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ELECTIONS
SECRETARY OF STATE

ORIGINAL TEXT
PROPOSED INITIATIVE MEASURE #43

Be it enacted by the people of the state of Colorado

Article XVIII, Section 14, of the constitution of the state of Colorado is amended by the addition of a new subsection to read:

(12) (a) To ensure that each patient has a safe and reliable source of marijuana, persons shall have the right to operate and to obtain a license to operate a medical marijuana dispensing facility or a medical marijuana production facility as provided in this section.

(b) Not later than March 1, 2011, the General Assembly shall enact legislation necessary for implementation of this section. Such legislation shall include:

(I) An exception from the state's criminal laws for engaging or assisting in the medical use of marijuana and for the sale or transfer of marijuana to a patient, primary care-giver, or medical marijuana dispensing facility by any medical marijuana dispensing or production facility in lawful possession of a license to produce or to distribute medical marijuana and for any agent or employee of such facility;

(II) Procedures for the issuance, suspension, and revocation of a license to operate a medical marijuana dispensing or production facility;

(III) A schedule of licensing fees;

(IV) Minimum security requirements that are intended to prevent diversion for medical marijuana dispensing or production facilities;

(V) Minimum labeling requirements for medical marijuana distributed by medical marijuana dispensing or production facilities; and

(VI) Civil penalties for the failure to comply with legislation, ordinances, or regulations made pursuant to this section.

(c) Localities may enact ordinances or regulations not in conflict with this section or with legislation enacted pursuant to this section governing the time, place, and manner of medical marijuana dispensing or production facility operations and establishing penalties for violation of an ordinance or regulation governing the time, place, and manner of medical marijuana dispensing or production facilities that may operate in such locality, provided that no locality may prohibit the operation of such facilities, either expressly or through enactment of ordinances or regulations which make their operation unreasonably impracticable.

(d) Each application for a license to operate a medical marijuana dispensing or production facility shall be submitted to the Department of Regulatory Affairs. The Department of Regulatory Affairs shall:

(I) Begin processing applications on May 1, 2011;

(II) Immediately forward a copy of each application to the locality in which the applicant desires to operate the medical marijuana dispensing or production facility;

(III) Issue an annual license to the applicant within 90 days of receipt of an application unless it finds the applicant is not in compliance with legislation enacted pursuant to subsection (b) or it is notified by the relevant locality that the applicant is not in compliance with ordinances and regulations made pursuant to subsection (c) and in effect at the time of application; and

(IV) Upon denial of an application, notify the applicant of the specific reason for its denial.

(e) If the Department of Regulatory Affairs does not issue a license to an applicant within 90 days of receipt of the application filed in accordance with subsection (d) and does not notify the applicant of the specific reason for its denial, the applicant may submit its application directly to the locality and the locality shall issue an annual license to the applicant within 90 days of receipt of the application unless it finds the applicant is not in compliance with ordinances and regulations made pursuant to subsection (c) in effect at the time of application and shall notify the Department of Regulatory Affairs if an annual license has been issued to the applicant.

(f) If the General Assembly does not enact legislation required by subsection (b), the applicant may submit its application directly to the locality after May 1, 2011 and the locality shall issue an annual license to the applicant within 90 days of receipt of the application unless it finds the applicant is not in compliance with ordinances and regulations made pursuant to subsection (c) in effect at the time of application and shall notify the Department of Regulatory Affairs if an annual license has been issued to the applicant. An applicant licensed pursuant to this section shall be immune from arrest or prosecution for engaging or assisting in the medical use of marijuana and for the sale or transfer of marijuana to a patient, primary care-giver, or medical marijuana dispensing facility.

(g) As used in this section:

(I) "Locality" shall mean a home rule or statutory city, town, territorial charter city, or city or a county if the proposed location of the facility is not within the boundaries of a home rule or statutory city, town, territorial charter city, or city.

(II) "Medical marijuana dispensing facility" shall mean an entity established for the purpose of selling or otherwise transferring marijuana to any number of patients or primary care-givers.

(III) "Medical marijuana production facility" shall mean an entity established for the purpose of producing and preparing any amount of marijuana and for selling or otherwise transferring that marijuana to medical marijuana dispensing facilities.