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Amendment 64 Frequently Asked Questions¹

Background: The intent of Amendment 64 (Colo. Const. Art. XVIII Sec. 16) is to treat the use of marijuana like the use of alcohol by adults 21 years old or older. Amendment 64 decriminalizes possession of one ounce or less of marijuana or 6 marijuana plants, only 3 of which may be flowering, and the resulting marijuana from those plants. Amendment 64 permits retail sale of marijuana in a regulated market similar to alcohol sales. Amendment 64 requires the department of revenue to adopt regulations for marijuana businesses by July 1, 2013, and serve as the state licensing authority for marijuana businesses.

How will amendment 64 affect federal law regarding marijuana?

Cultivation, sale, and possession of marijuana for adults age 21 and older is still illegal under federal law. As a result, prosecution of marijuana crimes may shift to the Colorado federal courts within the available resources of the U.S. Attorney's office. That prosecution could include possession or use of marijuana and operating marijuana businesses made legal by Amendment 64.

When do the provisions of Amendment 64 take effect?

According to the Colorado constitution, article V, section 1 (4) and the effective date provision of Amendment 64, Amendment 64 will take effect upon the date of the Governor's proclamation of the vote, but not later than thirty days after the vote has been canvassed. The date the Governor must make the proclamation is not constitutionally or statutorily prescribed and has been as early as December 1 and as late as January 19 following several recent elections.

Does Amendment 64 require the General Assembly to adopt any legislation?

Yes, Amendment 64 requires the General Assembly to enact an excise tax on marijuana prior to January 1, 2017. Amendment 64 directs the General Assembly to set the tax rate below 15 percent. Amendment 64 also requires the General Assembly to adopt legislation governing cultivation, processing, and sale of industrial hemp.

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Does the General Assembly need to enact any other legislation if Amendment 64 passes?

Yes, Amendment 64 decriminalizes the personal cultivation, use, and possession of marijuana for persons 21 years and older if the amount of marijuana is one ounce or less or if the person has 6 or fewer marijuana plants, only 3 of which may be flowering, and the marijuana produced from those plants. So, the criminal statutes regarding the cultivation, use, and possession of marijuana criminal statutes need to be amended to limit their applicability to those under age 21 and to amounts greater than one ounce or 6 plants. Amendment 64 also permits a business to cultivate and sell marijuana to persons within the amounts described above. Thus, the statutes regarding the sale of marijuana also need to be amended to reflect that newly lawful activity.

Does Amendment 64 require the General Assembly to develop a regulatory structure for marijuana businesses?

No, Amendment 64 requires the department of revenue to adopt rules regulating marijuana businesses by July 1, 2013. The rules must include:

- Procedures for licensing marijuana businesses;
- Licensure fees, which are capped at \$5,000 dollars but that can be adjusted for inflation;
- Qualifications for licensure, security requirements, and measures to prevent sale to those under age 21;
- Labeling requirements;
- Health and safety standards;
- Advertising limitations; and
- Civil penalties for regulatory violations.

Does Amendment 64 provide local governments with any regulatory authority?

Yes, a locality must enact an ordinance identifying the local licensing authority by October 1, 2013. Also, a locality may enact ordinances or regulations that do not conflict with Amendment 64 or with regulations or legislation enacted by the General Assembly. The ordinance or regulations may govern:

- The time, place, manner, and number of marijuana establishment operations;
- Procedures for the issuance, suspension, and revocation of a local license;
- A schedule of annual operating, licensing, and application fees for marijuana establishments; and
- Civil penalties for violation of an ordinance or regulation governing the time, place, and manner of operation of a local marijuana establishment.

May a local government ban the operation of marijuana businesses in its jurisdiction?

Yes, a locality may prohibit the operation of marijuana-cultivation facilities, marijuana product manufacturing facilities, marijuana-testing facilities, or retail marijuana stores through an ordinance or an initiated or referred measure. Any initiated or referred measure must appear on a general election ballot during an even-numbered year.

Does Amendment 64 require employers to accommodate the lawful use or possession of marijuana?

No, Amendment 64 specifically states that employers do not have to accommodate marijuana use or possession at the workplace. Amendment 64 also permits employers to enforce policies regarding marijuana use by employees.

Does Amendment 64 permit driving under the influence of marijuana?

No, Amendment 64 specifically states driving under the influence of marijuana is still a crime.

Does Amendment 64 permit a property owner to prohibit the use, possession, cultivation, or sale of marijuana on his or her property?

Yes, Amendment 64 gives a property owner the right to prohibit or regulate all marijuana activity on his or her property.

Does Amendment 64 repeal the legal provisions regarding medical marijuana?

No, Amendment 64 specifically states that it does not affect the legal provisions regarding medical marijuana.

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