



Legislative Council Staff

Research Note

Version: Final

Date: 4/5/2017

Bill Number

Senate Bill 17-015

Sponsors

Senator Aguilar
Representative Pabon

Short Title

Unlawful Marijuana Advertising

Research Analyst

Conrad Imel (x2756)

Status

This research note reflects the final version of the bill, which was signed by the Governor on April 4, 2017, and becomes effective September 1, 2017, assuming no referendum petition is filed.

Background

Personal and medical use of marijuana is permitted under article XVIII of the Colorado Constitution. There is no state law restricting or regulating retail marijuana advertising, but the Constitution permits the Colorado Department of Revenue to regulate the advertising and display of marijuana and marijuana products. The department has promulgated rules regulating retail marijuana advertising in 12 Colorado Code of Regulations 212-2.

While there is no prohibition on advertising marijuana under existing law, it is a level 2 drug misdemeanor to place an advertisement in a newspaper, magazine, handbill, or other publication intending, thereby, to promote the sale in this state of equipment, products, or materials designed and intended for use as drug paraphernalia.

Senate Action

Senate Judiciary Committee (January 18, 2017). At the hearing, the committee heard testimony in favor of the bill from representatives of the Colorado Department of Public Health and Environment, the Colorado Department of Revenue, and the Marijuana Industry Group. A representative of the Colorado Criminal Defense Bar testified in opposition to the bill. A representative of the Colorado District Attorneys' Council answered technical questions about the bill. The committee adopted amendments L.001 and L.006, and referred the bill, as amended, to the Committee of the Whole.

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Amendment L.001 exempts from the bill medical marijuana-infused products manufacturers and retail marijuana products manufacturers that transfer such products to persons licensed to sell such products, and retail medical marijuana testing facilities and medical marijuana testing facilities.

Amendment L.006 clarifies that the bill applies to those not licensed under other states' laws, and requires that advertising subject to the law be intentional. The amendment also requires that a person subject to the bill knowingly advertise the unlawful sale of certain products by a person not licensed to sell those products.

Senate second reading (January 23, 2017). The Senate adopted the Senate Judiciary Committee report, and passed the bill on second reading.

Senate third reading (January 24, 2017). The Senate passed the bill on third reading, with no additional amendments.

Senate consideration of House amendments (March 7, 2017). The Senate concurred with House amendments and repassed the bill.

House Action

House Finance Committee (February 27, 2017). At the hearing, the committee heard testimony in support of the bill from a representative of the Colorado Department of Public Health and Environment. The committee adopted amendments L.009 and L.010, and referred the bill, as amended, to the House Committee of the Whole.

Amendment L.009 requires knowingly advertising in certain publications in order commit unlawful advertising of marijuana. Amendment L.010 removes from the bill exemptions for medical marijuana-infused products manufacturers and retail marijuana products manufacturers that transfer such products to licensed sellers, and for retail and medical marijuana testing facilities.

House second reading (March 2, 2017). The House adopted the House Finance Committee report, and passed the bill on second reading.

House third reading (March 3, 2017). The House passed the bill on third reading with no amendments.

Relevant Research

Colorado Secretary of State's Office, Retail Marijuana Rules, 12 CCR 212-2, *available at:* <http://tinyurl.com/gtla28h>.

Legislative Council Staff, *Marijuana Regulation In Colorado*, Issue Brief, December 2016: <http://leg.colorado.gov/publications/marijuana-regulation-colorado-2016>.

Legislative Council Staff, *Distribution of Marijuana Tax Revenue*, Issue Brief, July 2016: <http://leg.colorado.gov/publications/distribution-marijuana-tax-revenue-2016>.

Legislative Council Staff, *Retail Marijuana Laws*, Issue Brief, December 2013: <http://leg.colorado.gov/publications/retail-marijuana-laws-2013>.