



RECEIVED

MAR 26 2010

FINAL TEXT
PROPOSED INITIATIVE MEASURE #47

ELECTIONS
SECRETARY OF STATE

Be it Enacted by the People of the State of Colorado

1:42 pm
km

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

Section 16. Regulation of Marijuana.

1. Purpose and findings. THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

- (A) MARIJUANA SHOULD BE SOLD IN A REGULATED MARKET SO THAT YOUNG PEOPLE WILL HAVE TO SHOW PROOF OF AGE BEFORE ATTEMPTING TO PURCHASE MARIJUANA;
- (B) LEGITIMATE, TAXPAYING BUSINESSPEOPLE IN THE STATE WILL BENEFIT FROM THE SALES OF MARIJUANA, NOT CRIMINAL GANGS AND CARTELS;
- (C) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO REGULATIONS TO ENSURE THAT PEOPLE WHO USE MARIJUANA KNOW EXACTLY WHAT THEY ARE GETTING WHEN THEY MAKE A PURCHASE; AND
- (D) ADULTS WILL BE ABLE TO USE MARIJUANA INSTEAD OF ALCOHOL WITHOUT FEAR OF PUNISHMENT, IF THAT IS WHAT THEY PREFER TO DO WHEN THEY RELAX OR RECREATE.

2. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES,

- (A) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES OR ITS SUCCESSOR AGENCY.
- (B) "LOCALITY" MEANS A:
 - (I) CITY, TOWN, OR CITY AND COUNTY; OR
 - (II) A COUNTY IF THE PROPOSED LOCATION OF THE FACILITY IS NOT WITHIN THE BOUNDARIES OF A CITY, TOWN, OR CITY AND COUNTY.
- (C) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT CANNABIS SATIVA L. 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 ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. IT DOES NOT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENTS COMBINED WITH MARIJUANA TO PREPARE TOPICAL ADMINISTRATIONS, FOOD, OR DRINK.
- (D) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY ESTABLISHED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND TO SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURERS, AND TO OTHER MARIJUANA CULTIVATION FACILITIES BUT NOT TO CONSUMERS.
- (E) "MARIJUANA LICENSEE" MEANS A MARIJUANA CULTIVATION FACILITY, MARIJUANA PRODUCT MANUFACTURER, OR A MARIJUANA RETAIL STORE THAT HOLDS A VALID LICENSE.

(F) "MARIJUANA PRODUCT MANUFACTURER" MEANS AN ENTITY ESTABLISHED TO MANUFACTURE, PREPARE, AND PACKAGE CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS INTENDED FOR USE OR CONSUMPTION OTHER THAN BY SMOKING, SUCH AS EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES, AND TO SELL MARIJUANA TO RETAIL MARIJUANA STORES AND TO MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(G) "RETAIL MARIJUANA STORE" MEANS AN ENTITY ESTABLISHED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND FROM MARIJUANA PRODUCT MANUFACTURERS AND TO SELL MARIJUANA AND MARIJUANA PARAPHERNALIA TO CONSUMERS.

(H) "UNREASONABLY IMPRACTICABLE" MEANS THAT OPERATION IS POSSIBLE, BUT THAT THE MEASURES NECESSARY TO COMPLY WITH THE ORDINANCES OR REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE THAT THE OPERATION OF A FACILITY IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE.

3. Regulation of Marijuana.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IS EXEMPT FROM ARREST, CIVIL OR CRIMINAL PENALTY, SEIZURE OR FORFEITURE OF ASSETS, AND, EXCEPT AS PROVIDED IN PARAGRAPH (IX) OF SUBSECTION (E) OR IN ANY REGULATION OR ORDINANCE MADE IN ACCORDANCE WITH SUBSECTION (G), DISCIPLINE BY A LICENSING BOARD FOR THE FOLLOWING ACTS:

(I) POSSESSION OR TRANSPORTATION OF ONE OUNCE OR LESS OF MARIJUANA.

(II) CULTIVATION, PACKING, PROCESSING, MANUFACTURE, TRANSPORTATION, OR POSSESSION OF UP TO THREE MARIJUANA PLANTS THAT HAVE NO FLOWERS AND ARE LESS THAN TWELVE INCHES IN HEIGHT AND IN DIAMETER AND UP TO THREE MARIJUANA PLANTS THAT DO HAVE FLOWERS OR ARE MORE THAN TWELVE INCHES IN HEIGHT OR IN DIAMETER, AND POSSESSION OF THE PRODUCT OF ANY HARVEST ON THE PREMISES WHERE THE PLANTS WERE CULTIVATED AND HARVESTED.

(III) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(IV) MANUFACTURE, POSSESSION, OR PURCHASE OF ANY EQUIPMENT, PRODUCTS, AND MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(V) DELIVERY OR SALE TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER OF ANY EQUIPMENT, PRODUCTS, AND MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(VI) POSSESSION OR TRANSPORTATION OF MARIJUANA, PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY OR A MARIJUANA PRODUCT

MANUFACTURER, AND SALE OF MARIJUANA TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER, IF THE PERSON HAS OBTAINED A LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(VII) CULTIVATING, HARVESTING, PROCESSING, PACKING, TRANSPORTATION, OR POSSESSION OF MARIJUANA, SELLING MARIJUANA TO A MARIJUANA LICENSEE, AND THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY OR A MARIJUANA PRODUCT MANUFACTURER, IF THE PERSON HAS OBTAINED A 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.

(VIII) PACKING, PROCESSING, TRANSPORTATION, MANUFACTURE, OR POSSESSION OF MARIJUANA, SELLING MARIJUANA TO A RETAIL MARIJUANA STORE OR A MARIJUANA CULTIVATION FACILITY, AND THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON HAS OBTAINED A LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURER OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURER.

(IX) USE OR CONSUMPTION OF MARIJUANA, PROVIDED THAT THE USE IS NOT CONDUCTED OPENLY AND PUBLICLY.

(X) AIDING AND ABETTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (I) TO (IX), INCLUSIVE.

(B) A PERSON WHO HAS OBTAINED A LICENSE TO OPERATE AS A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED RETAIL MARIJUANA STORE SHALL BE IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY FOR THE SALE OF MARIJUANA TO A CUSTOMER WHO IS NOT AT LEAST TWENTY-ONE YEARS OF AGE IF THE PERSON ACTED IN GOOD FAITH AND REASONABLY RELIED ON FRAUDULENT PHOTO IDENTIFICATION OFFERED BY A CUSTOMER WHO WAS NOT AT LEAST TWENTY-ONE YEARS OF AGE.

(C) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON OR ENTITY IN LAWFUL POSSESSION OF PROPERTY FROM BANNING THE POSSESSION OR USE OF MARIJUANA ON OR IN THAT PROPERTY.

(D) A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER SHALL HAVE THE RIGHT TO OPERATE AND TO OBTAIN A LICENSE TO OPERATE A RETAIL MARIJUANA STORE, A MARIJUANA CULTIVATION FACILITY, AND A MARIJUANA PRODUCT MANUFACTURER AS PROVIDED IN THIS SECTION.

(E) NOT LATER THAN MARCH 1, 2011, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH LEGISLATION SHALL NOT PROHIBIT THE OPERATION OF A MARIJUANA LICENSEE, EITHER EXPRESSLY OR THROUGH LEGISLATION THAT MAKES THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH LEGISLATION MAY INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA LICENSEE;

(II) A SCHEDULE OF LICENSING FEES, NOT TO EXCEED FIVE THOUSAND DOLLARS ANNUALLY;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA LICENSEE;

(IV) MINIMUM SECURITY REQUIREMENTS THAT ARE INTENDED TO PREVENT DIVERSION OF MARIJUANA TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(V) MINIMUM LABELING REQUIREMENTS FOR MARIJUANA DISTRIBUTED BY A MARIJUANA LICENSEE;

(VI) MINIMUM HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE SAFE MANUFACTURE OF CONCENTRATED MARIJUANA PRODUCTS, THE MANUFACTURE OF MARIJUANA PRODUCTS INTENDED FOR USE OR CONSUMPTION OTHER THAN BY SMOKING SUCH AS EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES, AND THE CULTIVATION OF MARIJUANA;

(VII) RESTRICTIONS ON THE ADVERTISING OF MARIJUANA;

(VIII) AN EXCISE TAX TO BE LEVIED UPON MARIJUANA, EXCLUDING CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS INTENDED FOR USE OR CONSUMPTION OTHER THAN BY SMOKING, SUCH AS EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES, SOLD BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURER OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED THE LESSER OF TWO-HUNDRED PERCENT OR FIFTY DOLLARS PER OUNCE AND PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED; AND

(IX) CIVIL PENALTIES AND LICENSING SANCTIONS FOR THE FAILURE TO COMPLY WITH LEGISLATION MADE PURSUANT TO THIS SECTION.

(F) NOT LATER THAN MARCH 1, 2011, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A RETAIL MARIJUANA STORE, A MARIJUANA PRODUCT MANUFACTURER, AND A MARIJUANA CULTIVATION FACILITY WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES IF ISSUANCE BY THE LOCALITY BECOMES NECESSARY BECAUSE OF A FAILURE BY THE GENERAL ASSEMBLY TO ENACT LEGISLATION PURSUANT TO SUBSECTION (E) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY THIS SECTION.

(G) A LOCALITY MAY ONLY 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 MARIJUANA LICENSEE OPERATIONS, ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH SUBSECTION (I) OR (J), ESTABLISHING A SCHEDULE OF ANNUAL LICENSING FEES THAT MAY NOT EXCEED FIVE THOUSAND DOLLARS AND MAY ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH SUBSECTION (J), AND ESTABLISHING CIVIL PENALTIES AND LICENSING SANCTIONS FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA LICENSEE THAT MAY OPERATE IN SUCH LOCALITY, PROVIDED THAT NO LOCALITY MAY PROHIBIT THE OPERATION OF A MARIJUANA

LICENSEE, EITHER EXPRESSLY OR THROUGH ENACTMENT OF ORDINANCES OR REGULATIONS WHICH MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE.

(H) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A RETAIL MARIJUANA STORE, MARIJUANA PRODUCT MANUFACTURER, OR MARIJUANA CULTIVATION FACILITY SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN PROCESSING APPLICATIONS ON MAY 1, 2011;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA LICENSEE;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT WITHIN 60 DAYS OF RECEIPT OF AN APPLICATION UNLESS IT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH LEGISLATION ENACTED PURSUANT TO SUBSECTION (E) OR IT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO SUBSECTION (G) 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.

(I) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN SIXTY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH SUBSECTION (H) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY AND THE LOCALITY SHALL ISSUE AN ANNUAL LICENSE TO THE APPLICANT WITHIN SIXTY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT HE IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO SUBSECTION (G) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD THE APPLICATION FEE PAID BY THE APPLICANT TO THE LOCALITY UPON REQUEST BY THE LOCALITY AND THE DEPARTMENT SHALL BE PRECLUDED FROM DENYING SUCH APPLICATION AND FROM TAKING ENFORCEMENT ACTION AGAINST AN ANNUAL LICENSE GRANTED PURSUANT TO SUCH APPLICATION.

(J) IF THE GENERAL ASSEMBLY DOES NOT ENACT LEGISLATION REQUIRED BY SUBSECTION (E), 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 SIXTY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT HE IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO SUBSECTION (G) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT.

(K) THE DEPARTMENT OR A LOCALITY MAY NOT RELY UPON ANY PROVISION OF FEDERAL OR INTERNATIONAL LAW AS A JUSTIFICATION FOR REFUSING TO CARRY OUT THE

PROVISIONS OF THIS SECTION OR TO DENY AN APPLICATION FOR THE ISSUANCE OF ANY LICENSE TO A PERSON INTENDING TO OPERATE A MARIJUANA LICENSEE.

(L) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN A CONFIDENTIAL LIST OF MARIJUANA LICENSEES AND SHALL ESTABLISH A VERIFICATION SYSTEM DESIGNED TO MAINTAIN CONFIDENTIALITY OF THE DATA TO THE MAXIMUM EXTENT POSSIBLE WHILE PERMITTING LAW ENFORCEMENT PERSONNEL TO DETERMINE WHETHER A PERSON OR LOCATION IS A MARIJUANA LICENSEE AND WHETHER THAT LICENSE IS VALID.

(M) EXCEPT AS NECESSARY FOR AUTHORIZED EMPLOYEES OF THE DEPARTMENT TO PERFORM OFFICIAL DUTIES PURSUANT TO THIS SECTION OR UPON THE LAWFUL ORDER OF A COURT OF COMPETENT JURISDICTION, THE DEPARTMENT, A LOCALITY, AND ANY EMPLOYEE OR AGENT OF THE DEPARTMENT OR OF A LOCALITY SHALL NOT DISCLOSE OR MAKE KNOWN IN ANY MANNER THE NAME OR ADDRESS OF A MARIJUANA LICENSEE OR AN OWNER, EMPLOYEE, OR AGENT OF A MARIJUANA LICENSEE.

4. Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS ARTICLE ARE SELF-EXECUTING AND SEVERABLE, AND SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

5. Effective date. THE PROVISIONS OF THIS ARTICLE SHALL TAKE EFFECT UPON THE PROCLAMATION OF THE GOVERNOR.

Proponent Representative 1

Name: Mason Tvert
Physical Address: 1441 Humboldt Street #306, Denver, Colorado 80218
Mailing Address: P.O. Box 40332, Denver, Colorado 80204
Phone: 303-861-0033
Fax: 303-861-0915
E-mail: mason@saferchoice.org

Proponent Representative 2

Name: Eva Enns
Physical Address: 1833 Williams Street #304, Denver, Colorado 80218

Mailing Address: P.O. Box 40332, Denver, Colorado 80204
Phone: 303-861-0033
Fax: 303-861-0915
E-mail: eva@saferchoice.org