



2019 Marijuana Legislation Enacted by Governor Jared Polis

Overview of the Following Bills Before Cities and Towns: A submission by Durango Marijuana Hospitality Association on behalf of its members to the City Council Durango

State Laws in Colorado Marijuana Hospitality

MARIJUANA HOSPITALITY

House Bill 1230, which establishes licensing requirements and regulations for the establishment of on-site marijuana consumption facilities,

MARIJUANA DELIVERY

House Bill 1234, which regulates the home-delivery of both medical marijuana and adult-use cannabis products.

MARIJUANA EQUITY AND OPPORTUNITY

Senate Bill 19-224, ACCELERATOR PROGRAM

Accelerator Cultivator and Accelerator Manufacturer working with Accelerator Endorsed Licensee for mutual benefit an exchange that would foster growth and innovation of marijuana research, products, and businesses.

The legislation extends the program to retail marijuana cultivation and retail marijuana products manufacturing activities allowing for eligible licensees to host and offer technical and capital support to accelerator licensees persons residing in an “opportunity zone” as designated by the Office of Economic Development and International Trade.

Points in Support of Implementation under U.S. Constitution Points (1-5)

NORML Facts and Findings with Respect to Legalization

City Ordinances if Implementation Recommendations for Council.

1. Implementation of HB 1230 is a substantial step necessary and dependent on delivery of marijuana and marijuana equity opportunity

We submit the legislative intent of 2019 enacted Bills by the Colorado General Assembly and signed by the governor **are guideposts for local cities and counties** in Colorado to “regulate marijuana like alcohol”.

Although the City of Durango, is currently considering the Marijuana Hospitality Licenses HB 1230; subsequent laws will go into effect at the State level in time frames of 2020 and 2021.

The next series of Colorado Marijuana Laws in HB 1234 and SB 19-224 are facially “dependent” on the implementation of HB 1230 Hospitality.

Hospitality Marijuana Licensing locally is foundational as the expectation interest of business owners and investment capital. It would be unreasonable to have a regulatory scheme which *allowed for delivery of medical and recreational marijuana* but not a regulatory scheme for Marijuana Consumption and Hospitality.

Delivery points of marijuana products not only would include a residence but would include restaurants, hotels, tours, and other points in the city. In the absence of having a regulated Marijuana Hospitality Consumption and Limited Sales the consumer would still be subject to a product available but unusable outside of their confined state.

By the same instance; Marijuana Hospitality Licensing locally is foundational to the compass of *equity and opportunity*. The SB 19-224 is also in the interest of business owners and capital existing in a regulated marijuana scheme currently in Durango. The Accelerator Endorsement issued to either a Marijuana Cultivator or Marijuana Manufacturer would enable a “Licensee” to exercise the privileges of an Accelerator-Endorsed Licensee.

These Licensees *will be residents in zones of opportunity* and by the derivative nature of Durango as a destination globally, will have both trade and educational backgrounds to participate and build business ideas, products, and innovation around marijuana consumption.

As hospitality is the driving purpose of the Marijuana Hospitality Bill *it would be illogical* to have an economic opportunity for a resident serving as either the **Endorser or Licensee** in a city *where Marijuana consumption and use is still barred.*

“State and Federal Constitutional Principles”

2. Substantive Due Process under the 14th Amendment Applicable to the States

The 14th amendment of the U.S. Constitution provides *that no State shall deprive a citizen of life, liberty, or property without due process of law nor deny any person equal protection of the law.*

“Liberty Freedom from Substantial Arbitrary Impositions and Purposeless Restraints”

We would suggest there is a deprivation of liberty for the citizens of this State in demonstrably exercising freedoms of association and other provisions of the First Amendment even under a permissive sales scheme as Amendment 64 falls short of true liberty

“And inasmuch as this context is one not of words, but of history and purposes, the full scope of the liberty guaranteed by the Due Process Clause cannot be found in or limited by the precise terms of the specific guarantees elsewhere provided in the Constitution.

*This "liberty" is not a series of isolated points pricked out in terms of the taking of property; the freedom of speech, press, and religion; the right to keep and bear arms; the freedom from unreasonable searches and seizures; and so on. It is a rational continuum which, **broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints, . . . and which also recognizes, what a reasonable and sensitive judgment must, that certain interests require particularly careful scrutiny of the state needs asserted to justify their abridgment**” This substantive due process analysis derives from Justice Harlan's dissent in *Poe v. Ullman*, 367 U.S. 497, 542-43 (1961), elucidating the true meaning of "the full scope of liberty" under due process*

“Injury being Suffered by Chronically Ill Patients”

Although the State has permissive laws for purchase of medical marijuana, there exists an absence of permissible use in areas for chronically ill or doctor supervised patients to associate together in order to express themselves and do so in a lawful manner.

“Injury denying one group of citizens a recreational use and allowing another”

Although the State has permissive laws for purchase of medical marijuana, once the transaction has occurred the lawful purchaser may only confine his or her consumption to a private dwelling whereas with any other recreational substance use such as alcohol that right to consume is free from interference.

3. “Equal Protection Under the Law as Applied to Economic Regulation”

Under the equal protection clause of the 14th Amendment applicable to the States discrimination may occur upon state laws designating classifications such as race, national origin, gender and economic discrimination.

Unlike the strict scrutiny and intermediate scrutiny of state and local laws that directly or indirectly discriminate against “suspect classes” of citizens; *economic discrimination* and *denial of equal protection on an economic basis* may also be scrutinized.

Here, we have no facially discriminatory law with respect to regulating marijuana consumption business to challenge; however, the *absence or abstention to an otherwise lawful State law* has an indirect discriminatory effect.

4. “An unequal application in absence of law- alcohol versus marijuana use”

The characteristics and distinction of the two substances marijuana and alcohol exist measurably. But they are both *consumed to benefit in some intended use* and when consumed it is really only the intoxication that is different.

As a result, both alcohol and marijuana produce outcomes that can be reasonably regulated and problems resulting mitigated without the current sufferance of the state of our lack of local law as it exists today. After all this is a local issue as residents of Colorado consume over 80% of marijuana sold and therefore *very reasonable that use on site consumption as an issue* should be addressed because it’s capable of repetition but evading review.

5. “Prohibition good intentions but controverts freedom of choice”

In the end however, it is from a leaning into the historical lessons on prohibition of alcohol that marijuana consumption both risks and benefits should squarely reside in the conscious choice of the consumer and by that reasoning laws based on a rational and reasonable basis can conform the marijuana consumption not dissimilar to alcohol.

Normalization of Marijuana Laws and Findings

From research gathered by NORML findings have opined upon subjects such as adolescent marijuana use, criminal activity, traffic safety, declining alcohol consumption, tax revenue and job growth

“The enactment of adult use cannabis regulation is not associated with upticks in marijuana use by adolescents”

Rates of marijuana use by teens have been of great interest to researchers over the past decade, given major social and legislative shifts around the drug. Fortunately, even as teens' attitudes toward marijuana's harms continue to relax, they are not showing corresponding increases in marijuana use.”

Source: National Institutes on Drug Abuse, December 17, 2018 press release

“The establishment of cannabis retailers is not associated with upticks in criminal activity”

This paper studies the effects of marijuana legalization on neighborhood crime and documents the patterns in retail dispensary locations over time using detailed micro-level data from Denver, Colorado. The results imply that an additional dispensary in a neighborhood leads to a reduction of 17 crimes per month per 10,000 residents, which corresponds to roughly a 19 percent decline relative to the average crime rate over the sample period.

Overall, our results suggest that dispensaries cause an overall reduction in crime in neighborhoods, with no evidence of spillovers to surrounding neighborhoods. Our results are consistent with theories that predict that marijuana legalization will displace illicit criminal organizations and decrease crime through changes in security behaviors or substitution toward more harmful substances.

Lastly, there is no evidence that increased marijuana use itself results in additional crime.

Source: Not in my backyard? Not so fast. The effect of marijuana legalization on neighborhood crime, Regional Science and Urban Economics, 2019

Neither medical use nor adult use legalization is associated with adverse effects on traffic safety”

We find that states that legalized marijuana have not experienced significantly different rates of marijuana- or alcohol-related traffic fatalities relative to their synthetic controls.

In summary, the similar trajectory of traffic fatalities in Washington and **Colorado** relative to their synthetic control counterparts yield little evidence that the total rate of traffic fatalities has increased significantly as a consequence of recreational marijuana legalization.

Source: Early Evidence on Recreational Marijuana Legalization and Traffic Fatalities, National Bureau of Economic Research, 2018

“Marijuana regulation is associated with declining alcohol consumption”

We use data on purchases of alcoholic beverages in grocery, convenience, drug, or mass distribution stores in US counties for 2006-2015 to study the link between medical marijuana laws and alcohol consumption and focus on settling the debate between the substitutability or complementarity between marijuana and alcohol. We find that the legalization of medical marijuana reduces alcohol consumption. We find consistent evidence across different specifications and alcohol products (i.e. alcohol in general, beer and wine).

States legalizing medical marijuana use experience significant decrease in the aggregate sales of alcohol, beer and wine. Moreover, the effects are not short lived, with significant reductions observed up to 24 months after the passage of the law.

Helping settle the marijuana and alcohol debate: Evidence from scanner data. SSRN Working Paper, 2017

“Marijuana regulation is associated with increased tax revenue and job creation”

Listings for cannabis-related positions have rocketed to the top echelon of the fastest-growing-job categories on sites like Indeed and ZipRecruiter. Julia Pollak, a labor economist at ZipRecruiter, said the company's data put the number of cannabis jobs nationwide at 200,000 to 300,000.

Source: Cannabis, marijuana, weed, pot? Just call it a job machine," New York Times, April 25, 2019

There are now more than 211,000 cannabis jobs across the United States. More than 64,000 of those jobs were added in 2018. The cannabis workforce increased 21% in 2017. It gained another 44% in 2018. We expect at least another 20% growth in jobs in 2019. That would represent a 110% growth in cannabis jobs in just three years.

Leafly.com/Whitney Economics, Cannabis Jobs in America: 2019, March 2019

“States that legalize recreational cannabis have seen home values increase”

States that legalize recreational cannabis see an immediate bump in home values following legalization, even without retail dispensaries opening up. From 2017 to 2019, cities where recreational marijuana is legal saw home values increase \$6,337 more than cities where marijuana is illegal after controlling for potential confounders.

New study: How recreational marijuana impacts home values, April 9, 2019

Overall Studies and Findings discussed in points above are from NORML an organization working to normalize drug law in the United States @ www.norml.org and addressing Constitutional questions.

Recommendation if (Implemented) to Local Implementation of MJ Hospitality

Any ordinances if implemented at all we propose take into consideration the following recommendations with respect to Marijuana Hospitality licensing.

- Clear and separate regulatory framework than Amendment 64 as Marijuana Hospitality is codified by the State with much less restrictions and control since these operators primarily will be allowed consumption licenses.
- As for Limited Marijuana and Sales Consumption it is reasonable that restrictions as promulgated by the State of Colorado would entail a more restrictive regiment of rules than a simple consumption license.
- Exemption of Clean Indoor Act as notated in the Bill; Marijuana Hospitality Businesses was “intentionally” provided by provisions in the bill to exempt businesses that operate with combustion products (smoking marijuana) and the city in recognizing this wouldn’t place unreasonable restrictions upon this exemption as “viability” of these permitted business would be dependent upon consumption of combustion products
- That the State in Rule Making has given specifics as to “mitigating” the effects of smoke through ventilation requirements and other factors that seek to substantially eliminate effects of patrons by their choice entering a marijuana consumption business with combustion products and use.
- That we recognize other elements of Marijuana Hospitality such as Medical Delivery and Retail Delivery, and Social equity are dependent on Marijuana Consumption regulatory framework as to implement the secondary laws mentioned. It would be illogical if consumption of marijuana continues to be unlawful through due to failure of lack of licensing.
- We have to be confident in our success with Amendment 64 as Colorado is the leader and model for other states to regulate marijuana like alcohol; as the legislative intent and by ballot whereas the citizens of this state voted for these measures and have a reasonable expectation that new laws that expand those rights will be permissible by their own city where they choose to work, educate, medicate, and recreate in the fullest extent of freedom their municipal government can provide.
- Issue of public health and safety are warranted and welcomed as we believe a regulated industry even as minimal as Marijuana Hospitality need not cause unnecessary risk to safety of its citizens as we as public health are acting in good faith for reasonable regulations.
- Finally, that any ordinances proposed have a rational basis as such is the scrutiny for *state action and local action* on economic matters of ordinances, laws, and regulations without arbitrary or capricious reasoning and adopted without bias or motive simply because the substance being regulated is marijuana with the goal of fairness.



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