

HB 1284

Medical Marijuana Regulations

This summary is intended to provide an overview of HB1284 and the new regulations and licensing on the medical marijuana (MMJ) industry. There are provisions and details that this summary does not address. Please contact your county attorney or CCI for additional specifics included in the bill.

Local Option

The local option provision in the act is adapted from existing language in the Colorado Revised Statutes (12-47-105) regarding bans on alcohol sales in the county. The local option for medical marijuana has some important differences, listed below:

- The local option prohibits: dispensaries, grow operations and/or infused product manufacturing that are outside the scope of Amendment 20.
- The BOCC may, through a majority vote of the Board, prohibit retail sale, distribution, cultivation and/or dispensing of medical marijuana.
- The BOCC may also refer a measure to the registered voters in the county on whether to allow or prohibit the retail sale, distribution, cultivation and/or dispensing of medical marijuana.
- In a city and county (i.e. Broomfield or Denver), a citizen petition to prohibit medical marijuana may be submitted to the Council and placed on the ballot for a regular or special election.
- It is important to note – should a local prohibition be put in place, *all medical marijuana is not prohibited*. The Constitutional protections in Amendment 20 are still in place for legitimate patient/caregiver relationships.

Regulatory Powers

Counties now have a broad range of regulatory powers to license and regulate the MMJ industry. A county may choose a simple or complex approach, depending on the needs of the county. Below is a list of what counties are now able to do:

- Prohibit dispensaries, grow operations and/or MMJ edibles production in the county. None of these three industries may operate unless they are licensed by the state and the local licensing authority (if one exists).
 - *Non- licensed operations may operate* if they are able to prove a legitimate patient/caregiver relationship dictated under Amendment 20.
- Extend existing moratoriums until the Dept of revenue adopts their rules (appx 1 year)
- Enact reasonable regulations for all licensees, based on health, safety, zoning and public welfare laws that are more restrictive than the state's.
- Designate a local licensing authority (LLA) through resolution, which will, among other things:
 - Hear and decide on all MMJ licenses in the county (licenses = 2 years)
 - Provide a public hearing, if appropriate, for any of the licenses
 - Adopt additional standards for issuance of licenses, including, but not limited to:
 - Distance restrictions between premises
 - Restrictions on size of premises
 - Any other requirements to ensure the control of premises and ease of enforcement
 - Allow a concurrent license review process with the state
 - Set and retain all fees, unless application is denied and some fee reimbursement may be allowed
 - Establish inspection and investigation procedures for all licenses
 - Monitor and process transfer of ownership proceedings
 - Process license renewal hearings
 - Suspend licenses and may accept fine in lieu of suspension (fine =\$500 to \$100,000)
 - Hear and approve change of venue cases for licensees
- Fees and revenue from MMJ licenses and operations go into the county general fund and do not have statutory restrictions on the local level.

Additional Land Use Powers

There are provisions in HB1284 that allow local governments flexibility in citing where these licensed operations will exist. Most counties have already the ability to cite MMJ operations under zoning rules, however, since some counties have minimal or no zoning in unincorporated areas, additional language was added to the bill to allow all counties the powers they need to manage growth of this industry.

Local governments may:

- Prohibit MMJ operations in areas not zoned for the industry
- Prohibit MMJ operations to be located 1000 feet from the following premises:
 - School (defined as “public or private preschool or a public or private elementary, middle, junior high or high school)
 - Alcohol or drug treatment facility
 - Principle campus of a college, university or seminary
 - Residential child care facility
- Implement a variance to the 1000 foot setback
- Increase the 1000 foot setback
- Eliminate or add premises to the 1000 foot setback requirement
- Establish local signage regulations for MMJ facilities

Amendments CCI successfully kept off the bill

- Further restrictions on how local sales taxes on the MMJ industry would be dedicated
- Removal of local control language
- Removal of local moratoriums
- Changing the 1000 foot setback flexibility to a more firm process
 - Only cities or counties above 100,000 in population would be able to implement the 1000 foot setback requirement
- Allowing grow operations more flexibility for operation
- An increase of number of patients a primary caregiver could serve (currently 5:1 in the bill)
 - This ensures a primary caregiver does not have more than five patients and keeps the Amendment 20 protections in place for caregivers who are not dispensaries
- Removal of vertical integration model for regulation of MMJ industry. Amendment would have allowed some vertical integration and some not.
- Complete strike below on the bill that would have allowed local governments to ‘opt in or out’ of local option