

The History of Marijuana Legalization in Colorado

10-6-13

HISTORY – Marijuana in Colorado

- 1996 – California becomes first state to legalize medical marijuana
- 2000 – Colorado becomes 7th state to legalize medical marijuana (California, Alaska, Oregon, Washington, Maine, Hawaii)
- Amendment 20 Citizen Initiative - Approved by Colorado Voters (54%-46%) authorizing the creation of a medical marijuana industry

HISTORY – Terms of Medical Marijuana Law

- Amendment 20 – Citizen Initiative
- Allowed citizens to obtain physician-recommended medical marijuana
- A medical marijuana registry identification card required for patients
- Allowed patients to possess
 - Up to 2 ounces of usable marijuana
 - Up to 6 marijuana plants
 - Up to 3 plants could be mature flowering plants
- Caregivers allowed no more than 5 patients each

HISTORY – Initial years

- Amendment 20 set the original industry model
- But in the mid-2000s, some caregivers secretly accepted more than 5 patients
- 2007 – Industry representatives sued and won, allowing caregivers to treat as many patients as they could handle

HISTORY – Initial years

- 2009 – The unlimited patient model was challenged but upheld – This paved the way for the current medical marijuana dispensary model in Colorado
- 2010 - Both the Colorado Senate and the Colorado House of Representatives took action to codify the existence of dispensaries through the passage of SB 10-109 and HB 10-1284.

HISTORY – Adult Use Marijuana

- 2012 – A group of citizens gathered signatures to place an initiative on the November ballot legalizing the adult use of recreational marijuana
- November 6, 2012 Colorado became the first state to vote in favor of legalizing adult use recreational marijuana--The initiative passed with 55% of the vote

HISTORY – Task force recommendations

- 2013 - A task force comprised of industry reps, government reps and citizens held meetings intended to solicit public input and to create implementation recommendations for retail marijuana
 - Limit initial entry of new businesses
 - Require certain degree of vertical integration among cultivators and sellers
 - Establish strict requirements for new licensees
 - Closely track all marijuana products and sales
 - Allow large degree of local control, including allowing locals to prohibit retail marijuana businesses in their communities
 - Establish criminal laws associated with impaired driving
 - Recommend tax structure to be placed on ballot

TAX IMPLICATIONS

- Colorado has a constitutional amendment called TABOR which requires a vote of the people to approve any new tax
- In May of 2013 the Colorado Legislature approved placing a measure on the ballot to allow an excise tax on adult use marijuana of 15% of the value and authorizing a special sales tax on up to 10% of the retail price

IMPLEMENTATION CHALLENGES

- The language of A64 suggested marijuana should be regulated in a fashion similar to alcohol
- To the degree possible that approach is being followed; however marijuana, unlike liquor, is a plant. It is difficult to determine exactly how much product has been manufactured.

2013 related legislation

- 2013 – Colorado legislature enacted HB 13-1317, HB 13-1318 and SB 13-283
- These laws give greater direction regarding the implementation of A64
- Authorized the creation of new positions for the purpose of enforcement, regulation, compliance, audit and processing
- There are many issues to be addressed in order to ensure an adequate infrastructure and that control and compliance environment exist

Federal Government involvement

- 2009 Ogden Memo – Feds ‘should not focus’ prosecutorial resources on those in compliance with state medical marijuana laws
- 2011 – DOJ letters to states - US DOJ sent letters to Colorado and 7 other states threatening to prosecute those who implemented state medical marijuana programs
- 2013 – On August 29, the US DOJ updated its marijuana policy, informing Colorado that the DOJ is “deferring its right to challenge their legalization laws at this time.”

Going Forward - Timeline for retail marijuana

- **October 1, 2013** - Medical Marijuana Centers and Marijuana Infused Product manufacturers can apply for a recreational marijuana license
- **November 5, 2013** - Statewide vote for excise and sales tax on recreational marijuana
- **January 1, 2014** - Retail marijuana licenses can be issued
- **July 1, 2014** - New entrants or those outside of medical marijuana industry may apply for a license
- **September 30, 2014** - End of vertical integration requirements
- **October 1, 2014** - Retail marijuana licenses issued for new entrants

WHERE ARE WE NOW?

- The Enforcement regulations have been drafted and promulgated.
- Regulations regarding taxation of the product will not be promulgated until the outcome of the election is known.
- If voters approve the tax we must move quickly to promulgate the regulations and make necessary system changes to process this new tax type.

ITEMS CURRENTLY BEING CONSIDERED

- Calculation of the average market rate for concentrate, bud, trim and a whole plant
- Mandatory utilization of one time use plastic bags which are rendered useless if attempted to be opened.
- Utilization of Indicia or Stamps to provide evidence of excise tax payment.

ITEMS CURRENTLY BEING CONSIDERED

- Enhancement of the marijuana inventory tracking system (MITS) to allow the system to be used for control and tracking of the production and associated excise taxes.
- Use of MITS is mandated and required for all cultivations, infused product manufacturers and retailers.

CLOSING

- Effective January 1, 2014 adults may legally purchase and consume in the privacy of their abode, adult use marijuana for recreational purposes.
- We will be ready although the time is rapidly approaching.
- It has been a long strange trip indeed but Colorado is at the forefront of a national and perhaps international trend. We take seriously our obligation to our citizens and to all those observing our actions.