NSDUH) on trends in the behavioral health of people aged 12 years old or older in the civilian, non-institutionalized population of the United States. Topics addressed include illicit drug, tobacco and alcohol use, substance use disorders, and mental health issues.<sup>33</sup>

❑ **Healthy Kids Colorado Survey 2015 by the University of Colorado Anschutz Community Epidemiology & Program Evaluation Group, 2016**

This report examines the results of a biennial survey which collects anonymous, self-reported health-related information from Colorado middle and high school students every other year. In 2015, approximately 17,000 randomly-selected students from more than 157 middle schools and high schools participated. The data includes survey results in many topic areas to include tobacco, alcohol and marijuana use. In addition, the data also reflect student attitudes and perceptions that address health behaviors and the influences that can support a student's healthy choices.<sup>34</sup>

❑ ***Youth Risk Behavior Surveillance by the U.S. Department of Health and Human Services Centers for Disease Control and Prevention, June 10<sup>th</sup>, 2016***

The national Youth Risk Behavior Survey (YRBS) monitors priority health risk behaviors that contribute to the leading causes of death, disability, and social problems among youth and adults in the United States. The national YRBS is conducted every two years during the spring semester and provides data representative of 9<sup>th</sup> through 12<sup>th</sup> grade students in public and private schools throughout the United States.<sup>35</sup>

### Miscellaneous

❑ ***What Will Legal Marijuana Cost Employers by National Families in Action, 2015***

This report educates employers about how marijuana laws are changing, how those laws will affect employers' ability to conduct business, and what employers can do to protect that ability.<sup>36</sup>

❑ ***Workplace Drug Testing in the Era of Legal Marijuana, by the Institute for Behavior and Health, Inc., March 2015***

The shift in drug policy has created significant concern and confusion for many employers, employees, and job applicants about drug testing in general and testing for marijuana specifically. This report provides guidance for employers about drug testing employees and job applicants for marijuana use in the workplace.<sup>37</sup>

❑ ***The Hidden Costs of Marijuana Use in Colorado: One Emergency Department's Experience by Kenneth Finn, M.D. and Rochelle Salmore, M.S.N., R.N., 2016***

To date, there are few studies on the financial impact of marijuana use on the health care system. This study aims to assess potential health care costs and adverse health effects related to cannabis use in an acute care community hospital in Colorado. During the study period, the study hospital incurred a true loss of twenty million dollars in uncollected charges.<sup>38</sup>

❑ ***Issues in the Implementation and Evolution of the Commercial Recreational Marijuana Market in Colorado by Subritzky et al., December 15<sup>th</sup>, 2015***

This report brings together material sourced from peer reviewed academic papers, grey literature publications, reports in mass media and niche media outlets, and government publications to outline the regulatory model and process in Colorado. Additionally, this report includes descriptions of some of the issues that have emerged in the early stages of marijuana legalization within Colorado.<sup>39</sup>

❑ ***The Impacts of Marijuana Dispensary Density and Neighborhood Ecology on Marijuana Abuse and Dependence by Christina Mair et al., June 23<sup>rd</sup> 2015***

This article describes the findings of researchers who investigated associations between marijuana abuse and dependence hospitalizations, as well as community demographic and environmental conditions from 2001 to 2012 in California.<sup>40</sup>

❑ ***Marijuana Survey Finds Medical Users More Likely to Consume Edibles and Vaporize by the RAND Corporation, January 28<sup>th</sup>, 2016***

This article describes the findings of a study which provides some of the first evidence about patterns of marijuana use in states that have legalized medical marijuana.<sup>41</sup>

## Sources

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<sup>1</sup><http://www.riag.ri.gov/documents/NWHIDTAMarijuanaImpactReportVolume1.pdf>

<sup>2</sup>[https://9e3d2efe-a-84cef9ff-s-sites.googlegroups.com/a/wyo.gov/gmiac/home/finalgmiacreportnowavailable/GMIAC%20Review%20of%20Literature%20Report%20FINAL.pdf?attachauth=ANoY7cos7GcRhjFOOMUuaiMf9bR\\_HVPQr\\_5FTg5fNrU-LRbhOj6P8ztlu2H3NjPZ-EZgFSLiiJg6G0v-iFVWhALrG7x51\\_iCRFwNYZTIVgcjhgZXRtmxpingSqEG8ZwvcFbEKXc30CpQfH\\_zt4X87tjSoTzml9D8kco2UzdihMygxT8a4mQnT9iqGyJhC0iFXott5jLumHANTxGmZId-y7eTCynlg7CqSWxKaF6FiqvFVjo91WMwYHRtjNLNnGzQYgpdKMM9kSyvZ2rKIFNM0\\_uE27jfsBCuw%3D%3D&attredirects=0](https://9e3d2efe-a-84cef9ff-s-sites.googlegroups.com/a/wyo.gov/gmiac/home/finalgmiacreportnowavailable/GMIAC%20Review%20of%20Literature%20Report%20FINAL.pdf?attachauth=ANoY7cos7GcRhjFOOMUuaiMf9bR_HVPQr_5FTg5fNrU-LRbhOj6P8ztlu2H3NjPZ-EZgFSLiiJg6G0v-iFVWhALrG7x51_iCRFwNYZTIVgcjhgZXRtmxpingSqEG8ZwvcFbEKXc30CpQfH_zt4X87tjSoTzml9D8kco2UzdihMygxT8a4mQnT9iqGyJhC0iFXott5jLumHANTxGmZId-y7eTCynlg7CqSWxKaF6FiqvFVjo91WMwYHRtjNLNnGzQYgpdKMM9kSyvZ2rKIFNM0_uE27jfsBCuw%3D%3D&attredirects=0)

<sup>3</sup><https://malegislature.gov/Reports>

<sup>4</sup><http://cdpsdocs.state.co.us/ors/docs/reports/2016-SB13-283-Rpt.pdf>

<sup>5</sup><http://namimass.org/nami-mass-comes-out-against-legalizing-recreational-marijuana>

<sup>6</sup><https://www.colorado.gov/pacific/sites/default/files/DOR%20MED%20April%201%202016%20Report%20to%20the%20JBC.pdf>

<sup>7</sup><https://www.colorado.gov/pacific/sites/default/files/FINAL%20Third%20Quarter%202015%20Update.pdf>

<sup>8</sup>[https://www.colorado.gov/pacific/sites/default/files/MED%20Equivalency\\_Final%208102015.pdf](https://www.colorado.gov/pacific/sites/default/files/MED%20Equivalency_Final%208102015.pdf)

<sup>9</sup><https://www.dea.gov/divisions/den/2016/den062216.pdf>

<sup>10</sup><http://www.unomaha.edu/college-of-public-affairs-and-community-service/nebraska-center-for-justice-research/documents/marijuana-enforcement-in-nebraska.pdf>

<sup>11</sup><http://pediatrics.aappublications.org/content/pediatrics/135/3/e769.full.pdf>

<sup>12</sup><http://pediatrics.aappublications.org/content/pediatrics/135/3/584.full.pdf>

<sup>13</sup><https://www.acped.s.org/marijuana-use-detrimental-to-youth>

<sup>14</sup><http://www.dailymail.co.uk/health/article-3443120/Cannabis-DOES-alter-brain-younger-start-greater-risk-damage.html#ixzz3zzlEtnOg>

<sup>15</sup><http://www.jneurosci.org/content/34/16/5529.full.pdf+html>

<sup>16</sup><https://www.aaafoundation.org/prevalence-marijuana-use-among-drivers-fatal-crashes-washington-2010-2014>

<sup>17</sup><https://www.aaafoundation.org/sites/default/files/EvaluationOfDriversInRelationToPerSeReport.pdf>

<sup>18</sup><https://www.aaafoundation.org/sites/default/files/AdvancingDruggedDrivingData.pdf>

<sup>19</sup>[http://www.ghsa.org/html/files/pubs/GHSA\\_DruggedDriving2015\\_R7\\_LoResInteractive.pdf](http://www.ghsa.org/html/files/pubs/GHSA_DruggedDriving2015_R7_LoResInteractive.pdf)

<sup>20</sup><https://www.aaafoundation.org/sites/default/files/OverviewOfMajorIssuesRegardingAlcoholCannabisImpacts.pdf>

<sup>21</sup><http://www.ncbi.nlm.nih.gov/pubmed/27107471>

<sup>22</sup><http://www.tandfonline.com/doi/full/10.1080/15389588.2015.1052421>

<sup>23</sup><http://www.ncbi.nlm.nih.gov/pubmed/26144593>

<sup>24</sup>[https://michiganprosecutor.org/index.php?option=com\\_content&view=article&id=155-and-https://michiganprosecutor.org/files/TSTP/External/Medical-Marihuana-Involved-in-CA-Fatal-Crashes.pdf](https://michiganprosecutor.org/index.php?option=com_content&view=article&id=155-and-https://michiganprosecutor.org/files/TSTP/External/Medical-Marihuana-Involved-in-CA-Fatal-Crashes.pdf)

<sup>25</sup>[http://who.int/substance\\_abuse/publications/msb\\_cannabis\\_report.pdf](http://who.int/substance_abuse/publications/msb_cannabis_report.pdf)

<sup>26</sup>[http://www.who.int/medicines/access/controlled-substances/6\\_2\\_cannabis\\_update.pdf](http://www.who.int/medicines/access/controlled-substances/6_2_cannabis_update.pdf)

<sup>27</sup><http://archinte.jamanetwork.com/article.aspx?articleid=2484906#ArticleInformation>

<sup>28</sup><http://namimass.org/nami-mass-comes-out-against-legalizing-recreational-marijuana>

<sup>29</sup><http://archpsyc.jamanetwork.com/article.aspx?articleid=2464591>

<sup>30</sup><http://www.acphospitalist.org/archives/2016/01/conference-coverage-public-health-marijuana.htm>

<sup>31</sup><http://www.northwestern.edu/newscenter/stories/2016/02/colorado-visitors-using-marijuana-more-likely-to-end-up-in-emergency-room-.html>

<sup>32</sup>Heidi Heilman, *New Boston Post*, "Legalizing marijuana will increase our opiate epidemic," March 4, 2016, <<http://newbostonpost.com/2016/03/03/legalizing-marijuana-will-increase-our-opiate-epidemic/>>, accessed March 4, 2016

<sup>33</sup><http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>

<sup>34</sup>[https://www.colorado.gov/pacific/sites/default/files/PF\\_Youth\\_HKCS-Exec-Summary-2015.pdf](https://www.colorado.gov/pacific/sites/default/files/PF_Youth_HKCS-Exec-Summary-2015.pdf)

<sup>35</sup>[http://www.cdc.gov/healthyyouth/data/yrbs/pdf/2015/ss6506\\_updated.pdf](http://www.cdc.gov/healthyyouth/data/yrbs/pdf/2015/ss6506_updated.pdf)

<sup>36</sup>[http://www.nationalfamilies.org/reports/What\\_Will\\_Legal\\_Marijuana\\_Cost\\_Employers--Complete.pdf](http://www.nationalfamilies.org/reports/What_Will_Legal_Marijuana_Cost_Employers--Complete.pdf)

<sup>37</sup>[http://www.drugfreebusiness.org/Media/documents/IBH\\_workplacetesting.pdf](http://www.drugfreebusiness.org/Media/documents/IBH_workplacetesting.pdf)

<sup>38</sup>[http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado\\_Final.pdf](http://www.globaldrugpolicy.org/Issues/Vol%2010%20Issue%202/Articles/The%20Hidden%20Costs%20of%20Marijuana%20Use%20in%20Colorado_Final.pdf)

<sup>39</sup><http://www.sciencedirect.com/science/article/pii/S0955395915003540>

<sup>40</sup>[http://www.drugandalcoholdependence.com/article/S0376-8716\(15\)00318-X/abstract](http://www.drugandalcoholdependence.com/article/S0376-8716(15)00318-X/abstract)

<sup>41</sup>[https://www.sciencedaily.com/releases/2016/01/160128133040.htm?utm\\_source=feedburner&utm\\_medium=email&utm\\_campaign=Feed%3A+sciencedaily%2Fmind\\_brain%2Fmarijuana+%28Marijuana+News+--+ScienceDaily%29](https://www.sciencedaily.com/releases/2016/01/160128133040.htm?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+sciencedaily%2Fmind_brain%2Fmarijuana+%28Marijuana+News+--+ScienceDaily%29)

**Rocky Mountain High Intensity Drug Trafficking Area**  
**Investigative Support Center**  
**Denver, Colorado**  
**[www.rmhidta.org](http://www.rmhidta.org)**  
**click on "Reports"**



February 28, 2017

Mayor Ted Winterer  
and Santa Monica City Councilmembers  
City of Santa Monica  
1685 Main Street  
Santa Monica, CA 90401

Re: Study Session on Cannabis Regulations, March 7, 2017 Agenda, Item 4A

Dear Mayor Winterer and Honorable Councilmembers:

In response to the legalization of recreational marijuana under California Prop. 64, Downtown Santa Monica, Inc. conducted a marijuana use and zoning study session in conjunction with City of Santa Monica staff. We primarily explored considerations for retail sales and use once it becomes permitted and legal to do so throughout the state.

Currently, the zoning code does not permit medical marijuana dispensaries in the Downtown district, and we support continuation of this regulation. In regard to retail sales and distribution, considerable challenges exist in implementing the law in a heavily used area like Downtown Santa Monica. Attention would need to be given to the public consumption of marijuana and, if permitted, the design and safety features of retail spaces. We also encourage deliberation and discussion around the use, sale, and distribution of edibles, inclusive of regulations requiring strict labeling and dosage guidance for the protection of all, including children.

The new law regarding marijuana use and sales presents new opportunities and challenges to our community. Maintaining open dialogue to ensure the best policies are implemented is crucial to the continued success of Downtown and Santa Monica as a whole.

We appreciate your partnership with DTSM, Inc. and consideration of our feedback. We look forward to continued work with you to develop policies for a smooth implementation of this new law, and with attention to the wellbeing of Downtown residents, employees, businesses and visitors.

Sincerely,



Kathleen Rawson  
CEO, Downtown Santa Monica, Inc.

cc: DTSM, Inc. Board of Directors  
David Martin, Director of Planning and Community Development  
Salvador Valles, Assistant Director, Planning and Community Development



## Vernice Hankins

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**From:** no-reply@smgov.net  
**Sent:** Sunday, March 05, 2017 5:47 PM  
**To:** Finance Mailbox  
**Subject:** New message from finance.smgov.net

**Sender's name:** Jack A. Earl

**Sender's email:** jack@jackaearl.com

**Message:**

I am a current resident and homeowner in Santa Monica. I am AGAINST any permitting of commercial cannabis activities, sale of recreational cannabis and any permitting options for cannabis businesses in Santa Monica. Thank you. Jack A. Earl  
1517 Harvard St Apt 9 Santa Monica CA 90404 (661) 221-1375

**From:** no-reply@smgov.net  
**To:** [Finance Mailbox](#)  
**Subject:** New message from finance.smgov.net  
**Date:** Sunday, March 05, 2017 5:51:24 PM

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**Sender's name:** Rosa Nielsen

**Sender's email:** rosanielsen@verizon.net

**Message:**

I am a current resident in Santa Monica and have been for 25 years. I am AGAINST any permitting of commercial cannabis activities, sale of recreational cannabis and any permitting options for cannabis businesses in Santa Monica. Thank you. Rosa Nielsen 960th 10th Street Apt 10 Santa Monica CA 90403

## Vernice Hankins

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**From:** Council Mailbox  
**Sent:** Tuesday, March 07, 2017 8:29 AM  
**To:** councilmtgitems  
**Subject:** FW: Cannabis licensing

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**From:** Barney Alfs [mailto:barneyalfs@aol.com]  
**Sent:** Wednesday, March 1, 2017 12:25 PM  
**To:** Council Mailbox <Council.Mailbox@SMGOV.NET>  
**Subject:** Cannabis licensing

Citizens of Santa Monica using marijuana legally should not have to go to other cities to purchase it. We need to assure that this activity safe and keep any revenue in our city.

# Cannabis Regulations Study Session



Welcome  
To California

March 7, 2017  
Planning and Community Development

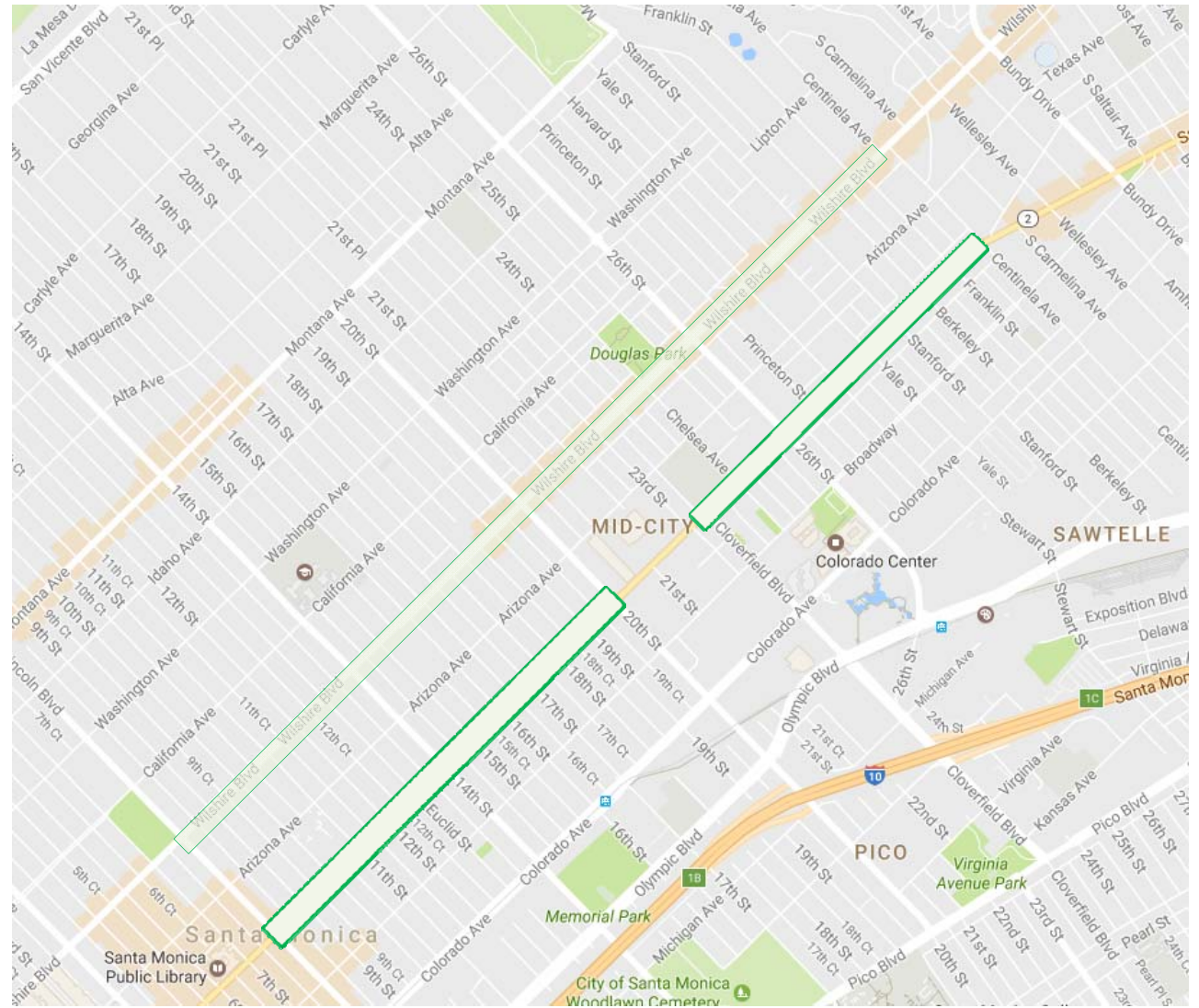
# Background

- June 2015 – ZO Adopted
  - Authorizes Two Medical Dispensaries
  - Broad Definition for Dispensary
  - Requires a Conditional Use Permit (CUP)
- October 2015 – State Adopts Medical Cannabis Regulation and Safety Act (MCRSA)
  - Comprehensive Seed to Sale Regulations
  - Establishes Permits for Specific Cannabis Related Businesses
  - Requires a Local and State Permit
- November 2016 – Voters Adopt Adult Use of Marijuana Act (AUMA)
  - Legalizes Recreational Cannabis Possession and Use by Persons 21 Years and Older
    - 28.5 Grams / 1 Ounce of Flower
    - 8 Grams of Concentrate
  - Legalizes the Cultivation of Cannabis for Personal Use (6 Plants)
  - Requires a Local and State Permit
- Regulatory Uncertainty
- Methods of Consumption/Use Have Changed
  - Highly Concentrated Forms
  - Edibles

# Medical Cannabis Dispensary Zones

Prohibited within  
600 Feet of a:

- Child Care Center
- Early Education Center
- Day Care Center
- Park
- School
- Library
- Social Services Center
- Other Dispensary



# Medical Cannabis Dispensaries

## Staff Recommends Establishing:

- Regulatory Permit
  - Cost Recovery (Management, Compliance, Inspections and Enforcement)
- Selection Process
- Medical Cannabis Dispensary Compliance Program
- Amendments to Local Law to Align with State Law

## Selection Process Could Include:

- Issuance of a Request for Application
- Objective Selection Criteria
  - Business Experience
  - Financials
  - Professional Reputation / Criminal Background
- Selection Committee
- Rating System

# Adult Use of Marijuana Act (AUMA)

## Permits

- Cultivation
- Manufacturing
- Testing
- Retail Sales
- Distribution
- On-Site Use



## Exceptions

- Commercial On Site Use Must be Authorized by Local Jurisdiction
- May not Smoke Where Smoking Tobacco is Not Allowed
- Use and Possession Restrictions at Schools, Day Care or Youth Centers
- 600 Foot Distancing (Certain Schools and Other Cannabis Businesses)



# Adult Use of Marijuana Act (AUMA)

## Local Jurisdictions May:

- Regulate or Prohibit ANY Cannabis Related Commercial Activities
- May Impose “Reasonable” Regulations on Personal Cultivation Indoors
- May Regulate or Prohibit Personal Cultivation Outdoors

## Staff Recommends:

- Prohibiting all Recreational Cannabis Related Business Activities
  - Allows for Focus on Selection and Permitting for Medical Dispensaries
  - Allows for Focus on Existing Planning Priorities
  - Considerable Regulatory Uncertainty



# Forms of Butane Hash Oils (BHO)



Shatter



Crumble



Budder



Wax

# Edibles Education



**Start with one serving**  
Start with a low-dose or single serving product until you know how edibles will affect you.



**Wait**  
Edibles can take up to 2 hours or longer to take effect.



**Don't Mix**  
Edibles should not be mixed with alcohol or controlled substances.



**Out Of Reach**  
Keep away from children, pets, ANYONE under 21 and store in original packaging.



[cannabisalliance.org](http://cannabisalliance.org)

## An Introduction To Edibles Tolerance

Everyone's metabolism is different and therefore has a different reaction to cannabis edibles. It is important that you understand your edible tolerance to have a safe and enjoyable experience.



**1-5mg**

### New Consumer

If you have never experimented with edibles, you should start here. It is important to make sure your body can digest cannabis comfortably.



**5-10mg**

### Occasional Consumer

This is considered a single serving. Eating more than 10mg is not recommended.



**10-15mg**

### Frequent Consumer

Reserved only for those with a high edible tolerance or medical needs.

The information contained in this brochure is not and should not be considered legal or medical advice. Please refer to and comply with all warnings contained on your product's packaging. Seek health care if adverse effects or accidental ingestion occurs or call the poison control hotline 1-800-222-1222.



