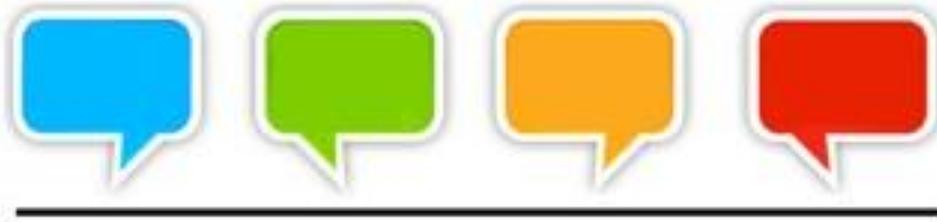


## A Colorado Conversation on State and Federal Responses to Passage of Amendment 64



On Election Day 2012, 55% of Colorado voters approved Amendment 64, allowing residents 21 years and older to grow and possess up to one ounce of marijuana. The law, supported by a well-financed campaign and little organized opposition, drew support from all parts of the electorate except the 65 and older age group. Portions of the law take effect on January 5.

The measure allows adults to possess up to an ounce of marijuana and six marijuana plants. Public use of marijuana and driving while intoxicated are prohibited. The initiative allows marijuana sales at special stores starting in 2014. The legislature is charged with developing procedures for issuing a marijuana business license, labeling requirements for marijuana products, restrictions on advertising, and civil penalties for not complying with the rules.

Supporters contend that this law will end thousands of small-scale drug arrests and free law enforcement officials to focus on larger, more serious crimes. They believe that passage of Amendment 64 will save court systems and police departments additional millions. Opponents of Amendment 64 warned that the law—despite its 21-year age minimum—would set Colorado (and Washington, which passed a similar measure) on a collision course with the federal government and encourage teenagers to use marijuana.

Now that one-third of the states have some sort of law permitting the use of marijuana for medical purposes, the federal government has been selective in using its limited resources to respond to individuals by prioritizing crimes particularly medical-marijuana dispensaries near schools in Colorado. Nationwide polls indicate that voters favor some sort of limited legalization and state regulation.

### **Conflicts to be Resolved before the Law Is Implemented**

Supporters estimate that taxing marijuana will bring in millions of dollars in new revenue for our state. However, Attorney General John Suthers criticized the pro-pot campaign for telling voters the state would tax pot sales and raise up to \$40 million a year for schools. In fact, the 1992 TABOR Amendment requires a vote of the people of Colorado for all new taxes. So, first the state legislature would have to approve a 15 percent tax on pot sales and then put that measure before voters for their approval.

“People in favor of taxing marijuana distributors are grossly underestimating the difficulty of collecting a tax on a drug that remains illegal under federal law,” said Robert Mikos of Vanderbilt University. “Federal law enforcement officials could use any information the states gather, for example, lists of licensed dealers, to track down and sanction marijuana distributors. The federal ban would encourage distributors to evade state tax collectors as well as federal law enforcement officials.”

Some expect that a lucrative tourist trade will develop around the legalization of marijuana. Others think that our image as a business-friendly, health conscious state will be tarnished and tourism will decrease.

"This is a symbolic victory for (legalization) advocates, but it will be short-lived," Kevin Sabet, a former adviser to the Obama administration's drug czar, told reporters. Practically, however, the federal government doesn't have the resources to enforce the federal ban.

Both Governor Hickenlooper and Colorado Attorney General Suthers have said that they will respect the will of the people, even though they oppose the law. Yet, marijuana is still illegal at the federal level and the new Colorado law is in clear conflict with the Controlled Substances Act, which identifies marijuana as a Schedule I controlled substance.

### Conflicts with Federal Laws

The Justice Department has affirmed its intent to enforce federal drug laws, in spite of state legalization. An injunction may be filed to block the measure from being implemented so there is time to develop a response.

Banking laws will need to be addressed. Don Childers, president of the Colorado Bankers Association said recently that "New marijuana distributors operating legally under state law would likely require banking services, but federal law forbids it."

Some are worried that the conflict between state and federal laws will generate confusion. All three recently reelected Democratic members of Colorado's Congressional delegation are planning legislation for next year that would exempt states enacting legalization systems for marijuana from the Controlled Substances Act and allow states to establish their own marijuana laws free from federal preemption.



Center for Education in Law and  
Democracy  
<http://www.lawanddemocracy.org>

### Views on Amendment 64's Implementation

"This will be a complicated process, but we intend to follow through. That said, federal law still says marijuana is an illegal drug, so don't break out the Cheetos or goldfish too quickly."

—Governor John Hickenlooper

"No other drug, not even alcohol, affects academic performance like marijuana. Teen use and heavy use is up 80% since 2008. How can we make education a focus, and then support laws that will blunt the next generation's ability to compete?"

—Ed Gogek, addiction psychiatrist, in a *New York Times* op-ed

"... it feels good to know that 10,000 people in Colorado are not going to be arrested and made criminals next year just for using marijuana."

—Mason Tvert, Campaign to Treat Marijuana Like Alcohol

**A recent Youth Risk Behavior Survey completed by the Center for Disease Control shows:**

- Youth marijuana use in Colorado went down 2.8 percent from 2009 (24.8%) to 2011 (23.1%).
- Youth marijuana use nationally went up 2.3 percent from 2009 (20.8%) to 2011 (23.1%).
- In 2011, youth marijuana usage in Colorado fell below the national average—22% compared to 23.1%.

Additionally, the CDC survey found that availability of drugs on school grounds in Colorado went down from 2009 to 2011; that figure was also below the average, by 8.4%.