



MARIJUANA REGULATION IN COLORADO

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Colorado voters legalized the use of medical marijuana in 2000 and retail marijuana in 2012 through amendments to the Colorado Constitution. This *issue brief* provides an overview of current state law and regulations pertaining to medical and retail marijuana, and discusses the role of local governments in regulating marijuana. The federal government considers all marijuana to be a Schedule I controlled substance with no currently accepted medical use and a high potential for abuse. As such, the federal government does not have a direct role in marijuana regulation.

Background

For **medical marijuana**, the Colorado Constitution provides an affirmative defense against criminal prosecution for marijuana-related offenses for persons with debilitating medical conditions who have registered with the state (patients) and their caregivers. Medical marijuana patients or their caregivers may grow up to six plants and possess up to two ounces of marijuana. These limits may be exceeded in cases where a patient has a medical need for more plants, up to 99 plants. Only a business licensed by the state may grow more than 99 plants.

For **recreational marijuana**, the Colorado Constitution allows the purchase, use, and possession of up to one ounce of marijuana, for persons aged 21 and older. It also requires the state to operate a regulatory structure for retail

sales of marijuana that includes licensing for stores, growers, manufacturers, staff, testing labs, and investors. Adults (who are not on the medical marijuana registry) may grow up to six plants and keep the marijuana harvested from these plants or share it with other adults. Neither medical nor retail marijuana may be consumed in public with the exception of the pilot project described below.

State Regulation of Medical Marijuana

The Colorado Medical Marijuana Code (Medical Code) provides a regulatory structure for medical marijuana businesses. The Marijuana Enforcement Division (division) in the Department of Revenue (DOR) is the licensing authority and primary regulator for medical marijuana.

Business licensing. Under the Medical Code, the division currently issues four types of medical marijuana business licenses. As of November 1, 2016, the following number and types of medical marijuana businesses have been licensed.

- 528 medical marijuana centers;
- 790 medical marijuana cultivation facilities;
- 248 medical marijuana infused-product manufacturers; and
- 14 medical marijuana testing facilities.

The division will begin accepting license applications for medical marijuana transporters after January 1, 2017. A transporter moves medical marijuana between locations.

Patient registry. The Department of Public Health and Environment (DPHE) maintains the registry of medical marijuana patients. The current fee is \$15 per year. As of October 31, 2016, the registry included 102,914 patients. Patients can grow their own medical marijuana, use a caregiver, or purchase it from a medical marijuana center.

Medical marijuana caregivers. Caregivers are limited in state law to providing services for no more than five patients unless a waiver is granted by DPHE. A primary caregiver cannot charge a patient more than the actual cost of cultivating or purchasing medical marijuana, but is allowed to charge for other types of services provided. Caregivers are required to register the location of marijuana cultivation sites with the DOR, but are not otherwise licensed.

Medical marijuana centers. Medical marijuana centers must share common ownership with cultivation facilities and grow at least 70 percent of their marijuana. This structure is known as vertical integration. Generally, a medical marijuana center can grow up to six plants for each patient who designates it as his or her caregiver. A center can sell any marijuana produced in excess of that purchased by its designated patients to other patients on the registry. Patients on the registry may purchase marijuana at any medical marijuana center, even if they have designated a different caregiver or center to grow plants on their behalf.

State Regulation of Retail Marijuana

The General Assembly created the Retail Marijuana Code (Retail Code) in 2013, which expanded the authority of the DOR to include the regulation of retail marijuana.

Business licensing. Under the Retail Code, businesses that grow, process, test, and

sell retail marijuana are licensed by the division. As of November 1, 2016, the following number and type of businesses have been licensed:

- 454 retail marijuana stores;
- 613 retail marijuana cultivation centers;
- 231 retail marijuana product manufacturers; and
- 14 retail marijuana testing facilities.

The division will begin accepting license applications for retail marijuana transporters after January 1, 2017. A transporter moves retail marijuana between locations.

Retail marijuana stores. Any adult aged 21 and over may purchase marijuana from a licensed retail store. Retail stores have the option to cultivate plants for sale or to obtain marijuana on the wholesale market from any cultivator.

Local Regulation of Marijuana

Local governments also have a role in regulating marijuana. For medical marijuana, both local and state licensing of businesses are required, whereas for retail marijuana, local licensing is optional. In addition, cities and counties may prohibit or place limits on medical and retail marijuana sales in their jurisdictions, including the number and location of businesses and hours of operation. Cities and counties may also establish land use restrictions concerning marijuana businesses, cultivation, and operations.

Public consumption pilot project. Voters in the city and county of Denver recently passed a ballot initiative to create a four-year pilot program that allows businesses, such as cafes and yoga studios, to operate designated marijuana consumption areas. Applicants for on-site consumption permits must have the support of an eligible neighborhood association or business improvement district and comply with conditions included in the measure and set by the supporting organization. Businesses that hold medical or retail marijuana licenses or liquor licenses are not eligible for the permits.