



OLR RESEARCH REPORT

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MARIJUANA LEGALIZATION

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You asked for information about marijuana legalization, including (1) how legalization occurred in Colorado and Washington, (2) bills in Connecticut on this issue, and (3) how this issue could appear on a statewide ballot initiative in Connecticut.

SUMMARY

In November 2012, voters in both Colorado and Washington approved ballot initiatives which generally legalized the possession of small amounts of marijuana by adults in those states. They became the first two states to allow marijuana use for non-medical purposes. Both Colorado and Washington have procedures for initiatives to appear on the statewide ballot if supporters collect the required number of signatures. Colorado's initiative amended the state constitution, while Washington's initiative enacted legislation. While marijuana remains a Schedule I controlled substance under federal law, the U.S. Department of Justice (DOJ) [announced](#) in August 2013 that it would not challenge the Colorado or Washington laws as long as the states maintain strict regulatory control over marijuana.

We were unable to find recent bills in Connecticut proposing the legalization of marijuana. However, there have been several bills proposing the decriminalization of the possession of small amounts of marijuana, including a bill that was enacted into law in 2011. [PA 11-71](#) eliminated imprisonment as a possible penalty for possessing less than

one-half ounce of marijuana. Under the act, such possession is generally punishable by fines only (other penalties apply in some situations, such as a 60-day suspension of a driver's license for someone under age 21).

The only way for Connecticut voters to vote on a marijuana legalization proposal is through the constitutional amendment process. Marijuana legalization cannot be put before the voters in a form other than a proposed constitutional amendment, as the Connecticut Constitution does not permit statewide ballot initiative or referendum measures. Article Third, Section One of the constitution vests legislative power in the General Assembly alone, and the General Assembly cannot delegate this power to the voters. Since ballot initiatives and referendum measures are exercises of legislative power, they cannot occur at the state level unless the constitution is amended to allow them.

However, voter approval is required before a proposed amendment becomes part of the constitution, and thus a constitutional amendment to legalize marijuana must be approved by the voters before taking effect. A proposed amendment must be introduced to the General Assembly in the form of a joint resolution. If the resolution passes by at least three-fourths of the membership of each house of the legislature, it is placed on the ballot in the next general election. If it passes by a majority of the membership of each house but less than three-fourths, it is referred to the General Assembly session held after the next election, where it must be approved by majorities in both houses before being placed on the ballot. If a majority of those voting in the general election approves the amendment, it becomes part of the state constitution (Article Twelfth).

Alternatively, the legislature could authorize a statewide advisory (i.e., nonbinding) referendum by passing legislation requiring that a question concerning marijuana legalization be placed on the ballot. In previous years, legislators have proposed advisory referenda for, among other things, the income tax and casino gambling, but these proposals were not enacted.

STATES LEGALIZING RECREATIONAL USE OF MARIJUANA

Colorado

On November 6, 2012, approximately 55.3% of Colorado voters approved [Amendment 64](#). The amendment generally made legal under state law the possession or use of up to one ounce of marijuana by adults age 21 or older, including growing up to six plants (with no more than three being mature plants).

Colorado allows constitutional amendments or statutory propositions on the statewide ballot, under specified procedures, if proponents collect the required number of signatures from registered voters (5% of the total votes cast for all candidates for secretary of the state in the previous general election). Amendment 64 appeared on the ballot after proponents gathered more than the required 86,105 signatures.

Amendment 64 generally provides for the regulation of marijuana in a manner similar to alcohol. It sets requirements for marijuana production and retail sales businesses. The amendment does not allow for the consumption of marijuana in public. It requires an excise tax on wholesale marijuana sales, with \$40 million of revenue annually allocated to public school capital construction. Among other provisions related to medical marijuana, the amendment specifies that it does not limit any privileges or rights of a medical marijuana patient, primary caregiver, or entity licensed under the state's medical marijuana law.

On December 10, 2012, Colorado Governor John Hickenlooper [signed an executive order](#) to formalize the amendment as part of the state constitution (Colorado Const. Art. 18, § 16). The governor also announced the creation of a task force on the implementation of the amendment. The task force released its [final report](#) in March 2013.

Amendment 64 required the state Department of Revenue to adopt implementing regulations on a variety of matters, such as licensing requirements for marijuana businesses. The department adopted final retail marijuana rules on September 9, 2013.

In 2006, Colorado voters disapproved an earlier ballot initiative on the legalization of marijuana (Amendment 44).

Washington

In 2012, approximately 55.7% of Washington voters approved [Initiative 502](#) (I-502), which allows adults age 21 or older to purchase, for their personal use, up to one ounce of usable marijuana or specified quantities of marijuana-infused products.

I-502 was an initiative submitted to the legislature. To be certified, such initiatives require signatures of registered voters equal to at least 8% of the total votes cast in the last gubernatorial election. As reported in the *Seattle Times*, during 2012, such initiatives required at least 241,153 valid signatures. After such an initiative is certified, if the legislature does not take action on it during the legislative session, the measure appears on the November ballot. The legislature did not vote on I-502; thus it went to the voters, who approved it.

As with Colorado's amendment, the Washington initiative provides for the regulation of marijuana production, sale, and possession in a manner that is generally similar to alcohol. It provides for state and local taxation of marijuana sales, with some of the tax revenue dedicated to substance abuse prevention and related purposes. The initiative prohibits marijuana from being consumed in view of the general public.

I-502 allows the sale of marijuana by retailers licensed through the Liquor Control Board. The initiative requires the board to adopt implementing rules by December 1, 2013. The board's website has a section with frequently asked questions about I-502's implementation: http://lcb.wa.gov/marijuana/faqs_i-502.

CONNECTICUT BILLS ON DECRIMINALIZATION OF MARIJUANA

We searched Connecticut bills from 2000-2013, and did not find any proposing the legalization of marijuana possession for non-medical purposes. However, there were several bills during that time proposing that the possession of a small amount of marijuana be subject only to fines rather than possible imprisonment. These bills are listed in Table 1 below.

The bills varied in the amount of marijuana subject to reduced penalties, ranging from less than one-half ounce to less than four ounces. They also varied in the proposed fines. Several provided for increased fines for subsequent offenses.

In 2011, one of these bills ([SB 1014](#)) was enacted into law as [PA 11-71](#). Among other things, the act reduced the penalty for possessing less than one-half ounce of marijuana from a crime that carried a possible prison term to (1) a \$150 fine for a first offense and (2) a \$200 to \$500 fine for a subsequent offense. A complete summary of the act is available [here](#).

Table 1: Connecticut Bills on Decriminalization of Marijuana, 2000 to Present

| <i>Year</i> | <i>Bill</i> | <i>Amount Subject to Fines Only (Less Than This Quantity)</i> |
|-------------|--|---|
| 2003 | HB 5260 (proposed bill) | 4 oz. |
| 2003 | SB 356 (proposed bill) | 4 oz. |
| 2009 | SB 349 (proposed bill; later drafted as a committee bill, with a substitute version voted out of committee) | 1 oz. (proposed and committee bill) ½ oz. (bill as voted out of Judiciary Committee; only applied to people age 18 or older) |
| 2010 | SB 476 (raised bill) | 1 oz. |
| 2011 | HB 5899 (proposed bill) | 1 oz. (criminal penalties still applied to third or subsequent violations) |
| 2011 | SB 163 (proposed bill) | 1 oz. |
| 2011 | SB 953 (raised bill) | 1 oz. |
| 2011 | SB 1014 (governor's bill; a substitute version was voted out of committee and later amended; the bill as amended was enacted into law as PA 11-71) | 1 oz. (governor's bill) ½ oz. (substitute version voted out of committee and final version enacted into law — in addition to fines, certain other non-criminal penalties apply in some situations) |

Please note that Table 1 does not include bills concerning marijuana for medical purposes. In 2012, the legislature enacted [PA 12-55](#), which allows adults to use marijuana for certain debilitating conditions, under specified procedures (e.g., the patient must register with the Department of Consumer Protection (DCP) and obtain a physician's certification). For information on Connecticut's medical marijuana program, including the recently approved program regulations, see DCP's website: <http://www.ct.gov/dcp/mmp>.

SOURCES AND ADDITIONAL INFORMATION

All of the hyperlinks listed below were last accessed on November 20 or November 21, 2013.

Colorado:

Colorado Department of Revenue, Amendment 64 Update, <http://www.colorado.gov/cs/Satellite/Revenue-Main/XRM/1251633708470>.

Colorado Secretary of State, Placing a Measure on the Statewide Ballot, <http://www.sos.state.co.us/pubs/elections/Initiatives/howTo.html>.

John Ingold, "Initiative to legalize marijuana makes ballot in Colorado," *Denver Post* (February 27, 2012), http://www.denverpost.com/ci_20055570.

Task Force Report on the Implementation of Amendment 64 (March 13, 2013), <http://www.colorado.gov/cms/forms/dor-tax/A64TaskForceFinalReport.pdf>.

Washington:

Jonathan Kaminsky, the Associated Press, "Marijuana legalization initiative set to go on Nov. ballot," *Seattle Times* (Feb. 9, 2012), http://seattletimes.com/html/localnews/2017469907_marijuana10m.html.

Rachel La Corte, the Associated Press, "Marijuana legalization initiative signatures in," *Seattle Times* (Dec. 29, 2011), http://seattletimes.com/html/localnews/2017122306_marijuana30m.html.

Washington Secretary of the State, Elections and Voting: Initiatives and Referenda, <http://www.sos.wa.gov/elections/initiatives.aspx>.

Washington Secretary of the State, November 06, 2012 General Election Results, <http://vote.wa.gov/results/20121106/Measures-All.html>.

Washington State Liquor Control Board, 1-502 Implementation, <http://liq.wa.gov/marijuana/I-502>.

Washington State Senate Committee Services, Summary of Initiative 502 to the Legislature, May 16, 2012, <http://www.leg.wa.gov/Senate/Committees/documents/Initiatives/2012/502Summary.pdf>.

Federal Response:

Brady Dennis, "Obama administration will not block state marijuana laws, if distribution is regulated," *The Washington Post* (August 29, 2013), http://articles.washingtonpost.com/2013-08-29/national/41566270_1_marijuana-legalization-attorney-general-bob-ferguson-obama-administration.

DOJ, Memorandum for All United States Attorneys: Guidance
Regarding Marijuana Enforcement (August 29, 2013),
[http://www.justice.gov/iso/opa/resources/3052013829132756857467.
pdf](http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf).

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