Task Force Report on the Implementation of Amendment 64

Regulation of Marijuana in Colorado

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March 13, 2013

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Honorable Leaders of the State of Colorado:

We hereby deliver to you the final report of the Amendment 64 Implementation Task Force. The Task Force, created by the Governor on December 10, 2012 in Executive Order B2012-004, was asked to identify the legal, policy and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative, regulatory and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64 - the constitutional amendment authorizing the use and regulation of marijuana in the State of Colorado. The executive order directed the Task Force to complete its work by February 28, 2013 and to then report its recommendations and findings to you. Thanks to the dedication and thoughtful work of task force members, we are pleased to report that we have accomplished much in a very short time.

The Task Force was charged with finding practical and pragmatic solutions to the challenges of implementing Amendment 64. The enclosed report offers up our recommendations, most of which now need to be enacted into law by the Colorado General Assembly or developed into administrative rules by various state departments. We fully appreciate that these recommendations will now need to be perfected through the legislative and rulemaking processes and we offer to you the support and expertise of task force members as you need them in the weeks and months ahead.

The Task Force included members of the Colorado General Assembly and representatives of the Attorney General's office, state agencies, law enforcement, the defense bar, district attorneys, the medical profession, the marijuana industry, the Amendment 64 campaign, marijuana consumers, academia, local governments and Colorado's employers and employees. Five working groups, comprised of task force members and additional subject matter experts from around the state, met weekly during January and February. The working groups heard testimony from stakeholders and members of the public and then developed and drafted implementation recommendations, which were further vetted, revised, adopted or rejected in the meetings of the Task Force. All meetings of the Task Force and its working groups were open to the public, and there was time set aside at each of the meetings for public input and comment.

Although the Task Force included many diverse perspectives, each member remained faithful to the Governor's charge to respect the will of the voters of Colorado and not to engage in a debate of the merits of marijuana legalization or Amendment 64. All of the recommendations in this report were approved by at least a majority vote and many represent a consensus view. Members of the Task Force concluded their work with the understanding that, for good or ill, they had played an historic role in the evolution of marijuana policy in the United States.

Respectfully submitted,

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Acknowledgements

The work of the Task Force would not have been possible without the support of a talented and hard-working administrative staff led by Lindsay Cox, Mia Tsuchimoto, Brandon Friede, Ro Silva, and Laura Jane Weimer. They scheduled and noticed all Task Force meetings, kept the Working Groups informed and moving forward, and led our multilayered communications efforts. Thank you team!

The Task Force is also indebted to the counsel and advice of our consulting team from Rebound Solutions, led by William Browning with the able assistance of Michael Niyompong, Lorii Rabinowitz, and Hilary Gustave. They oversaw the design and execution of the Task Force's process and agendas, developed the recommendation template, kept track of the recommendations, and designed the final report. We are especially grateful for the diligence and skills of Lisa McCann, also a member of the Rebound Solutions team, who organized and wrote this final report.

Executive Summary

The Task Force recommendations seek to establish a robust regulatory scheme with adequate funding for industry oversight and enforcement, consumer protection, and prevention and treatment programs for youth. The Task Force Report contains a plethora of suggestions for safely growing and processing marijuana, as well as packaging and labeling it. The Task Force proposals also are designed to limit the distribution and consumption of marijuana to persons over 21 years of age within the State of Colorado. The recommendations strike an appropriate balance between state and local regulation and contain suggestions about updates to Colorado's criminal law statutes. The Task Force endorsed the Driving Under Influence of Drugs (DUID) bill that is already making its way through the Colorado General Assembly and a bill to authorize the cultivation of industrial hemp.

All of the Task Force recommendations stem from one or more of these Guiding Principles:

a. **Promote the health, safety, and well-being of Colorado's youth**
b. **Be responsive to consumer needs and issues**
c. **Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome**
d. **Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme**
e. **Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities**
f. **Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable**
g. **Ensure that our streets, schools, and communities remain safe**
h. **Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions**
i. **Take action that is faithful to the text of Amendment 64**

The Task Force recommends that the adult-use marijuana industry be required to have common ownership from seed to sale. This "Vertical Integration" model means that cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The medical marijuana industry, law enforcement, and state and local regulators all advocated for the Vertical Integration model, to ease implementation and enforcement and to demonstrate to the federal government that Colorado is sticking with a regulatory model that has worked. In embracing the Vertical Integration model, the Task Force attempted to strike a balance between those urging state-owned and operated retail stores to sell marijuana and those endorsing a more entrepreneurial, free market model. The Task Force also recommends that for the first year of licensing, only entities with valid medical marijuana licenses, and those who applied for medical marijuana licenses before December 10,

2012 when Amendment 64 was proclaimed as law, should able to obtain licenses to grow, process and sell adult-use marijuana. The Task Force further recommends that this regulatory framework be revisited after three years to determine if it is the appropriate model for the continued regulation of adult-use marijuana.

Tax and funding recommendations are faithful to the language of Amendment 64 by endorsing a TABOR-referred measure to approve a 15% excise tax, with the first $40 million raised annually dedicated to the state's school capital construction fund. And yet the Task Force, cognizant of Washington State's 75% excise tax scheme and the need here in Colorado for an additional funding source to cover the costs of regulating this new industry, implementing consumer safeguards, and establishing youth prevention and treatment programs, also recommends that the Colorado General Assembly consider sending a marijuana sales tax to the ballot for voter approval. In endorsing these two taxes on adult-use marijuana, Task Force members acknowledge the need to keep taxes low enough so as not to encourage a persistent black market in marijuana.

Other recommendation highlights include:

- A new Marijuana Enforcement Division (MED) should be created in the Colorado Department of Revenue, funded by General Fund revenue for at least the next five years, to provide regulatory oversight of Colorado's marijuana industries
- Only Colorado residents should be allowed to hold licenses to grow, process, and sell adult-use marijuana, but sales to both residents and visitors should be permitted (with stricter quantity limits for out-of-state purchasers)
- There should be limits on the number of licenses that can be owned by one individual or group, the size of licensed premises, and the size of cultivation facilities
- All types of marijuana sold from adult-use marijuana retail facilities should be in child-proof packaging and have warning labels that disclose THC content and list all pesticides, herbicides, fungicides, and solvents used in cultivation and processing

The Task Force's recommendations now need to be perfected and implemented by the Colorado General Assembly and the Governor through legislation, by the Attorney General giving guidance to law enforcement and state departments, by the Colorado Department of Revenue (DOR), the Colorado Department of Public Health and Environment (CDPHE), and the Colorado Department of Agriculture through administrative rulemakings and by Colorado's local governments enacting time, place, and manner regulations and ordinances.

Amendment 64 and the Establishment of the Task Force

Amendment 64 was initiated by the people of the State of Colorado at the biennial regular election held on November 6, 2012. The proposed amendment to the Colorado Constitution sought to make the personal use, possession, and limited home-growing of marijuana legal under Colorado law for adults 21 years of age and older, provide for the regulation of marijuana like alcohol, and allow for the lawful operation of marijuana-related facilities (see Appendix A for the full text of Amendment 64). The voters of the State of Colorado approved the Amendment by a vote of approximately 55% of the voting electorate, resulting in its proclamation as an amendment to Article XVIII of the Colorado Constitution on December 10, 2012.

Amendment 64 presents issues of first impression in Colorado and in the United States, as no other state except Washington State has legalized marijuana for non-medical, adult use in the face of federal legal restrictions. It also establishes very short timelines for implementation, requiring that the Colorado Department of Revenue adopt all necessary regulations by July 1, 2013 and begin accepting and processing license applications on October 1, 2013. These short timeframes require the state and local governments to consider and resolve in short order numerous legal, policy, and procedural issues that necessarily involve multiple interests and stakeholders. Concomitant with his proclamation adding the Amendment to the State Constitution on December 10, 2012, and to assist the state and local governments in the process of implementing the new law, Governor Hickenlooper established the Amendment 64 Implementation Task Force to coordinate and propose a regulatory framework that promotes the health and safety of the people of Colorado (see Appendix B for the full text of the Executive Order).

The Governor directed the Task Force "to identify the legal, policy, and procedural issues that must be resolved, and to offer suggestions and proposals for legislative, regulatory, and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64". The Task Force was asked to develop a comprehensive framework for the legislation and regulations needed to implement Amendment 64, and to report its recommendations and findings to the Governor, the Colorado General Assembly, and the Attorney General. It was charged with finding solutions to the challenges of implementing Amendment 64 while respecting the diverse perspectives that each member would bring. It was instructed to respect the will of the voters of Colorado and refrain from engaging in a debate of the merits of marijuana legalization or the Amendment itself.

The Task Force proceeded in these tasks with the awareness that their recommendations will be further debated and adapted by the Governor, the Colorado General Assembly, the Attorney General, various state agencies, local governments, and the general public as legislation is enacted and regulatory structures are formulated and put into place for the implementation of Amendment 64.

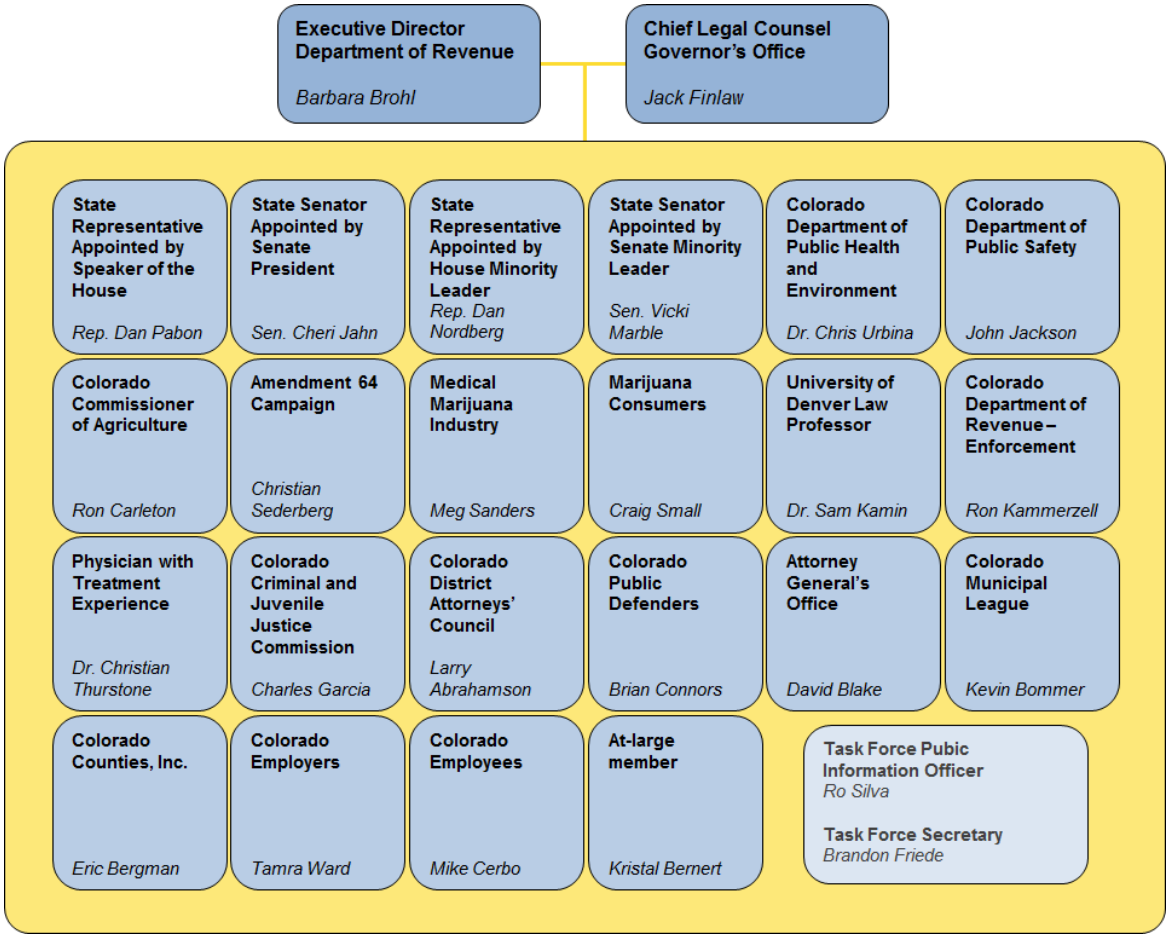
Task Force Structure, Guiding Principles, and Working Groups

The Amendment 64 Implementation Task Force, as per the Governor's instructions in the Executive Order, was chaired by the Governor's Chief Legal Counsel and the Executive Director of the Colorado Department of Revenue. It consisted of 24 members drawn from the Colorado General Assembly, the Attorney General's office, numerous relevant state agencies, offices, and commissions, municipal and county government organizations, persons with expertise in the treatment of marijuana addiction and in legal issues related to marijuana legalization, and representatives of employers, employees, the Amendment 64 campaign, the medical marijuana industry, and marijuana consumers.

One the next page, Figure 1 illustrates the Task Force members and the interests they represented, as prescribed in the Executive Order. Appendix C contains additionally a list of their affiliations as well as information about other valuable contributors to the work of the Task Force. The Task Force commenced its work on December 17, 2012 and held seven meetings before concluding its work on February 28, 2013. Full documentation of its work can be found on the website of the Colorado Department of Revenue (www.Colorado.gov/revenue/amendment64).

The Task Force Co-Chairs were empowered to issue guidelines for the operation of the Task Force, and to appoint Working Groups consisting of both Task Force members and other persons with subject matter expertise to aid the groups in their work. The following Guiding Principles were adopted by the Task Force to direct its work and formulate recommendations. Each recommendation brought forth by the Task Force meets at least one of these fundamental Guiding Principles, as indicated in the details following the specific recommendations below.

Figure 1 – Task Force Members



Guiding Principles for the Work of the Amendment 64 Implementation Task Force

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
i. Take action that is faithful to the text of Amendment 64

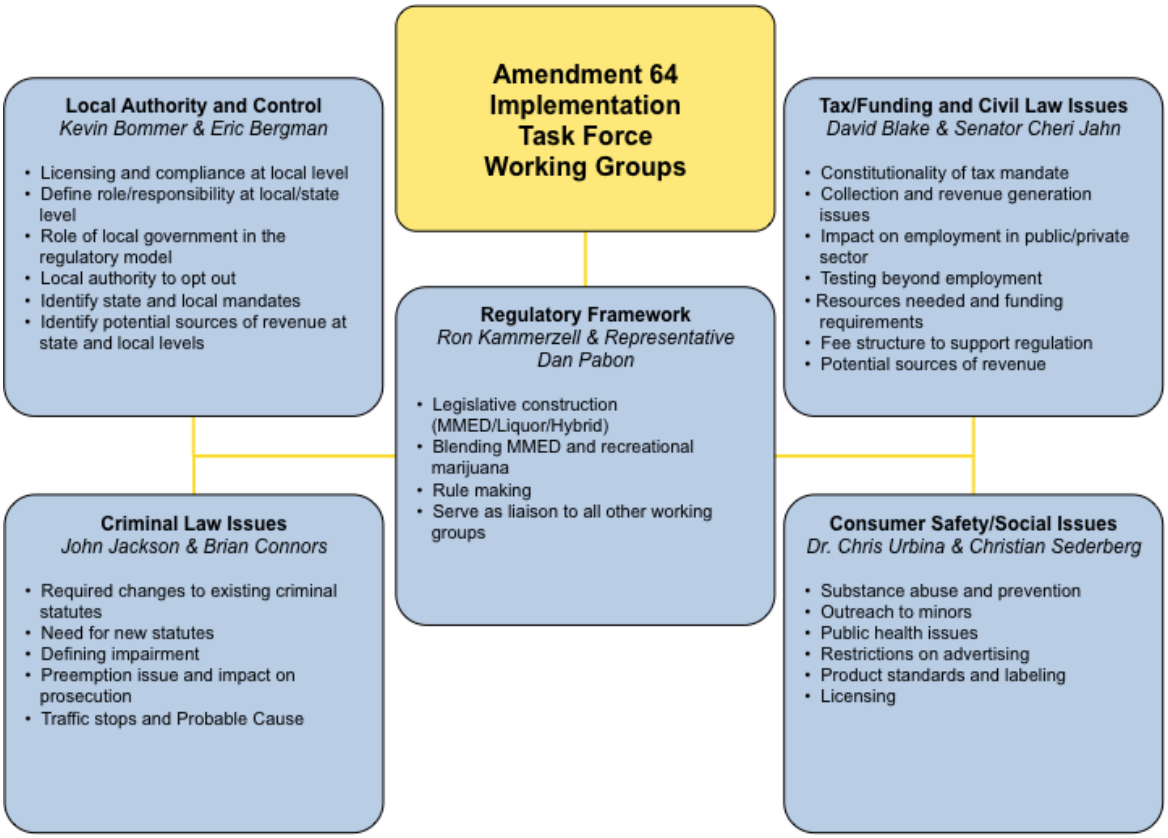
Five Working Groups of the Amendment 64 Implementation Task Force were formed to draft recommendations in the following issue areas:

Amendment 64 Task Force Working Groups

1. Regulatory Framework
2. Local Authority and Control
3. Tax, Funding, and Civil Law
4. Consumer Safety and Social Issues
5. Criminal Law

Each Working Group was chaired by two members of the Task Force and consisted of both Task Force members and additional persons with expertise in the various issue areas. Figure 2 lists the Working Group Co-Chairs and the initial set of issues assigned to each Group. Appendix D contains a list of the full membership of the Working Groups.

Figure 2 – Amendment 64 Working Groups and Issues



This initial set of issues was developed through interviews with the Task Force members and at the first Task Force meeting, then further refined by the Working Groups in the course of their work. Appendix E contains a list of issues and questions considered by the Working Groups in their discussions.

The Working Groups met separately from the Task Force to study these issues and develop recommendations in their respective issue areas. Upon reaching consensus or majority opinion, the Working Groups forwarded their recommendations to the Task Force for further discussion and final approval. When the Working Groups were occasionally split regarding a particular recommendation, they would prepare two recommendations for the consideration of the entire Task Force. The ultimate determination of which recommendation to accept in these cases was made by the Task Force itself. Given the intention of the Task Force to issue consensus recommendations whenever possible, several recommendations were sent back to the Working Groups for further refinement if they had not garnered a strong majority on the Working Group or subsequently on the Task Force itself. Full documentation of the work of

the Working Groups can be found on the website of the Colorado Department of Revenue (www.Colorado.gov/revenue/amendment64).

The Working Groups developed recommendations with the aid of a common template to ensure that the recommendations met a number of criteria, such as application to the provisions of Amendment 64 and support for at least one of the Guiding Principles of the Task Force. The templates also ensured that the Working Groups provided sufficient explanations of the recommendations and of any dissenting viewpoints. Further, the templates identified whom the recommendation would impact, who would own the implementation of the recommendation, and the expected timeframes and costs of implementation, if known. Appendix F contains a blank recommendation template. The templates produced by the Working Groups have been summarized in this report, in the detail following the specific recommendations below.

Summary of the Recommendations

The Task Force considered nearly 100 individual recommendations developed by its five Working Groups. It approved 73 of these, which have been consolidated into the 58 recommendations here presented for the consideration of the Governor, the Colorado General Assembly, and the Attorney General when proceeding with the implementation of Amendment 64. A summary table of the recommendations is contained in Appendix H.

The 58 recommendations are presented in 17 categories, for the ease of lawmakers and agency officials in locating recommendations related to different issue areas surrounding the use and regulation of marijuana. Recommendations are offered for the following activities:

- Creating and financing the new regulatory structure;
- Taxation of marijuana through both excise and sales taxes, to support regulatory and enforcement costs, as well as other state programs including several suggested by this Task Force related to marijuana education and studies;
- Transitioning to a system that regulates and enforces both medical and adult-use marijuana;
- Specifying requirements for licensees, operations, and interactions with consumers;
- Consumer safety issues such as signage, marketing, advertising, packaging, labeling, restricting THC content in infused products, restricting additives and adulterants in marijuana products, and encouraging good cultivation and laboratory practices in the industry;
- Educating citizens about the effects and risks involved in marijuana use and conducting studies on the effects of marijuana use on public health and safety;
- Amending statutes to reflect the legal status of limited, adult-use marijuana in Colorado and to indicate penalties for certain marijuana offenses, including the treatment of juveniles in possession and the transfer of marijuana to persons under 21 years of age;
- Specifying rules for home cultivation of marijuana;
- Requesting resolution of federal restrictions on banking and allowable tax deductions for legal marijuana businesses in Colorado;
- General guidance for employers and employees, property owners, the enforcement of contracts, and the legalization of industrial hemp in Colorado; and
- Forming a follow-up task force in three years, to review the recommendations of this Task Force in light of the actual implementation of Amendment 64.

Amendment 64 Implementation Task Force Recommendations

1 – Regulatory Structure

1.1 – Vertical Integration

The Task Force recommends that the General Assembly adopt the current 70/30 "vertical integration" model, as contained within the Medical Marijuana Code, for adult-use marijuana. Under this model, cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The Task Force recommends that the General Assembly enact the following additional requirements:

- ***Add a requirement that all licensees file a monthly report with the state licensing authority, which documents all sales/transfers of marijuana during the month outside of the licensee's common ownership structure pursuant to the 30% allowance. This monthly report shall detail all such transactions including the amount of product transferred, the licensee the product was transferred to, and the calculation of the percentage of on-hand inventory transferred outside of the common ownership structure expressed as a percentage of the total on-hand inventory for the month.***
- ***Provide the ability for the state licensing authority to issue conditional licenses for a series of license applications submitted under a vertically integrated common ownership structure and to restrict the operation of any license contingent on local approval or other conditions that may be required.***
- ***Add statewide restrictions on the number of licenses a vertically integrated common ownership structure can hold statewide. The General Assembly could obtain guidance from other industries for which a license is required, such as gaming and liquor. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number.***
- ***Add statewide restrictions on the size of marijuana cultivation facilities. This restriction could be based on square footage of the facility, the number of plants cultivated, energy use, or any combination thereof. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number.***

Provide for a grace period of one (1) year that would limit new applications for adult-use marijuana licenses to medical marijuana license holders in good standing, or applicants that had an application pending with the Medical Marijuana Enforcement Division prior to December 10, 2012.

This proposed framework would be subject to a sunset review, to be conducted three (3) years after the enactment of the statute establishing the vertical integration model, at which time the General Assembly should consider de-coupling the manufacturing and retail licenses and proposing an "open integration" model.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

This recommendation makes use of and improves upon the 70/30 partial vertical integration model currently used for the medical marijuana industry, to regulate the adult-use marijuana industry and inhibit the diversion of legal marijuana, both within Colorado and to neighboring states. The current model requires that a licensed marijuana center cultivate at least 70% of the marijuana it sells, and that it have at least one Optional Premises Cultivation (OPC). Currently the business may sell up to 30% of its on-hand inventory to another licensee without informing the state licensing authority, which presents a risk of diversion out of the legal system. Requirement (1) improves upon this model by requiring businesses to document and report monthly all sales and transfers of marijuana pursuant to the 30% allowance.

Amendment 64 constrains the state licensing authority to issue licenses within ninety (90) days of receipt of the application or defer to the local government for licensing. Because numerous license applications, for both cultivation and retail facilities, may be received at one time for a vertically integrated common ownership business structure, some of which could moreover be for proposed facilities in multiple local jurisdictions, the state licensing authority faces difficulties in meeting the 90-day limit without denying all the licenses at once, or conversely approving them before local authority approval has been secured. Requirement (2) remedies this situation by allowing the state licensing authority to issue conditional licenses for a series of license applications. In this case, the licensee must meet certain conditions before it can be operational, such as obtaining local approval, or in the case of a cultivation facility, also obtaining local approval for a retail store.

Because a vertical integration model could lead to undue influence and control of the retail market by a limited number of licensees, Requirement (3) allows the state licensing authority to restrict the number of licenses permitted to be held by a single common ownership business.

Because marijuana continues to be illegal in surrounding states and under federal law, restricting the size of cultivation facilities through Requirement (4) will reduce the risk of overproduction and the incentive of diverting this excess product outside the regulated model and into neighboring states.

Amendment 64 favors existing medical marijuana licensees by allowing them a reduced licensing fee for adult-use marijuana facilities and giving them special consideration in a competitive application process for their prior experience and compliance history. Requirement (5), by restricting license applications for one (1) year to existing medical marijuana licensees and applicants, recognizes this advantage and builds on the experience of

existing medical marijuana licensees, who have operated within a similar regulatory model. Further, it allows the state licensing authority to manage the transition and expansion from medical to adult-use marijuana in a predictable, orderly, and controlled manner, reducing the likelihood of federal scrutiny of Colorado's new adult-use marijuana industry.

The vertical integration model is subject to a 3-year sunset review, to determine at that time whether it should be continued or whether an open model be introduced, in which cultivation and retail operations could be separately owned.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

1.2 – State Run Model (Not Recommended)

The Task Force was encouraged to recommend that adult-use marijuana be sold only through state-owned and operated stores. The Task Force rejected this model because it is not consistent with the text or the spirit of Amendment 64.

Guiding Principles:

a. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 clearly envisions the state as a regulator of private commercial activity in the adult-use marijuana industry, rather than as a market participant itself.

Implementing Authorities:

Governor, Colorado General Assembly

1.3 – State and Local Licensing

The Task Force recommends that the General Assembly enact a statute that provides that a state license for an adult-use marijuana establishment shall be issued conditionally and shall not become operational unless and until local requirements have been met and local authorization to operate is granted, in those jurisdictions that have elected to enact local authorization requirements.

This statute should recognize the authority of local governments to require local authorization requirements for any adult-use marijuana establishment as a legitimate type of "time, place, manner, and number" regulation at the local level, by which a local county or municipality may:

1. ***Defer to state standards;***
2. ***Choose to adopt their own standards; or***
3. ***Ban adult-use marijuana establishments within their jurisdictions.***

The statute should further provide that if a local government authority chooses not to enact specific local authorization requirements, a state-issued conditional license shall not become operational unless and until the local government authority affirmatively authorizes the activity for which the state license was issued.

Local counties and municipalities should neither be required to adopt, nor be prohibited from adopting, additional local standards. Similarly, they should neither be required to conduct, nor be prohibited from conducting, hearings prior to allowing adult-use marijuana establishments to operate in their jurisdictions.

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Local government approval authority is an effective means of monitoring and controlling the behavior of marijuana establishments and allows local governments to deploy resources to enforce state and local regulatory requirements. Allowing the state to issue licenses conditional on local government approval permits the state to meet its regulatory requirements without infringing on the rights of the local authority to regulate and control licensees within its jurisdiction.

In the implementation of medical marijuana, many local jurisdictions used zoning rather than licensing, along with compliance with state licensing standards, to allow for the sale of medical marijuana within their jurisdictions. Allowing a local entity to either defer to the state-adopted standards for adult-use marijuana, adopt its own standards in addition to those required by the state, or ban adult-use marijuana establishments in their jurisdictions provides flexibility to local jurisdictions and does not preclude smaller counties and municipalities without the resources to enact their own licensing regime from allowing these businesses to operate under state rules if they so wish.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

1.4 – Single Marijuana Enforcement Division

The Task Force recommends that the General Assembly convert the Medical Marijuana Enforcement Division into a new Marijuana Enforcement Division and enact legislation to provide this agency with statutory powers to regulate medical marijuana and adult-use marijuana as the principal state licensing and regulatory authority.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities

Justification:

A similar regulatory model has been proposed for adult-use marijuana as has been in place for medical marijuana, and the existing licensees have been recommended for prioritization in new adult-use licenses for the first year. As such, common businesses and business practices will be in place for both medical and adult-use marijuana. Expanding the role of the existing Medical Marijuana Enforcement Division (MMED) to regulate both medical and adult-use marijuana will take advantage of the existing infrastructure, resources, and staff expertise developed over the past few years in regulating medical marijuana, and will facilitate a quicker and smoother transition to adult-use marijuana than if a new division were created.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

2 – Regulatory Financing

2.1 – Financing Plan

The Task Force recommends using the General Fund to support the spending authority for a new Marijuana Enforcement Division for five years, through FY 2017-18, after which this arrangement should be reviewed by the General Assembly. The new division should be responsible for the enforcement and regulation of both adult-use and medical marijuana. Revenue from all sales taxes, application and license fees, and other fees generated from adult-use marijuana and medical marijuana should be deposited in the General Fund.

The fund balance from the Medical Marijuana Licensing Cash Fund should be used as a funding source for the Marijuana Enforcement Division in FY 2013-14.

The Colorado Department of Revenue should provide to the Joint Budget Committee, Senate Finance Committee, House Finance Committee, and the Governor, no later than September 30 of each year beginning with September 30, 2014, a report detailing the amount of revenue generated from adult-use marijuana and medical marijuana including excise taxes, sales taxes, application and license fees, and other fees.

The fund balance from the Medical Marijuana Licensing Cash Fund should also be used to fund a portion of the spending authority for the new Marijuana Enforcement Division, when created upon the Governor's signature of the enabling legislation, to finance costs incurred in FY 2012-13 for activities associated with Amendment 64.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
g. Ensure that our streets, schools, and communities remain safe

Justification:

The proposed financing plan is for five years through FY 2017-18, after which it will be reviewed by the Colorado General Assembly. The five-year time frame allows for the licensing cycle to stabilize so that revenues are predictable and sustainable, and provides time to right-size the organization to fulfill its statutory obligations based on the number of businesses licensed. The plan is expected to accomplish the following important goals:

1. Maximize the efficient use of staff and resources to enforce both adult-use and medical marijuana, by creating a single new Marijuana Enforcement Division (see Task Force Recommendation 1.3).
2. Provide a predictable and stable funding source by using the General Fund.
3. Provide a sustainable financing plan that will be effective for five years, through fiscal year 2017-18, after which it will be reviewed by the Colorado General Assembly.
4. Provide a simplified funding structure – the General Fund and the fund balance of the Medical Marijuana Licensing Cash Fund for fiscal year 2013-14, and the General Fund thereafter and through fiscal year 2017-18.
5. Provide sufficient funding to fully support the appropriation and full-time equivalent (FTE) staff needed to support the new Division.
6. Ensure sufficient revenue to consistently enforce and regulate the industry.

The financing plan is designed to resolve many issues that impacted the enforcement and regulation of medical marijuana, as well as new issues anticipated in the enforcement and regulation of adult-use marijuana. These issues include:

- A very immature and dynamic industry
- A lack of historical data and national trends
- The impact of local ordinances
- The impact of federal enforcement
- A significant funding gap until application and licensing fees are collected
- Tight time constraints on state license issuance
- The possible forfeiture of state licensing fees to local authorities
- A lack of data regarding customer pool

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue

2.2 – *Application Fees*

The Task Force recommends that the General Assembly adopt legislation that directs the Colorado Department of Revenue to confer with local jurisdictions when considering whether to raise the $5,000 cap on application fees to reflect the actual costs of reviewing applications for local approval. The Task Force further requests that the General Assembly clarify how application fees greater than the initial $5,000 amount are to be shared between the state and local jurisdictions.

Guiding Principles:

d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation helps ensure sufficient funding for the implementation of Amendment 64 by local authorities. Section 5(g)(II) of the Amendment requires the state to forward half of the license application fee to the local jurisdiction. Section 5(a)(II) specifies that the initial license application fee will be capped at $5,000 for new businesses and $500 for existing medical marijuana businesses. The state may raise the application fees if the Colorado Department of Revenue determines that a higher licensing fee is needed to carry out its responsibilities. Clarification is needed to determine (1) if the state may also raise the application fee on behalf of a local jurisdiction requiring a higher licensing fee to carry out its responsibilities, and (2) if the half-fee transferred to a local jurisdiction is based on the $5,000 cap or on a higher fee determined necessary by the Colorado Department of Revenue.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

2.3 – Licensing Fees

The Task Force recommends that the General Assembly give statutory authority to the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, the Colorado Department of Law, the Colorado Department of Agriculture, and any other agency charged with responsibilities under Amendment 64, to promulgate rules to set application, licensing, and renewal fees and any other fees or costs directly related to fully funding the implementation of Amendment 64. All revenue generated by these fees should be sent to the General Fund for a period of at least five (5) years.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

This Task Force has recommended that in the transitional first year of adult-use marijuana, only current medical marijuana licensees and applicants will be eligible to apply for licenses for adult-use marijuana facilities (Recommendation 1.1). Amendment 64 has already specified that these applicants will pay no more than $500 as an application fee, while renewal fees and the much higher, $5,000 application fee for new applicants will not be forthcoming until after this first year. This situation could lead to state agencies lacking the funding they need to carry out their responsibilities under Amendment 64. As such, while adhering to the limits set in Amendment 64 regarding application fees for adult-use marijuana establishments, state agencies must be given the statutory authority to recover the costs of implementing and enforcing Amendment 64, through setting licensing, renewal, and other fees.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Colorado Department of Law, Colorado Department of Agriculture

2.4 – Operating Fees

The Task Force recommends that the General Assembly adopt legislation that defines "operating fees," as referred to in Section 5(f) of Amendment 64, to mean "fees that may be charged by a local government for costs including but not limited to inspection, administration and enforcement of businesses authorized pursuant to this section."

Guiding Principles:

d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

i. Take action which is faithful to the text of Amendment 64

Justification:

This recommendation helps ensure sufficient funding to local authorities for the ongoing costs of administration, inspection of facilities, and enforcement of the marijuana regulations. Under Amendment 64, licensing and application fees will not be collected directly by local authorities unless the state fails to adopt regulations or issue licenses in a timely manner. There is no such limitation on "operating fees," nor are the fees defined in Section 5(f) of Amendment 64 to specify the services for which local jurisdictions may charge. The above definition of operating fees is therefore recommended, to connect the fees to actual administrative costs.

Implementing Authorities:

Colorado General Assembly, Local Governments

3 – Taxation

3.1 – Tax Clarification

The Task Force affirms that:

1. ***Amendment 64 (5)(d) is facially constitutional;***
2. ***The language of Amendment 64(5)(d) did not comply with TABOR;***
3. ***Voter approval of Amendment 64(5)(d) was not a vote for a tax increase that can be implemented and collected with the simple enactment of a tax statute by the General Assembly; and***
4. ***Another vote of the majority of the people of the State of Colorado is required, through a TABOR-compliant referendum or citizen initiative, to impose specific taxes on adult-use marijuana.***

Guiding Principles:

d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

There is a great deal of public confusion about the tax provision in Amendment 64, its interaction with TABOR, and how the excise tax can be implemented. This recommendation answers some of those questions and should assist the public in clearly understanding the new law.

Implementing Authorities:

N/A

3.2 – Sales Tax

The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with TABOR, asking the voters to amend Title 39 of the Colorado Revised Statutes to provide for a new Article entitled "Marijuana Products Sales Tax." The General Assembly should make use of expertise and research available at the Office of State Planning and Budgeting, the Colorado Department of Revenue, the Colorado Legislative Council, and possibly a private firm with specific expertise in economic and/or dynamic modeling, to develop a reasonable sales tax rate and a robust new sales tax structure for marijuana products, to submit to Colorado voters for their consideration in the November 2013 state-wide election and to be effective on January 1, 2014 if approved by the voters.

Guiding Principles:

d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme

Justification:

An excise tax and application fees are expressly indicated in Amendment 64, but both are significantly restricted. The excise tax is capped at 15%, and the first $40 million in annual excise tax revenue is earmarked for public school capital construction, while it has been estimated that it will take several years of major growth in this new industry for excise tax revenues to reach this level. Application fees are capped at $500 for holders of existing medical marijuana licenses, who in the vertically-integrated regulatory framework recommended by this Task Force (see Recommendation 1.1) will have the exclusive right to apply for the adult-use licenses in the first year. These limitations on potential revenue could leave the new Marijuana Enforcement Division under-funded to handle its formidable new responsibilities.

The excise tax provision of Amendment 64 does not bar other taxing approaches, such as a special sales tax on marijuana, nor other types of fees, such as licensing fees. A special tax on marijuana would be consistent with the treatment of other commodities and activities, such as alcohol, tobacco, fuel, and gaming, which are used not only to fund industry-wide regulation and enforcement but also to raise revenue for other related state programs and services. A special sales tax on marijuana would allow the state to properly fund the

regulation and enforcement of the marijuana industry as well as other necessary and critical services and programs for Colorado citizens, including some of the proposals of this Task Force, for example to study the effects of marijuana legalization on public health and safety (see Recommendation 10.5) and to develop educational materials on marijuana use (see Recommendations 10.3 and 10.4).

The Task Force discussed a number of proposals for possible tax rates and different options regarding the optimal point in the production cycle at which to levy a special sales tax. One suggestion was to set the sales tax, by way of a vote of the people as per TABOR requirements, at no more than 25%, at the point of sale of marijuana products and paraphernalia, and to review the tax rate biennially with the possibility of ratcheting it down, which would not require another TABOR vote. This option would place the tax burden directly on the marijuana consumer and eliminate the incentive in a vertically integrated regulatory system, as has been proposed by the Task Force in Recommendation 1.1, to understate the price of marijuana or its products at the cultivation or production facility in order to reduce the tax. It would be more straightforward to calculate than if the tax were levied at an earlier point in the production cycle.

Some members of the Task Force believed that a 25% sales tax would be too high, encouraging the survival of the illegal market and increasing the incidence of home cultivation among private citizens. As such, the Task Force refrained from recommending a specific level and mode of tax, inviting the Colorado General Assembly to seek the needed information from state agencies and possibly also a private entity with expertise in economic modeling.

Implementing Authorities:

Colorado General Assembly, Office of State Planning and Budgeting, Colorado Department of Revenue, Colorado Legislative Council, private consulting firm with expertise in economic and/or dynamic modeling

3.3 – Excise Tax and Escalator

The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with Amendment 64 (5)(d) and TABOR that should be voted on during the November 2013 state-wide election and be effective on January 1, 2014 if passed. The referendum should give the voters the opportunity to approve a 15% excise tax, calculated at the transaction point that a marijuana cultivation facility transfers any product to a marijuana production facility or retail store. As per Amendment 64, the referendum should further direct the first $40 million in revenue raised annually to the Building Excellent Schools Today (BEST) program for school capital construction. The excise tax should be measured by an average market rate to be determined by the Colorado Department of Revenue on a bi-annual basis.

The Task Force further recommends that any referendum considered and introduced by the General Assembly in 2013 for an excise tax on marijuana should include a reasonable escalation clause that would take effect after 2017.

Guiding Principles:

b. Be responsive to consumer needs and issues
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 directs the Colorado General Assembly to pass an excise tax, a critical source of revenue for the state, on marijuana at the point of transfer from a cultivation facility to a product manufacturer or retail store. However, the first $40 million of that revenue annually was earmarked in the Amendment for public school capital construction.

The tax should be measured by an average market rate when the marijuana is transferred from a cultivation facility to a production or retail facility, rather than by the stated value of the transaction or a flat rate by weight or volume, as for alcohol, in order to accurately account for its value and automatically adjust for inflation. These transfers will most often

take place between different marijuana facilities owned by a single owner or business under a vertically integrated regulatory system, as has been proposed by this Task Force in Recommendation 1.1. If the excise tax were valued based on the stated value of the transaction, these vertically-integrated businesses would be tempted to understate the price of the marijuana transferred, which would in turn inhibit the effectiveness of the tax and the amount of revenue that could be collected by the state. If it were priced by weight or volume, the effective tax rate would decline over time, as has been the case for excise taxes on alcohol, as the price of marijuana increases with inflation.

Amendment 64 caps the excise tax on adult-use marijuana at 15% until 2017. Adding an escalation clause is meant to avoid declining effective excise tax rates for marijuana over time, as has been the case with alcohol, for which excise taxes have not been raised in decades, nor even adjusted for inflation, due at least in part to the TABOR requirement that all tax increases be subject to a vote. An escalation clause builds in a mechanism for the excise tax on marijuana to increase after 2017 without having to engage in a second TABOR vote at that time.

Implementing Authorities:

Colorado General Assembly

4 – Licensee Requirements

4.1 – Residency Requirements for Owners and Employees

The Task Force recommends that the General Assembly adopt Colorado residency requirements for adult-use marijuana licensees similar to those contained in the Medical Marijuana Code.

Colorado law should require that an owner of a licensed, adult-use marijuana establishment shall have been a resident of Colorado for at least two years prior to the date of the owner's application (Section 12-43.3-710(1)(m), C.R.S.). All officers, managers, and employees of a licensed, adult-use marijuana establishment shall be residents of Colorado upon the date of their license application (Section 12-43.3-310 (6), C.R.S).

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

The proposed residency requirements build on the existing medical marijuana regulations, which will facilitate the adoption of regulations and preparations for receiving applications for adult-use licenses within the short timeframes established in Amendment 64. The residency requirements will also position the new regulatory framework to better withstand federal scrutiny, given that they discourage out-of-state residents from moving to Colorado expressly to establish an adult-use marijuana business.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

4.2 – Review of Suitability Requirements for Licensees

The Task Force recommends that the General Assembly adopt laws identifying persons prohibited as licensees conforming to Section 12-43.3-307, C.R.S., and removing those prohibitions that are not directly and demonstrably related to the operation of an adult-use marijuana establishment.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Amendment 64 indicates that the Colorado Department of Revenue should adopt regulations establishing qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment. The Colorado Medical Marijuana Code has established suitability standards for persons holding a medical marijuana license (Section 12-43.3-307, C.R.S.) that can serve as a guide to formulating these regulations. However, the following amendments to Section 12-43.3-307, C.R.S. should be made for adult-use marijuana establishments to ensure that the standards are directly and demonstrably related to operating such establishments: Delete (1)(d); amend (1)(g) to read: " (g) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed TO FILE REQUIRED COLORADO STATE TAX RETURNS OR PAY ANY TAXES, INTEREST, OR PENALTIES DUE TO ANY STATE OR LOCAL AUTHORITY"; delete (g) (I-VI); delete (k); delete (m)(I).

This recommendation does not suggest deletion from the Medical Marijuana Code the current prohibition on granting a license to individuals with a prior controlled substance felony conviction. This prohibition is related to the high level of public trust placed in licensees not to divert marijuana to the illegal market. A dissenting view, not supported by the Task Force as a whole, suggested that a permanent ban is excessive and contrary to the spirit of Amendment 64, and that an alternative approach would be to grant the license if sufficient time has elapsed from the conviction and the individual can demonstrate rehabilitation to the satisfaction of the Department of Revenue.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

4.3 – Responsible Retailers Program and Statewide Advisory Group

The Task Force recommends that the Colorado Department of Revenue be authorized to establish a voluntary Responsible Marijuana Retailers program for owners of adult-use marijuana retail businesses and their employees, similar to the voluntary Liquor Responsible Vendor program currently in place for alcohol retailers.

It further recommends that the Colorado Department of Revenue facilitate the formation of a statewide Advisory Group of adult-use marijuana retail owners and their employees. The advisory group should write bylaws, determine leadership, write a code of ethics, promote ongoing education, and support training efforts.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Since Colorado is breaking new ground with the legal sale of adult-use marijuana, it is difficult to discern what the public impact and social costs will be. Creating a Responsible Marijuana Retailers program and an Advisory Group of marijuana retail owners and their employees can help decrease the potential negative impacts by encouraging business owners and their employees to adhere to all aspects of Colorado law, including denying access to persons under 21 years of age. Comparable experience in the alcohol industry shows that voluntary responsible retailer programs, which often include safe server training to check identification, recognize signs of overconsumption, and deny service if necessary, have led to higher rates of legal compliance and discouraged underage drinking and over-consumption. Comparable training for all marijuana retailers and employees is encouraged.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

5 – Transition to the Amendment 64 Regulatory Environment

5.1 – Complete Transition from Medical to Adult-Use Marijuana

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to surrender their Medical Marijuana Center (MMC) license or Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation License(s) (OPC) simultaneously upon receiving their Retail Marijuana Store (RMS) license or Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s). To effectuate this transition, the Marijuana Enforcement Division shall, beginning October 1, 2013, accept applications from state licensed medical marijuana businesses for (1) RMS licenses, (2) MPMF licenses, and (3) corresponding MCF license(s), provided that the applicant:

- ***A. Is a medical marijuana licensee in good standing on the date of application for the RMS, MPMF, and corresponding MCF license(s) for each of the medical marijuana facilities that desire to surrender their MMC, MIP, and corresponding OPC licenses.***
- ***B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs, MPMFs, or MCFs.***

Upon application for an RMS license or an MPMF license and corresponding MCF license(s) and prior to the issuance of the RMS license or MPMF license and corresponding MCF license(s), the medical marijuana business shall continue operating under the privileges of its medical marijuana licenses. The Department of Revenue shall approve or deny the RMS, MPMF, and corresponding MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state RMS or MPMF license and simultaneous surrender of the MMC or MIP license, all medical marijuana inventory located at the facility shall become the marijuana inventory of the RMS or MPMF. Upon the approval and issuance of the state MCF license and simultaneous surrender of the OPC license, all medical marijuana plants and inventory located at the facility shall become the marijuana plants and inventory of the RMS or MPMF that owns and controls the MCF.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. The current recommendation presents an effective procedure for allowing the current licensees to transition their businesses completely from medical marijuana to adult-use marijuana if they so wish, while regulating the transfer of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.2 – Partial Transition for Cultivation and Manufacturing

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their medical Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation (OPC) license(s), if any, and apply for a Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MIP and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MIP and corresponding OPCs, if any) for (1) MPMF licenses, and (2) corresponding MCF license(s), provided that the applicant:

- ***A. Is a medical marijuana licensee in good standing on the date of application for the MPMF and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their MPMF and corresponding MCF licenses;***
- ***B. Is operating in a jurisdiction that has not prohibited the licensing of MPMF or MCF; and***
- ***C. The relevant local jurisdiction(s) permit(s) the operation of both an MIP and MPMF at the same location and the operation of an OPC and RMF at the same location in accordance with regulations relating to such operation.***

Upon application for the MPMF license and corresponding MCF license(s) and prior to the issuance of the MPMF and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the MPMF and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state MPMF, all medical marijuana plants located at the MCF facility that were identified as the plants for transfer shall become the marijuana plant inventory of the MPMF that owns and controls the MCF. Upon the approval and issuance of a state MPMF license, the company may produce and sell medical marijuana-infused products and marijuana products in accordance with applicable laws and regulations relating to the operation of such facilities.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. The current recommendation presents an effective procedure for allowing the current licensees to transition their businesses completely from medical marijuana to adult-use marijuana if they so wish, while regulating the transfer of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.3 – Partial Transition for Cultivation and Retail

The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their Medical Marijuana Center (MMC) license and corresponding Optional Premises Cultivation (OPC) license(s) and apply for a Retail Marijuana Store (RMS) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MMC and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MMCs and corresponding OPCs) for (1) RMS licenses, and (2) corresponding MCF license(s), provided that the applicant:

- ***A. Is a medical marijuana licensee in good standing on the date of application for the RMS and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their RMS and corresponding MCF licenses;***
- ***B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs or MCFs; and***
- ***C. The relevant local jurisdiction(s) permit(s) the operation of both an MMC and RMS at the same location and the operation of an OPC and RMF at the same location.***

Upon application for the RMS license and corresponding MCF license(s) and prior to the issuance of the RMS and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF at the time of licensure. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the RMS and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application.

Upon the approval and issuance of a state RMS license, all medical marijuana plant inventory located at the MCF facility that was identified as the plants for transfer shall become the marijuana plant inventory of the RMS that owns and controls the MCF.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 gives businesses currently licensed under the Colorado Medical Marijuana Code an advantage when opening adult-use marijuana businesses. Related to Recommendation 4.5, which addresses the requirements to allow for the operation of a medical marijuana store (RMS) and a retail marijuana store (RMS) in one location, this recommendation creates a simple transition system for businesses licensed pursuant to the Colorado Medical Marijuana Code who wish to operate both medical and adult-use marijuana establishments, while regulating the transfer of a portion of their medical marijuana plants and inventories to their new adult-use licenses. It addresses the concerns of current business owners that the medical marijuana industry will contract in the transition to adult-use marijuana, and allows them to maintain their inventories. It protects public health and safety by preventing marijuana from being diverted from the regulated system during the transition process to adult-use marijuana.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.4 – Separation of Inventories in Dual-Use Cultivation and Manufacturing

The Task Force recommends that the General Assembly enact legislation permitting the operation of an Optional Premises Cultivation Facility (OPC), licensed under the medical marijuana regulations, and a Marijuana Cultivation Facility (MCF), licensed pursuant to Amendment 64, on the same premises.

The General Assembly also enact legislation permitting the operation of a Marijuana-infused Products Facility (MIP), licensed under the medical marijuana regulations, and a Marijuana Manufacturing Facility (MMF), licensed pursuant to Amendment 64, on the same premises.

Either sort of dual use facility should be required to maintain a separation, either physical or virtual, between the two facilities being operated in the same location, to ensure that inventories are kept separate and distinct between the two license types.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
i. Take action that is faithful to the text of Amendment 64

Justification:

Amendment 64 specifies that marijuana and its products cannot travel in either direction between the medical marijuana supply chain and the adult-use supply chain. That is, marijuana sold or produced under a medical marijuana license cannot be transferred to a facility selling or producing marijuana under an adult-use license, and vice versa. Rather, the inventories and supply chains of the two types of licensees must be kept separate from each another, from cultivation through sale.

The Task Force has also recommended (see Recommendation 4.5) that medical marijuana centers, licensed under the medical marijuana regulations, and retail marijuana stores, licensed pursuant to Amendment 64, be permitted to operate on the same premises, provided they maintain separate ingress and egress, inventory control, points of sale, and recordkeeping. Similarly, this recommendation allows that marijuana grow facilities (OPC, MCF) or product manufacturers (MIP, MMF) that are licensed under the medical marijuana regulations (OPC & MIP) and Amendment 64 (MCF & MMF) to also be permitted to operate on the same premises, provided sufficient measures are put in place to ensure that their two product lines, for medical and retail marijuana, are kept strictly separated from one another and that there is no comingling of inventories between the two.

There is a precedent for this separation of inventories in the current medical marijuana regulations, which allow for a cultivation facility (OPC) or a marijuana-infused products facility (MIP) to serve more than one medical marijuana center, in which case each must clearly label and track its inventories so that each plant or product can be tied to a particular medical marijuana center. This may be done either with physical separation of the inventory associated with each MMC or through a virtual separation maintained through electronic inventory control.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue, Local Governments

5.5 – Complete Separation in Dual-Use Medical and Retail

The Task Force recommends that the General Assembly should enact legislation to define "licensed premises" and to establish regulations for the operation of a licensed Medical Marijuana Center (MMC) and a licensed Retail Marijuana Store (RMS) within one location. Such regulations should include appropriate restrictions such as separate and distinct ingress/egress, inventory control, point of sale, and recordkeeping, given that the products for medical and adult-use marijuana facilities cannot be co-mingled, as per Amendment 64.

This legislation should also clarify the ability of a local government authority to prohibit multiple licensed premises involving a medical and adult-use marijuana license within one location, based on its authority to regulate time, place, manner, and number.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
i. Take action that is faithful to the text of Amendment 64

Justification:

To facilitate a smooth transition from licensed medical marijuana to adult-use marijuana, it will be helpful for businesses to be able to use existing buildings and structures, altered to operate two separate and distinct licensed premises in one location for both medical and adult-use marijuana. However, proper standards and restrictions must be put in place to address the risks involved with this arrangement and ensure that the two licensed premises remain separate and distinct, both physically and functionally, given that Amendment 64 prohibits the co-mingling of medical and adult-use inventories.

Medical marijuana is permissible for properly registered patients under the age of 21, while adult-use marijuana cannot be purchased by persons under 21 years of age. As such, licensed premises must be structurally separated to reduce the risk of underage consumption by persons who are not properly registered as patients. Inventory control must be separately

maintained by each licensee, regardless of ownership structure and the configuration of the licensed premises, to avoid the co-mingling of on-hand inventory.

Medical and adult-use marijuana may be subject to different types of state and local taxes, such that point of sale transactions should not be comingled or fraudulently processed for the purpose of tax avoidance. Because co-location affects land use at the local level, legislation should recognize local government authority to prohibit multiple licensed premises in one building or structure.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

6 – Operational Requirements

6.1 – Commercial Transport of Marijuana

The Task Force recommends that the General Assembly enact a requirement that the Colorado Department of Revenue develop rules and regulations that ensure the safe transport of marijuana and marijuana products among and between licensed businesses and labs.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Rules and regulations are needed to ensure that licensees can safely and legally transport marijuana to other licensed premises, including labs, given that a person can lawfully transport only one (1) ounce of marijuana under Amendment 64. Delivery rights could be part of the license privileges, rather than requiring a separate permit. However, if a separate permit is required for transport, the following should be required:

- The transporter should carry a copy of the pre-prepared sales invoice and bill of lading. For internal company transfers, some type of inventory transfer document must be used in lieu of the sales invoice.
- The transporter should carry a copy of the company's marijuana license and a copy of the transportation permit if that option is selected.
- Employees who transport marijuana should complete "Responsible Vendor"- type training and carry evidence of that training when transporting marijuana.

As part of inventory control and tracking, the licensee must provide reconciliation of all inventory as it moves from cultivation to retailer, manufacturer to retailer, any transport to labs, etc.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

6.2 – Disposal of Marijuana, Products, and Waste

The Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) develop a mechanism to track, measure, and properly destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste material. The mechanism should also cover destruction of marijuana lawfully subject to destruction at the conclusion of any law enforcement action. The cost of such destruction shall be covered by a reasonable fee, to be paid by the party requesting the service.

The Task Force further recommends that CDPHE develop a mechanism that ensures that private citizens can legally dispose of marijuana, marijuana products, and marijuana waste material, including stalks, stems, roots, and leaves, without being subject to criminal prosecution or civil penalties.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Businesses cannot throw away marijuana, marijuana products, or marijuana waste as they can many other commercial and waste products. Similarly, private citizens growing marijuana at home need a mechanism to legally dispose of contaminated marijuana, excess marijuana, and marijuana waste. Without a state-overseen process or facility to properly dispose of marijuana and its products and waste, there would be a tremendous temptation for both businesses and private citizens to divert these items to the illegal market.

In order to track all marijuana regulated under Amendment 64, statutory authority and a regulatory mechanism are needed to account for and destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste. Examples of situations where marijuana cannot be sold include when a sample tests positive for mold or some other contaminant and the entire batch must be destroyed, when a strain does not sell well, or

when a batch is considered to be expired and the retailer must remove it from the shelves. The same disposal mechanism can be used to destroy marijuana that is subject to destruction as a result of law enforcement action, and possibly also marijuana and marijuana waste that private citizens growing at home wish to surrender for destruction.

Rule 12.200, used by the Medical Marijuana Enforcement Division to set requirements for the disposal of medical marijuana waste, can provide guidance in developing the necessary regulations relating to marijuana waste.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment, Colorado Department of Revenue

7 – Interaction with Consumers

7.1 – Purchase of Marijuana by Residents and Visitors

Amendment 64 authorizes persons in Colorado to possess up to one ounce of marijuana. The Task Force therefore recommends that the General Assembly clarify that all persons aged twenty-one years or older – resident or a visitor – shall be permitted to purchase marijuana for personal use.

However, the Task Force recommends that the General Assembly consider imposing a reasonable per-transaction limit of less than one ounce of marijuana and marijuana-infused products for both Colorado residents and visitors.

The Task Force further recommends that the General Assembly consider setting per-transaction purchase limits that are more restrictive for non-residents than for residents.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Neither the text of Amendment 64 nor its official Blue Book explanation envisions a residency requirement for marijuana consumers, who are referred to solely as those over the age of 21 years of age and who present a valid government-issued identification, not specifically Colorado-issued. Imposing a residency requirement for any purchase of marijuana could potentially create a black market through straw purchases by residents and unauthorized resale to non-residents.

Amendment 64 does not explicitly set a limit on the amount of marijuana that can be purchased at any one time, but it does set a one-ounce limit on the amount of marijuana that a (non-medical) consumer may possess at any one time. As such, one (1) ounce is the largest amount that should be sold at any one time to any one customer. However, the Colorado General Assembly may wish to establish a reasonable limit lower than one (1) ounce for both residents and visitors, to discourage unlawful diversion of marijuana out of the regulated system and out of the state, since the lower transaction amount would make the accumulation of marijuana more difficult. Reasonable purchase limits for residents could be set at or above the level for out-of-state residents, but not to exceed one (1) ounce.

In order to discourage the diversion of legally-purchased marijuana out of Colorado, reduce the likelihood of federal scrutiny of Colorado's adult-use marijuana industry, and support harmonious relationships with Colorado's neighboring states, an appropriate limit should be placed on the amount of marijuana or marijuana-infused products that can be purchased by out-of-state consumers. The Task Force discussed possible transaction limits of 1/8 - 1/4 ounce of marijuana, or its equivalent in infused products, for non-residents.

Additional actions should also be taken to limit diversion out of Colorado, such as point-of-sale information to out-of-state consumers, signage at airports and near borders, coordination with neighboring states regarding drug interdiction, and restricting retail licenses near the borders.

Local entities may wish to impose additional per-transaction limits.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Revenue

7.2 – Automated Dispensing Machines

The Task Force recommends that the General Assembly enact no statute either prohibiting or requiring the use of marijuana secured automated dispensing systems within licensed retail marijuana stores. Specific statutory provisions permitting or prohibiting secured automated dispensing systems are not necessary, because the use of a secured automated dispensing system should be a business decision on the part of retail marijuana stores, provided that security measures are in place to verify the age and the residency of the consumer. Such security measures surrounding secured automated dispensing systems should be established in regulation.

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Retail marijuana stores should be allowed to make business decisions regarding the display and distribution of marijuana and marijuana products within their establishments. As such, they should be allowed, but not required, to use marijuana secured automated dispensing systems that are located in a secured area in which the age and residency of the consumer is established and verified prior to the consumer operating the systems. The Colorado Department of Revenue should adopt rules establishing security measures surrounding secured automated dispensing systems. Statutory requirements already exist in the Medical Marijuana Code (Section 12-43.3-402(5.5), C.R.S.) which may serve as a guide to the Colorado General Assembly in establishing statutory requirements for such devices.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

8 – Consumer Safety

8.1 – Signage, Marketing, and Advertising

The Task Force recommends that the General Assembly enact legislation that allows both state and local governments to have a role in establishing rules and regulations to govern the signage, marketing, and advertising of marijuana and associated products. The legislation should require certain guidelines at the state level, and also allow for further limitations at the local level.

Guidelines at the state level for packaging, signage, and marketing should include the following:

1. ***Prohibit all mass-market campaigns that have a high likelihood of reaching minors (billboards, television, radio, direct mail, etc.). Advertising in adult-oriented newspapers and magazines would be allowed.***
2. ***Allow branding on product packaging and consumption accessories.***
3. ***Allow only marijuana products and marijuana-related accessories to be offered in retail marijuana stores. Prohibit the sale of traditional (non-marijuana) food, beverage, personal care items (lotions, lip balms) so there is no confusion that all products sold in an adult-use marijuana retail establishment do include marijuana.***
4. ***Prohibit health or physical benefit claims in advertising, merchandising, and packaging.***
5. ***Allow edible product labels to list ingredients, cannabinoid content (including but not limited to THC), and compatibility with dietary practices (such as gluten-free, contains nuts, vegan, etc.).***
6. ***Allow opt-in marketing on the web and location-based devices (mobile) as long as there is an easy and permanent opt-out feature. No unsolicited pop-up advertising is allowed. Banner ads would only be allowed on adult-oriented sites like Westword (not Facebook or mass market sites). Marijuana retailers will be allowed to host their own websites.***
7. ***Allow opt-in marketing programs such as email clubs (as long as opt-out feature is provided).***

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions.

Justification:

Amendment 64 allows for legal access to and use of marijuana only for adults over 21 years of age. As such, and to protect the health, safety, and well-being of youth, marketing and advertising of marijuana products and accessories should be carefully regulated to avoid reaching persons under 21 years of age.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Local Governments

8.2 – Packaging Requirements

The Task Force recommends that the General Assembly pass appropriate legislation: (1) indicating that all types of marijuana sold from regulated retail facilities should be regulated (including packaging and labeling) in a manner similar to the Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. §§ 1471-1476, and the corresponding regulations promulgated by the Consumer Product Safety Commission, and (2) granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment (CDPHE), to promulgate appropriate regulations of packaging of both medical and non-medical Marijuana-infused Products (collectively "MIP") AND any other medical marijuana and non-medical marijuana items on any licensed premises ("Other Marijuana Consumer Items").

The Task Force further recommends that the rules promulgated by the Colorado Department of Revenue related to packaging should require that both MIPs and Other Marijuana Consumer Items leave a licensed Medical Marijuana Center (MMC) or Retail Marijuana Store (RMS) in packaging that meets the regulatory standards (the "Standards") as defined by CDPHE. This would be accomplished by allowing three separate and distinct processes to achieve compliance where all MIPs and Other Marijuana Consumer Items that leave an MMC or RMS in possession of a consumer are EITHER: (1) packaged by the manufacturer in packaging that meets the Standards, (2) packaged by the operator of the MMC or RMS prior to the point-of-sale in a package or container that meets the Standards, OR (3) placed in a "exit package / container " that meets the Standards at the point-of-sale prior to exiting the store, with the compliance expectation and burden placed upon the operator of an MMC or RMS.

In addition to meeting the Standards, the operator of the MMC or RMS shall also be required to place all MIPs and Other Marijuana Consumer Items in a sealed, non-transparent or opaque package, container or other receptacle (including, but not limited to, a brown paper bag that is stapled shut) at the point-of-sale. This requirement shall not apply to MIPs and Other Marijuana Consumer Items that are already packaged by the manufacturer in a sealed, non-transparent, or opaque package, container, or other receptacle that meets the Standards.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There have been confirmed reports from Colorado hospitals that children have been taken to Emergency Rooms and Intensive Care Units for accidental ingestion of marijuana products. Unlike alcohol, marijuana is administered by multiple methods including oral consumption, and when taken orally does not have an intrinsic noxious taste and burning effect to naturally deter children from ingesting it. Moreover, marijuana may be infused in edible products that are highly attractive to children, such as baked goods and candy.

Given these risks, marijuana products should be regulated similarly to other items presenting a significant health risk to children. The PPPA requires special child-resistant packaging on a wide range of hazardous household products, including most oral prescription drugs. These regulations have led to remarkable declines in reported deaths, injuries, and sickness from children's ingestion of covered substances. Adopting these standards for marijuana packaging will help to prevent accidental ingestion of marijuana products by children.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.3 – Labeling Requirements

The Task Force recommends that the General Assembly: (1) authorize the Colorado Department of Revenue to adopt comprehensive labeling requirements for saleable products containing cannabis; and (2) determine appropriate enforcement agencies for labeling and packaging violations.

Labels should include, but are not limited to, the following:

<u>Flower/Buds:</u>

1. ***The license number of the cultivation licensee***
2. ***The license number of the retail center***
3. ***An identity statement and standardized graphic symbol***
4. ***Batch #***
5. ***A net weight statement***
6. ***A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.***
7. ***A list of any non-organic pesticides or fungicides used during cultivation or production***
8. ***A statement to the effect of "This product is contains marijuana and was cultivated/ produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product"***
9. ***Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force***

Continuation of Recommendation 8.3 Labeling Requirements

Labels should include, but are not limited to, the following:

<u>Non-activated Concentrates and Infused Products:</u>

1. ***The license number of the cultivation licensee***
2. ***The license number of the retail center***
3. ***An identity statement and standardized graphic symbol***
4. ***Batch #***
5. ***A net weight statement***
6. ***A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.***
7. ***A list of any non-organic pesticides or fungicides used during production***
8. ***A statement regarding the usage of solvents in the extraction process***
9. ***A statement to the effect of "This product is contains marijuana and was cultivated/ produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product"***
10. ***Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force***

<u>All Other Infused Products:</u>

1. ***Statement of the Original Equipment Manufacturer's (OEM) name and State Licensing Authority number together with the company's telephone number or mailing address or website information***
2. ***An identity statement and standardized graphic symbol***
3. ***Batch #***
4. ***A net weight statement***
5. ***A statement on # of milligrams of THC per serving and # of servings per package***
6. ***A list of ingredients and potential allergens***
7. ***A potency statement about THC as adopted by the Task Force. If other cannabinoids are included, THC is listed first.***
8. ***A list of any non-organic pesticides or fungicides used during production***
9. ***A statement regarding the usage of solvents in the extraction process***
10. ***A recommended use by or expiration date***
11. ***A nutritional fact panel***
12. ***A statement to the effect of "This product is infused with marijuana and was produced without regulatory oversight for health, safety, or efficacy and there may be health risks associated with the consumption of the product"***
13. ***Warning labels, to include language similar to the Poison Prevention Packaging Act, a pregnancy/ breastfeeding statement, illegal under age 21, may impair ability to drive, and others adopted by the Task Force***

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

All products available for retail purchase are subject to substance-specific labeling requirements. These recommended labeling requirements for marijuana and its products are thought to be sufficiently comprehensive to inform and protect both consumers and the general public.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.4 – THC Potency Labeling

The Task Force recommends that the General Assembly require that all adult-use marijuana products be labeled to indicate either:

1. ***Total THC content as % by weight; OR***
2. ***Total mg dose for activated THC or TOTAL THC.***

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Research indicates that the potency of marijuana has increased over time, and variations will inevitably be found between plants and in the harvest of the same plant over time. As such, imposing potency limits would be impractical and could discourage good growing practices. Nevertheless, the THC content of all marijuana products should be accurately labeled, to inform consumers and discourage false claims by cultivators, manufacturers, and retail centers. Labeling allows consumers to take the appropriate dose for their needs and avoid negative side effects.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

8.5 – THC Potency Limits on Infused Products

The Task Force recommends that the General Assembly pass appropriate legislation granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment, to promulgate rules relating to edible forms of marijuana products. Those rules should initially establish that a "serving" of marijuana in edible form (not including concentrates, topicals, or similar products) shall have no more than 10 mg of active THC. The product labels shall clearly provide the total number of servings in any single product package and identify the "serving size" for items that are packaged together.

The General Assembly should also grant authority to the Colorado Department of Revenue to create labeling guidelines concerning the total content of THC per unit of weight, similar to the "proofing" of alcohol, namely milligrams of THC divided by total gram weight of the edible product.

The General Assembly should also grant authority to the Colorado Department of Revenue to create regulations establishing appropriate limitations on the total THC content that can be contained in a single package containing multiple servings of an edible food-type marijuana product, with any such limitation to be established at no less than 200mg of total active THC per package. These limitations on the number of servings should only apply to non-medical food-type products that are infused with activated forms of THC that are also packaged in smaller serving sizes and therefore have a reasonable possibility of being over-consumed accidentally.

These limitations should NOT apply to marijuana concentrates, tinctures, topicals, or products that are sold in pill, capsule or similar form, it being the intention of this recommendation to prevent accidental overconsumption of a single food-type product or products contained in one package. This recommendation specifically contemplates that larger multi-serving food-type products (entire cakes, pizzas, or other large multi-serving items) shall be permitted if labeled in accordance with applicable laws and regulations.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

This recommendation helps to educate consumers about the THC content in edible products and prevent accidental over-ingestion by limiting both the THC content per serving and per package. Children and inexperienced adult marijuana users are most at risk from over-ingestion of THC in the form of marijuana edible products. Children may inadvertently gain access to and ingest these products, particularly those in the form of candies and baked goods, which they may mistake for similar-looking, non-THC infused products. Inexperienced users may over-ingest because the effects of THC-infused products do not register as quickly for ingested as for inhaled marijuana products, such that the person may not stop eating the products in time to prevent illness. By limiting the THC levels in a single serving and package, both children and inexperienced users are less likely to become ill, even if they consume multiple servings of the product or an entire package.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.6 – Regulation of Additives in Marijuana Products

The Task Force recommends that the General Assembly pass appropriate legislation to direct the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or the appropriate regulatory body to prohibit or regulate additives to any marijuana product including, but not limited to, combustible, vaporized, and edible products, that in the view of the regulatory body are: 1) toxic, 2) designed to make the product more addictive, 3) designed to make the product more appealing to children, or 4) misleading to consumers.

The following definition of an additive is derived from the Food and Drug Administration's (FDA) guidance for the tobacco industry and adapted for application to the marijuana industry: "Additive" means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of a marijuana product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include marijuana or a pesticide chemical residue in or on raw marijuana or a pesticide chemical.

It should be noted that, for purposes of regulating additives in marijuana products, an additive does not include common baking and cooking items.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation builds on expert guidelines developed for tobacco to avoid similar harm to consumers of marijuana combustibles and vaporized products as has been experienced by tobacco users and to reduce potential adverse negative public health impacts of marijuana legalization. It is patterned after the Tobacco Control Act of 2009, which allows the FDA to regulate tobacco products to protect public health and reduce tobacco use by minors. Some 600 additives to cigarettes have been identified, more than half of which have been shown to increase toxicity. Additives may change the taste of the product or make it more addictive. The recommendation also takes into account the United Nations (UN) Framework Convention on Tobacco Control, which provides recommendations to reduce the morbidity and mortality of tobacco use. Article 9 of the UN Framework calls for regulating the contents of tobacco products, with specific attention to additives that increase toxicity and enhance the attractiveness and addictiveness of the product.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.7 – Prohibiting Adulterants – Nicotine

The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of any marijuana products that contain nicotine.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

Tobacco use is a key risk factor in many chronic diseases, including cardiovascular disease, cancer, and respiratory disease. Colorado has made important gains in reducing the prevalence and public health burden of tobacco. According to the Centers for Disease Control and Prevention, 17.1% of Colorado adults are current smokers. This number is below the current national average of 19.3%, and well below the 1965 national average of 42.4%. Prohibiting the sale of products that combine marijuana and nicotine would help maintain these significant public health gains and reduce potential adverse negative public health impacts of marijuana legalization.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Colorado Department of Public Health and Environment

8.8 – Prohibiting Adulterants – Alcohol

The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of products that combine marijuana and any alcohol that requires a liquor license to be sold.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

According to the Centers for Disease Control, approximately 80,000 deaths each year in the United States are attributable to excessive alcohol use, making it the third leading lifestyle-related cause of death in the nation. The co-administration of alcohol and marijuana may significantly enhance one's risk of death from alcohol intoxication. Because marijuana decreases nausea and vomiting, it may inhibit the body's natural tendency to vomit excess alcohol during a binge-drinking episode, thereby increasing the risk of death. There is also evidence to suggest that co-administration of alcohol and marijuana may impair driving more than administration of either substance alone, which in turn leads to increased traffic fatalities. By prohibiting the sale of products that combine marijuana and alcohol in a single product, this recommendation inhibits the co-administration of marijuana and alcohol, and promotes public health and safety.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue

9 – Good Cultivation, Handling, and Laboratory Practices

9.1 – Cultivation and Handling Standards

To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:

1. ***An appropriate governmental agency, either the Colorado Department of Agriculture, the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or a combination of these agencies, shall be authorized by statute to create a list of substances banned for use in the cultivation or processing of marijuana based upon that in current Rule 14.100(E) for medical marijuana;***
2. ***Labeling of all products shall include a list of all pesticides, herbicides, fungicides, and solvents that were used in its cultivation or processing. It should be noted that the regulation should not address whether the products used are appropriate or legal under applicable agricultural laws or regulations.***

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There are presently no standards of practice for ensuring product safety in the marijuana industry, raising concerns about the presence of residual pesticides, herbicides, fungicides, solvents, mold, and bacteria in plant products. Without standardized threshold limits for contaminants in marijuana, laboratory testing is both expensive and inconclusive. This recommendation helps ensure the safety and consistency of marijuana products. Banning certain substances and requiring labeling of contaminants are two parts of a tripartite

strategy, along with Recommendation 9.2 to develop voluntary Good Cultivation and Handling Practices for the industry.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture, Colorado Department of Revenue, Colorado Department of Public Health and Environment

9.2 – *Good Cultivation and Handling Practices Advisory Group*

To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that:

1. ***The Colorado Department of Agriculture, the Department of Revenue, the Colorado Department of Public Health and Environment, and any other relevant agency should be authorized by statute to work with any private advisory group that may be established to develop Good Cultivation and Handling Practices (GCHP) for the marijuana industry. These agencies should strongly urge the industry to form such a group.***

2. ***Participation by producers in such a GCHP advisory group shall be voluntary, but labeling may include certification of compliance with GCHP by an independent third party authorized under the provisions of the GCHP advisory group.***

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

There are presently no standards of practice for ensuring product safety in the marijuana industry, raising concerns about the possible presence of residual pesticides, herbicides, fungicides, solvents, mold, and bacteria in plant products. This recommendation helps ensure the safety and consistency of marijuana products by promoting standard-setting and incentivizing growers and handlers to meet these standards. It is part of a tripartite strategy, along with Recommendation 9.1 to ban certain substances from use in cultivation or processing and require labeling of contaminants.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture, Colorado Department of Revenue, Colorado Department of Public Health and Environment, Private Industry

9.3 – Good Laboratory Practices Advisory Group

To help ensure the safety and consistency of marijuana products sold to Colorado consumers, the Task Force recommends that the adult-use marijuana industry be urged to establish a private advisory group by January 1, 2014, to develop Good Laboratory Practices ("GLP") for marijuana testing laboratories, and that the Colorado Department of Public Health and Environment, the Colorado Department of Agriculture, the Department of Revenue, and any other relevant agency be authorized by statute to work with such group in the development of GLP.

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Related to Recommendation 9.1 regarding banned substances and labeling of contaminants, Recommendation 8.4 requiring the labeling of THC content, and Recommendation 8.6 regulating the use of additives, testing for THC and other elements in marijuana products must be performed accurately and consistently. A Good Laboratory Practices Advisory Group for the marijuana industry, established privately and working in consultation with the above-mentioned governmental agencies, will help ensure the safety and consistency of marijuana products and assist in the accurate labeling of their contents.

Implementing Authorities:

Colorado General Assembly, Private Industry, Colorado Department of Public Health and Environment, Colorado Department of Agriculture, Colorado Department of Revenue

10 – Marijuana Education and Studies

10.1 – Education Oversight Committee

To help ensure the adequate education of consumers, retailers, and the public about marijuana and Amendment 64, the Task Force recommends that an appropriate governmental agency, such as the Colorado Department of Public Health and Environment (CDPHE), the Colorado Department of Human Services (CDHS), the Colorado Department of Public Safety (DPS), local law enforcement agencies, and local governments, shall be authorized by the General Assembly in statute to establish an Educational Oversight Committee composed of those familiar with relevant issues. The Committee will develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and additional issues as they arise.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage and will have effects on the general public. Therefore, citizens must have current and accurate information on marijuana and its properties, use, dosage, risks, and effects, including impairment and its impact on driving, parenting, and other activities. It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group. The Educational Oversight Committee will be important for directing these educational efforts.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment, Colorado Department of Public Safety, Local Law Enforcement Agencies, Local Government

10.2 – Marijuana Education for Professionals

The Task Force recommends that the appropriate governing body or group encourage that marijuana education (on impairment, paraphernalia, risks, home cultivation, etc.) be made available for continuing education credit in the following professions in Colorado:

- ***Medical (doctors/nurses/pharmacists): Colorado Medical Society, Colorado Pharmacists Society***
- ***First Responders (firefighters & EMTs): Colorado State Firefighters Association, Emergency Medical Services Association of Colorado***
- ***Legal: Colorado Bar Association***
- ***Law Enforcement: police academies, state patrol, Peace Officer Standards and Training (POST), Colorado Association of School Resource Officers***
- ***K-12 Educators/Counselors: Colorado Education Association and Colorado Department of Education***
- ***Microbiologists: American Society for Microbiologists***
- ***Prevention Specialists: Colorado Office of Behavioral Health***
- ***Coroners: Colorado Coroners Association***
- ***University Staff/Professors: Colorado Commission on Higher Education, BACCHUS Network***
- ***Counselors, Social Workers, Psychologists: Colorado Health Partnerships, Colorado Counseling Association, Mental Health America and Marijuana Anonymous; Certified Addictions Counselors; Colorado Society of National Association of Social Workers***
- ***Child Welfare Workers: Colorado Department of Human Services***
- ***Veterinarians: Colorado Veterinary Medical Association, Colorado Association of Certified Veterinary Technicians***
- ***Home Growers: Colorado Independent Marijuana Growers Association, Cannabis Therapy Institute, Cannabis Trade Council***
- ***Insurers: Colorado Group Insurance Association, Colorado Insurance Guaranty Association, and Professional Independent Insurance Agents of Colorado***
- ***Bankers: Department of Regulatory Agencies Division of Banking, Banking and Securities Commission***
- ***Tour Companies/Tour Providers: Colorado Tourism, Colorado Outfitters Association, Colorado River Outfitters Association***
- ***Transportation Providers (bus services and airlines providing inter-state travel and beyond): Each private company and Colorado Department of Transportation***
- ***Bar Owners/ Liquor Store Owners: Colorado Liquor Enforcement Division and trainers such as Training for Intervention Procedures (TIPS) (revisions coming due to introduction of marijuana)***
- ***Others as applicable***

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage and will have effects on many industries and their personnel, who will require information on marijuana and its properties, risks, and effects. It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment

10.3 – Marijuana Education for the Public

The Task Force recommends that the General Assembly authorize funding for the development of educational materials for:

1. ***The citizens of Colorado on smart use of marijuana***
   - ***Establish an unbiased, fact-based web site/informational center regarding all aspects of marijuana, including: the various types of marijuana products, their differences, effects, concentrations, spectrum of methodologies to ingest marijuana, the pros/cons of using marijuana, health & safety concerns, impairment issues that may affect driving, parenting, etc.***
   - ***The General Assembly should determine who should operate the site and manage content***
   - ***Brochures should be made available at the time of purchase***

2. ***Marijuana use prevention for those under age 21***
   - ***Target markets include parents, students, and educators***
   - ***Materials can include websites, brochures, billboards, public service announcements, etc.***

The Task force further recommends that the state leverage available resources by integrating these educational efforts with existing educational efforts to prevent the abuse of alcohol, tobacco, prescription drugs, and illegal drugs.

These efforts will require oversight by an appropriate state agency or department, such as the Colorado Department of Human Services (CDHS) and/or the Colorado Department of Public Health and Environment (CDPHE).

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
g. Ensure that our streets, schools, and communities remain safe

Justification:

The legalization of marijuana in Colorado is likely to create increased demand and usage, and will have effects on the general public. Therefore, citizens must have current and accurate information on marijuana and its properties, use, dosage, risks, and effects, including impairment and its impact on driving, parenting, and other activities.

It will be particularly important to curb, limit, and restrict the access to and use of marijuana by persons under the age of 21, for whom there are increased associated risks and harms, including potential negative physiological and psychological effects. Education, both for under-21s and those over 21 who may be responsible for them or have influence over them, will be an important tool for keeping marijuana away from this age group.

The creation of new educational materials on marijuana presents an opportunity to simultaneously provide education about other substances that also impact minors, such as alcohol, tobacco, illegal drugs, and prescription drugs.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment

10.4 – Studies of the Health Effects of Marijuana

To protect public health and safety, the Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) be given statutory responsibility for monitoring the emerging science relevant to the study of health effects associated with marijuana use. This review function would be conducted periodically by a panel of health care professionals with an understanding of cannabinoid physiology, appointed by the State Board of Health. The panel would be required to report to the Board of Health, the Department of Revenue, and the General Assembly every two years.

The panel would be charged with establishing criteria for studies to be reviewed, reviewing studies and other data, and making recommendations, as appropriate, for policies intended to protect consumers of marijuana products and the general public. CDPHE would be authorized to collect Colorado-specific data that reports adverse health events involving marijuana use. Sources of data may include, but not be limited to, the All Payer Claims Database, hospital discharge data, and Behavioral Risk Factor Surveys (BRFS). The results of the Panel's work would be made available on the CDPHE website.

An additional 2-3 staff members are projected to be needed at CDPHE to coordinate this effort, support the panel, gather, review, and analyze data, and provide administrative support.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

Since marijuana is a controlled substance under federal law, researchers in the U.S. have had difficulty performing scientific studies to accurately assess the health effects of marijuana. As such, the state of knowledge is uncertain regarding the acute and chronic effects of marijuana use on adolescents and adults, as well as the effect of confounding variables such as the use of tobacco, alcohol, other drugs, and prescription medications in combination with marijuana.

As the science evolves and marijuana use potentially increases with legalization in Colorado, it will be important to monitor the public health outcomes and keep the public informed about the risks associated with marijuana use. The recommended Panel will review the available scientific literature on cannabis and cannabinoids, including that found in international journals, and provide useful information to consumers through the CDPHE website. Its work will also guide the Colorado General Assembly and state agencies in their periodic review of marijuana legislation and regulations.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Health and Environment, Independent experts

10.5 – Study of Law Enforcement Activity

The Task Force recommends that the General Assembly grant authority to the Colorado Department of Public Safety or an authorized independent entity to gather data and undertake a scientific study of law enforcement's activity and costs related to Amendment 64 over a two-year period, beginning in January 2013.

Topics of study should include:

- **Marijuana-related contacts by law enforcement, broken down by race and ethnicity**
- ***Drug use, broken down into age categories and specific drugs, to include marijuana***
- ***School data, to include suspensions, expulsions, and police referrals related to drug use and sales, broken down by specific drug categories***
- ***Marijuana arrest data, including amounts of marijuana with each arrest and broken down by race and ethnicity***
- ***Traffic accidents, to include fatalities and serious injuries related to being under the influence of marijuana***
- ***Diversion of marijuana to persons under the age of 21***
- ***Diversion of marijuana out of Colorado***
- ***Crime occurring in and around marijuana establishments***
- ***Parcel services, to include US Postal Service, UPS and FedEx***
- ***Data related to drug-endangered children, specifically for marijuana***
- ***Treatment information***
- ***Probation data***
- ***Impact on tourism***
- ***Emergency room data, including information from Colorado Poison Control Center***
- ***Outdoor marijuana cultivation facilities***
- ***Money laundering***

The goal of the study is to obtain objective information on criminal activity related to the passage of Amendment 64. As such, it should be based on facts and evidence, and be conducted according to rigorous standards of scientific inquiry. The study should be coordinated with the work of the CDPHE study panel concurrently recommended by this Task Force (see recommendation 10.4) to review the health effects associated with marijuana use, to avoid any potential overlap and duplication of efforts.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
g. Ensure that our streets, schools, and communities remain safe

Justification:

This study is needed to discover the impacts of legalizing adult-use marijuana, such as criminal problems related to marijuana and effects on law enforcement's activities and resources. It will help to ensure that law enforcement is properly funded to handle marijuana-related problems. Given that the State of Colorado is setting a precedent with the legalization of adult-use marijuana, it important put a data collection system into place immediately, to capture statistics and identify emerging trends. The study will provide scientific data on which to justify future policy decisions, to replace rhetoric and unjustified assumptions. It could be funded indirectly by the marijuana industry through fees or tax revenues.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Public Safety, Colorado Department of Public Health and Environment

11 – Child Care Facilities

11.1 – Child Care Licensing Consequences

The Task Force recommends that the General Assembly establish consequences for any child care facility or individual licensee for using or being under the influence of marijuana, or whose employees or affiliates on the premises are using or under the influence of marijuana, at a child care facility during operating hours.

The Task Force further recommends that Section 26-6-108(c), C.R.S. - Denial of license – suspension, be amended to include statutory language providing for the use of, or being under the influence of, marijuana during operating hours as subject to licensing consequences, as for alcohol, if it is consumed at the facility or if any affiliate, individual employed by, person who resides at the facility, or the licensee themselves are under the influence of marijuana during the operating hours of the facility.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation upholds the plain language of Amendment 64 to regulate marijuana like alcohol. Under the current law, Section 26-6-108(c), C.R.S. allows for the department to deny, suspend, revoke, or make probationary the license of any child care facility found to have any affiliate, individual employed by, person who resides at the facility, or the licensee themselves, consuming or under the influence of any controlled substance or alcoholic beverage during the operating hours of the facility. Providing licensing consequences to child care facilities for allowing marijuana consumption or influence on the premises during operational hours will promote a drug-free environment and protect the health and safety of Colorado's children.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Safety, Colorado Department of Public Health and Environment

11.2 – Excluding Cultivation in a Child Care Family Home

The Task Force recommends that Section 26-6-102(4), C.R.S. be amended to include statutory language explicitly excluding the practice of home marijuana cultivation in a "Family Child Care Home," in light of the passage of Amendment 64.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
g. Ensure that our streets, schools, and communities remain safe

Justification:

This recommendation promotes the health, safety, and well-being of Colorado's children, and ensures a drug-free environment for their care. Section 26-6-102(4), C.R.S. currently defines "Family Child Care Home" as a facility for child care in a place of residence of a family member or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen (18) years who are not related to the head of such home. This may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types designated by rules of the state board pursuant to Section 26-6-106(2)(p), C.R.S.

Amendment 64 allows for individual possession, growth, or processing of no more than six marijuana plants for persons 21 years of age or older. Allowing for home marijuana cultivation in residences acting as child care facilities could endanger children, and should therefore be prohibited.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Human Services, Colorado Department of Public Health and Environment

12 – Criminal Law

12.1 – Support for HB 13-1114 Regarding Penalties for DUID

The Task Force recommends that the General Assembly enact House Bill 13-1114, Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Governor Hickenlooper in Executive Order B 2012-0004 directed the Task Force to address the possible need for new statutes related to driving while under the influence of and/or impaired by marijuana. The Drug Policy Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) examined the issue exhaustively for two years and forwarded its recommendation that the Colorado General Assembly enact a 5 nanogram/ml blood THC permissible-inference statute. This recommendation is reflected in HB 13-1114, currently under consideration by the Colorado General Assembly. The Task Force defers to the judgment of the CCJJ on this issue and recommends enactment of the bill.

Implementing Authorities:

Governor, Colorado General Assembly, Colorado Department of Public Safety, Colorado Department of Public Health and Environment, Local Governments

12.2 – ARIDE Training for Colorado Law Enforcement Officers

The Task Force recommends that the General Assembly require Advanced Roadside Impaired Driving Enforcement (ARIDE) training as a mandatory training element in future Colorado Peace Officer Standards and Training (POST) certification, and encourage local law enforcement agencies to have their peace officers trained in ARIDE, to increase and enhance the ability of law enforcement officers to detect impaired driving.

ARIDE is a program developed by the National Highway Traffic Safety Administration (NHTSA) with input from the International Association of Chiefs of Police (IACP) Technical Advisory Panel (TAP). It was created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation and Classification (DEC) Program.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Amendment 64, Section 16 (1) (b) (III) specifies that, in the interest of health and public safety, driving under the influence of marijuana shall remain illegal. Under Amendment 64, the increased availability of marijuana will likely increase the number of users and, consequently, the number who drive impaired. There is currently no chemical test that can be used in the field to detect marijuana impairment, so law enforcement officers must be able to quickly and skillfully recognize the signs of such impairment in drivers who are contacted.

There is presently a lack of standardized training for Colorado law enforcement officers to recognize drug-impaired drivers. The State of Colorado has implemented standardized field sobriety tests (SFST) and DUI enforcement training, both of which are geared to detecting drivers impaired by alcohol. In light of Amendment 64, the standardized training for law

enforcement officers in Colorado must be augmented to include advanced drug impairment field testing capacities.

ARIDE is a proven training strategy, currently used in 34 states, for detecting drivers who are impaired by drugs other than alcohol. This training should be standardized for Colorado law enforcement officers through its incorporation into both the POST academy-level training and all in-service training for current peace officers. It will make Colorado law enforcement officers aware of the types of incidents they are likely to encounter during personal contact with impaired drivers and during the pre-arrest screening of a driver. ARIDE training for officers will also be of benefit to prosecutors, judges, juries, and drivers who are contacted but found not to be impaired.

Implementing Authorities:

Colorado Attorney General, Colorado Department of Public Safety, Local Governments, Local Law Enforcement Agencies

12.3 – Revisions to the Criminal Code

The Task Force recommends the following revisions to Title 18, C.R.S. (The Criminal Code) as follows:

1. ***Add to Section 18-18-102: (35.5) "Transfer" means to deliver or convey.***
2. ***Add to Section 18-18-406 (1.1): Any adult under 21 years of age who possesses one ounce of marijuana or less shall upon the first offense be subject to a civil charge of not more than $100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may be referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions.***
3. ***Modify Section 18-18-406 (5) to read: Transferring more than one ounce but not more than two ounces of marijuana from one person twenty-one years of age or over to another person twenty-one years of age or over for no consideration is a class 2 petty offense and shall not be deemed dispensing or sale thereof. Revise Section 18-18-425 as follows: This statute does not recite a substantive chargeable offense, but rather clarifies legislative intent behind enactment of statutes criminalizing possession, manufacture, sale, delivery, and advertisement drug paraphernalia. The General Assembly should revise this legislative declaration in light of Article 18, Section 16 of the Colorado Constitution, given that a person 21 or over now has a constitutional right to possess accessories for the purpose of using marijuana.***
4. ***Modify Section 18-18-426 (opening statement) to read: Except as authorized in Article 18, Sections 14 and 16 of the Colorado Constitution, as used in Sections 18-18-425 to 18-18-430, unless the context otherwise requires:***
5. ***Add to Section 18-18-428(3): Any person under 21 years of age who possesses drug paraphernalia used, designed, or intended for use in consuming marijuana shall upon the first offense be subject to a civil charge of not more than $100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions.***

"First offense" is defined in this context as any marijuana offense under Section 18-18-406, C.R.S. that involves any official action, which shall include: conviction, adjudication, non-judicial diversion, deferred prosecution, deferred sentence or civil citation. Said first offense must occur within 3 years of any subsequent offense.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
i. Take action that is faithful to the text of Amendment 64

Justification:

These proposed statutory changes will make relevant parts of Title 18 (Criminal Code), C.R.S. consistent with Amendment 64. They decriminalize certain first offenses related to marijuana and its paraphernalia for children and young adults, reflecting broad sentiment in favor of treatment and education as a more appropriate response.

Implementing Authorities:

Governor, Colorado General Assembly

12.4 – Consequences for Transfer of Marijuana to 18- to 20-Year-Olds

The Task Force recommends that the General Assembly amend Section 18-18-406(7), C.R.S. to establish consequences for the transfer of marijuana by any person 21 years of age or over to any person 18 to 20 years of age.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Currently Section 18-18-406(7), C.R.S. establishes enhanced penalties only for transfers of marijuana from adults (over 18) to juveniles (under 18). In addition to the other amendments to Section 18-18-406, C.R.S. in Task Force Recommendation 12.3 to bring the statute into alignment with the legalization of adult-use marijuana under Amendment 64 for persons 21 and over, Section 18-18-406(7), C.R.S. should be amended to address the sale or transfer of marijuana by any person age 21 or over to any person 18 to 20 years of age. The Colorado General Assembly may wish to establish enhanced penalties for the transfer of marijuana to this age group as well as to minors, in line with similar policies for the sale or transfer of alcohol. Without such an amendment, the sale or transfer of marijuana by a person age 21 or over to a person 18 to 20 years of age would be no different under law than the sale or transfer of marijuana between persons 21 or over.

Implementing Authorities:

Colorado General Assembly

12.5 – Consequences for Juvenile Possession

The Task Force recommends that the General Assembly establish consequences for persons under age eighteen for possession of less than one ounce of marijuana first offense.

Amend Section 18-13-122, C.R.S. - Minor in Possession of Alcohol to add Section 18-13-122.1, C.R.S. - Minor in Possession of Marijuana.

Amend Section 18-18-406(1), C.R.S - Possession of less than two ounces of marijuana to add a new statute – Possession of less than one ounce of marijuana first offense by a juvenile. Establish in the statutory language a definition of first offense (see recommendation 12.3 for suggested language).

Amend these two statutes to provide for education and treatment for juveniles in possession of less than one ounce of marijuana first offense without the consequences of a conviction in municipal court because of a petty offense, as per current law, or an adjudication under juvenile law, which could eventually result in detention or commitment to the Division of Youth Corrections.

Limit the consequences of possession of less than one ounce of marijuana first offense by a juvenile to education and treatment as ordered by the juvenile court, without the collateral consequences of a juvenile adjudication, by providing a civil summons to juvenile court. The consequences of the civil violation should include but not be limited to education and/or treatment as determined by the juvenile court.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

While Amendment 64 made it legal for persons 21 and over to possess small amounts of marijuana, it did not address the concerns of juveniles in possession of the same. Children must be protected while implementing this amendment, but their criminalization for minor possession is not deemed to be in their best interest, nor that of the community. Rather, public education and treatment should be prominent.

Under current law, possession of less than one ounce of marijuana first offense is a petty offense regardless of the age of the offender, with very different consequences from one municipality to the next. Legislation has been proposed that would make, for persons 21 and over, possession of less than one ounce of marijuana legal, and possession of more than one ounce but less than two ounces a petty offense.

The forthcoming changes to the criminal code as it relates to adults should be accompanied by changes in the code as it relates to juveniles. The above recommendation would place all juveniles in possession of marijuana cases under the jurisdiction of juvenile court (district court), which would allow for more consistent treatment and better tracking capabilities than if they are handled by municipal courts. This approach is not meant to interfere with any existing diversion programs currently operated by law enforcement, District Attorneys, City Attorneys, or probation departments. It does not address the issue of possession of small amounts of marijuana by persons aged 18 to 20.

Implementing Authorities:

Governor, Colorado General Assembly

12.6 – Personal Transport of Marijuana

The Task Force recommends that the General Assembly amend existing motor vehicle statutes to reflect the care required of consumers transporting marijuana in motor vehicles. The legislature should consider introducing a bill based on Section 42-4-1305, C.R.S (Open alcoholic beverage container – motor vehicle – prohibited) that would prohibit marijuana in motor vehicles in a manner similar to how alcoholic beverage containers that have been previously opened and resealed by a licensed alcohol beverage retailer are prohibited.

The legislature should consider, but not be limited to, the following issues: accessibility to occupants; differences in containment and sealing of commercial versus home grown marijuana; and differences in containment and sealing of marijuana and marijuana products versus alcoholic beverages.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Section 16(3)(d) of Amendment 64 clearly states that it does not permit consumption of marijuana "openly and publicly and in a manner that endangers others." Although adults 21 and over in Colorado have been allowed under Amendment 64 to consume marijuana and to possess and transport one ounce or less of the substance, using marijuana in a motor vehicle could be construed to be openly and publicly, and driving under the influence of marijuana could seriously endanger public safety.

To ensure public safety and inhibit driving under the influence of marijuana, control of how consumers transport marijuana, once purchased from a licensed retailer or when transporting home-grown plants or marijuana, should be addressed in the state's motor vehicle law in a

manner similar to the limited exceptions related to alcohol. A statute similar to the open alcoholic beverage container law, Section 42-4-1305, C.R.S. is needed to appropriately prohibit the use and transport of marijuana in motor vehicles. However, because the use and packaging of marijuana and marijuana products differ significantly from alcohol, and because home cultivation will result in a variety of packaging scenarios, the legislature must consider a number of issues specific to marijuana when drafting the legislation to ensure that it is not consumed openly and publicly and that it is not accessible to the driver of the vehicle.

Section 42-4-1305, C.R.S. addresses resealed bottles of wine transported in a motor vehicle as an exception to open container laws, if stored properly outside the reach of the driver. Sections in title 42 related to marijuana possession could read as follows: (1) The possession of sealed marijuana packages or containers shall be maintained outside the reach of the driver, such as in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or (2) The possession of sealed marijuana packages or containers shall be in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Revenue, Local Governments

13 – Local Civil Offenses

13.1 – Amendments to the Colorado Clean Indoor Air Act

The Task Force recommends that the General Assembly enact legislation revising the Colorado Clean Indoor Air Act, Section 25-14-201-209, C.R.S. to incorporate marijuana smoke. The following changes are proposed:

Section 25-14-202: Change "tobacco smoke" to "tobacco and marijuana smoke"; change "tobacco products" to "tobacco products and combustible marijuana".

Section 25-14-203: Insert definition "(11.5) "Marijuana" as defined in the Colorado Constitution, Article XVIII, Section 16(2)(f).

Section 25-14-203(16): Delete the words "medical" and "as defined by section 12-43.3-104(7), C.R.S." from the definition of "Smoking".

Section 25-14-204(1): Change "tobacco smoke" to "tobacco and marijuana smoke".

The Task Force further recommends that there should be no exemption that would allow the smoking of marijuana in "cigar bars," smoking clubs, or similar establishments where tobacco smoking is allowed.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
i. Take action that is faithful to the text of Amendment 64

Justification:

Section 16(3)(d) of Amendment 64 clearly states that it does not permit consumption of marijuana and marijuana products "that is conducted openly and publicly or in a manner that endangers others." The Colorado Clean Indoor Air Act has already been amended to

incorporate medical marijuana, but it must be amended again to incorporate adult-use marijuana. Exemptions to the Clean Air Act for cigar bars and smoking clubs where tobacco is permitted are not to be extended for smoking marijuana in these establishments.

Implementing Authorities:

Colorado General Assembly

13.2 – Clarification of an Offense

The Task Force recommends that the General Assembly adopt legislation to define "offense" under Amendment 64 as a criminal violation and not a civil violation. Such definitional clarification will allow local jurisdictions to enforce marijuana laws and regulations through civil actions such as injunctive relief and civil fines.

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable

Justification:

Prior to Amendment 64, local jurisdictions could bring either criminal or civil actions to stop a zoning or code violation involving the individual use of marijuana, such as unlawful cultivation or processing in a residential neighborhood. Civil actions include injunctions to cease the violating conduct and civil fines for continued violations.

Local jurisdictions can normally regulate commercial operations through licensing, policy, and zoning powers. It is therefore imperative that the local government retain the authority to bring a civil charge in response to these violations in order to be able to effectively enforce the new marijuana laws and regulations.

Implementing Authorities:

Colorado General Assembly, Local Governments

14 – Home Cultivation and Processing of Marijuana

14.1 – Enclosed, Locked Space and Not Growing Openly or Publicly

The Task Force recommends that the General Assembly adopt statutes defining the following terms as they relate to the cultivation of adult-use marijuana in Amendment 64, Section (3)(b):

"ENCLOSED, LOCKED SPACE":

ENCLOSED SPACE means: A permanent or semi-permanent area, covered from above and surrounded on all sides. See Section 42-4-201, C.R.S. The temporary opening of windows or doors or the temporary removal of wall or ceiling panels, does not convert the area into an unenclosed space. See Section 25-14-203, C.R.S. Some examples include, but are not limited to the following: a shed, a greenhouse, a trailer, a residence, a building, a room inside a building. An indoor area can include any enclosed area or portion thereof.

LOCKED SPACE means: The area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access, such as a key or combination lock.

Reasonable time shall be allowed for ingress and egress from the enclosed, locked space.

If the cultivation area is located in a residence and a person under twenty-one years of age lives at that residence, the cultivation area within the residence must itself be enclosed and locked. If no person under twenty-one years of age lives at a residence where cultivation occurs, the external locks of the residence are sufficient to meet the definition of "enclosed, locked space". If someone under twenty-one years of age temporarily enters such a residence, the owner must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence.

"GROWING IS NOT CONDUCTED OPENLY OR PUBLICLY":

OPENLY means: Not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion.

PUBLICLY means: The area is open to general access without restriction.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
i. Take action that is faithful to the text of Amendment 64

Justification:

It is important to have clear definitions for these terms in statute so that citizens know what is allowed and disallowed regarding home cultivation of marijuana and law enforcement officers have clear guidance for enforcing laws and regulations. These definitions allow for a residence itself to constitute an enclosed, locked space for the cultivation of marijuana in case that no person under 21 lives at that residence. In this case, the owner must ensure that there are reasonable restrictions on that person's access to the cultivation site, but will not be committing an offense simply by allowing the person under 21 to be temporarily present in the residence, such as when underage relatives or the children of friends visit. If someone under 21 does reside at a residence where cultivation takes place, the cultivation area within the residence must itself be enclosed and locked, to protect the health and safety of the underage person.

Implementing Authorities:

Colorado General Assembly

14.2 – Prohibiting the Use of Flammable Gases

The Task Force recommends that the Attorney General, the General Assembly, and local governments review current statutes and ordinances relating to the residential use of compressed, flammable gases including, but not limited to, butane, propane, and hexane. State and/or local governments should clearly establish in applicable law and/or ordinances that the use of these compressed, flammable gasses as solvents in the extraction of THC and other cannabinoids in residential settings is unlawful.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe

Justification:

Amendment 64 allows for cultivation and processing of marijuana in private homes, which could lead people in residential settings to attempt to extract THC from marijuana into concentrates using compressed, flammable gases such as butane, propane, and hexane. Because this practice poses significant fire and safety hazards to persons engaging in this activity and to their neighbors, state and local laws must prohibit it.

Implementing Authorities:

Colorado General Assembly, Attorney General, Local Governments

15 – Requests for Federal Assistance

15.1 – Banking Solutions for Legal Marijuana Businesses

The Task Force recommends that the General Assembly consider all lawful alternatives to assist marijuana businesses to access the banking system, which includes banks, credit unions, and other financial institutions.

One such alternative would be to consider a joint resolution calling on the federal government to take action by excepting marijuana businesses in states with legalized marijuana industries from relevant federal regulations. Another alternative would be to authorize and fund a study by an independent policy institute with experience in banking laws and regulations, to develop a proposal for a financial institution not subject to federal regulation. An independent policy institute could also be authorized to survey other states with legal marijuana industries for alternative models that would avoid to the greatest extent possible any federal regulatory or criminal nexus.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions

Justification:

Financial institutions that are federally licensed or insured are required to comply with federal regulations. Since marijuana is a controlled substance under federal law, banks must either refuse to hold accounts for legal marijuana businesses in Colorado or risk prosecution. This has made it difficult for these businesses to properly track transactions as required by state law and creates safety issues because the businesses are known to deal only in cash.

Amendment 64 is silent on how marijuana businesses might safely and legally bank the proceeds of their business. Without some form of legal banking, persons engaged in the marijuana business will continue to be subject to safety issues, and the entirely cash revenue system will be challenging to regulate. As such, efforts are needed either to secure a federal exemption for legal marijuana businesses in Colorado to be able to legally bank with federally-insured banks, credit unions, and other financial institutions, or to create a local financial institution that is not subject to federal regulation.

Implementing Authorities:

Colorado General Assembly

15.2 – Business Deductions for Legal Marijuana Businesses

The Task Force recommends the following actions geared at securing the right of legal marijuana businesses in Colorado to claim business expenses on their federal and state tax returns:

1. ***The General Assembly should allow legal marijuana businesses to claim state income tax deductions for expenditures that would be eligible to be claimed as federal income tax deductions, but are disallowed by the federal Internal Revenue Code (IRC), Section 280E – Expenditures in connection to the illegal sale of drugs - because of the status of marijuana as a controlled substance under the Controlled Substances Act (CSA).***
2. ***The General Assembly should pass a resolution requesting that the federal government reform IRC, Section 280E, not to be applicable to legal marijuana businesses in Colorado.***
3. ***The Governor of Colorado should contact and attempt to create a bi-partisan coalition of state governors to advocate for reform of IRC, Section 280E.***
4. ***The Governor should contact and attempt to create a bi-partisan coalition of the Colorado congressional delegation to advocate for reform of IRC, Section 280E.***

Guiding Principles:

c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Section 280E of the federal Internal Revenue Code (IRC) prohibits a business considered to be trafficking substances under the Controlled Substances Act (CSA) from claiming any tax deductions on their federal tax returns, effectively barring legal marijuana businesses in Colorado from claiming these deductions. Because state income tax calculations are based on the federal tax return, these businesses are also effectively disallowed from claiming tax deductions on their state tax returns.

Because Amendment 64 allows for the legal use and sale of marijuana in Colorado for persons 21 years of age and older, legal marijuana businesses in Colorado should be able to benefit from tax deductions for valid business expenses. This can be effected through reform of IRC, Section 280E at the federal level to except legal marijuana businesses in Colorado and other states. In the meantime, the Colorado General Assembly can amend the Colorado tax code to allow for 280E tax deductions on the state tax returns of legal marijuana businesses.

The Colorado General Assembly can further support these efforts by passing a resolution requesting the federal government to reform IRC, Section 280E to allow for deductions for legal marijuana businesses in Colorado and other states.

The Governor can also assist in these efforts by forming a coalition with governors in other states with legal marijuana industries to push for IRC, Section 280E reform. He can also request the Colorado Congressional Delegation to advocate for the reform.

Implementing Authorities:

Governor, Colorado General Assembly, coalition of State Governors, Coalition of the Colorado Congressional Delegation

16 – General Recommendations

16.1 – Maintaining the Status Quo for Employers and Employees

The Task Force affirms that the plain language of Amendment 64, Section 6(a) makes it clear that the intent of the voters was to maintain the status quo for employers and employees, and that employers may maintain, create new, or modify existing policies in response to the passage of the measure.

The Task Force recommends that employers should be encouraged to review current drug-free workplace policies, including but not limited to hiring, sanctioning, termination, and drug testing, in response to passage of the measure.

Guiding Principles:

b. Be responsive to consumer needs and issues
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation seeks to clarify the uncertainty for employers and employees regarding their legal rights regarding employee use of marijuana during non-work hours. It is based on the Amendment 64 campaign argument that the initiative did not affect the ability of employers to maintain their current employment policies regarding off-site use of marijuana, or to create new ones, and on the 2012 State Ballot Information Booklet (Blue Book) statement that the Amendment would not affect the ability of an employer to restrict the use or possession of marijuana by employees.

Implementing Authorities:

Governor, Employers, Local Governments

16.2 – Maintaining the Status Quo for Property Owners

The plain language of Amendment 64 Section 6(d) makes it clear that the intent of the voters was to maintain the status quo for Colorado property owners. The Task Force therefore recommends that the General Assembly adopt no new statutes or regulations modifying existing Colorado property law related to adult-use marijuana. The Task Force also recommends that violations of a real property owner's policies regarding possession or consumption of marijuana on said property be treated similarly to the violation for possession or consumption of alcohol on the premises, including any civil or criminal consequences.

Guiding Principles:

c. Be responsive to consumer needs and issues
f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
i. Take action that is faithful to the text of Amendment 64

Justification:

This recommendation assures real property owners that their rights prior to Amendment 64 remain unchanged and that they will be able to enforce their right to choose how their property is used. It also provides clarity in the relationship between landlords and tenants.

Implementing Authorities:

Colorado General Assembly

16.3 – Enforcement of Contracts

The Task Force recommends that the General Assembly clarify in statute that it is the public policy of Colorado that contracts shall not be void or voidable on the basis that the subject matter of the contract pertains to or the parties are, or are associated with, individuals or businesses that are operating pursuant to Colorado's marijuana laws.

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Amendment 64 does not address the enforceability of contracts relating to marijuana, which under existing law could be deemed by a court to be void or voidable because they pertain to transactions considered illegal under federal law. This recommendation ensures that contracts entered into by individuals and businesses operating pursuant to Colorado's marijuana laws are enforceable.

Implementing Authorities:

Colorado General Assembly

16.4 – Legislation on Industrial Hemp

The Task Force recommends that the General Assembly adopt legislation during the 2013 session authorizing the cultivation, processing, and sale of industrial hemp. Such legislation should delegate to the Commissioner of Agriculture authority to establish regulatory requirements for registration and inspection for those wanting to grow or process industrial hemp. The Commissioner should work with stakeholders to address relevant issues, and should promulgate a final rule no later than December 31, 2013.

Guiding Principles:

b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome

Justification:

Amendment 64 authorizes the Colorado General Assembly to enact legislation on industrial hemp by July 1, 2014. However, the issue is ripe for quick action, given that Colorado General Assembly members have already begun to develop proposals and the benefits of industrial hemp to Colorado's economy are compelling.

Implementing Authorities:

Colorado General Assembly, Colorado Department of Agriculture

17 – Follow-Up to the Work of this Task Force

17.1 – Formation of a Follow-Up Task Force in Three Years

The Task Force recommends that the Governor form a new task force in December 2015, three years from the declaration of the vote on Amendment 64 and from the formation of the present Task Force. The new task force should review these recommendations in light of the actual implementation of Amendment 64 and make recommendations for improving the regulation of adult-use marijuana in Colorado, including providing advice in advance the sunset review to be conducted in 2016 for the Vertical Integration model proposed in recommendation 1.1.

Guiding Principles:

a. Promote the health, safety, and well-being of Colorado's youth
b. Be responsive to consumer needs and issues
c. Propose efficient and effective regulation that is clear and reasonable, and not unduly burdensome
d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
f. Establish tools that are clear and practical, so that the interactions between law enforcement, consumers, and licensees are predictable and understandable
g. Ensure that our streets, schools, and communities remain safe
h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
i. Take action that is faithful to the text of Amendment 64

Justification:

The recommendations of this Task Force are offered to the Governor, the Colorado General Assembly, and the Attorney General, for their consideration when creating a regulatory framework and undertaking the implementation of Amendment 64. The Task Force expects that its recommendations will be further debated and adapted by the Governor, the Colorado General Assembly, the Attorney General, relevant state agencies, and the general public, in the implementation process.

The Task Force and its Working Groups have done their best to thoroughly study the issues around the use and regulation of adult-use marijuana in Colorado, project developments, and suggest policies, regulations, and actions for the implementation of Amendment 64. However, given that legal, adult use of marijuana is completely unprecedented in the United States, the Task Force expects that new issues will come up and unforeseen consequences will emerge in the coming years as the amendment is fully implemented. Given this uncertainty, as well as the fact that this Task Force has recommended (see Recommendation 1.1) that the proposed, vertically-integrated regulatory framework be reviewed after three years, it will be very helpful for the Governor to convene a new Task Force in January 2016, to review these recommendations in light of actual implementation and give its recommendations for improving public policy related to adult-use marijuana in Colorado.

Implementing Authorities:

Governor

Issues for Further Consideration

There are a number of issues for which the Task Force did not formulate a recommendation because it could not come to agreement in the time available for its work. Whereas in the early weeks of the Task Force's work recommendations were routinely sent back to the Working Groups for further discussion and amendment and were later re-introduced for the Task Force's consideration, this was not possible in the final week of the Task Force's work. As such, a number of issues remained unresolved at the conclusion of its work on February 28, 2013, but are nevertheless deserving of further attention by the Governor, the Colorado General Assembly, and the Attorney General as they proceed with the implementation of Amendment 64.

One issue for which the Task Force did not make a recommendation was defining remuneration in transactions involving marijuana, given public concerns about marijuana businesses providing marijuana free of charge to customers with the purchase of other items. This practice falls outside the intent of Amendment 64 to allow adults over the age of 21 to privately share small amounts of marijuana. The Criminal Law Working Group concluded that no recommendation was necessary on this issue because such activities are already illegal under Section 18-18-102, C.R.S. where the definition of remuneration includes services and trades. Although the Task Force did not make a recommendation on this issue, policy-makers and law enforcement officers may wish to take action to respond to these illegal actions by marijuana businesses.

The Task Force made a recommendation for defining in statute "openly and publicly" as these terms relate to home cultivation of marijuana (see Recommendation 14.1), but it was unable, within the timeframe of its work, to come to agreement about defining "openly and publicly" as these terms relate to the consumption of marijuana. This is an important omission, as defining these terms provides the basis for allowing or prohibiting consumption of marijuana in various venues.

The Task Force did make two recommendations related to consumption outside of private homes, the first (Recommendation 13.1) for amending the Colorado Clean Indoor Air Act to include marijuana smoke and disallow exceptions for marijuana use at cigar bars, and the second (Recommendation 14.1) for initiating legislation to address the use of marijuana in motor vehicles. However, these Task Force recommendations do not fully resolve the issue of defining consumption "that is conducted openly and publicly," which is not permitted by Amendment 64, Section (3)(d). Apart from considerations related to the Clean Indoor Air Act and addressing the use of marijuana in vehicles, the Colorado General Assembly must define what is meant by open and public consumption of marijuana in order to allow or prohibit consumption in different venues and give clear guidance to law enforcement officers.

The Task Force had extensive discussions on possible scenarios where citizens might smoke or ingest marijuana and whether these could be considered open and public, in which case

consumption should be prohibited. For some venues, such as front and back porches, decks, and yards in private homes where members of the public could clearly view and smell residents smoking marijuana or consuming edible marijuana products, there was disagreement about whether these venues are both open and public and, consequently, whether residents may smoke or consume marijuana there. A majority of Task Force members in a straw poll vote believed that smoking on a front porch was not "open and public" and could therefore be allowed under Amendment 64, whereas all Task Force members believed that smoking in a public park was indeed "open and public," and therefore not allowed under Amendment 64. Related to the lack of a definition of open and public for consumption, the Task Force did not come up with a recommendation to allow or disallow the consumption of marijuana at private social clubs.

Another issue for which the Task Force did not agree at the close of its work, but for which further work is needed by the Colorado General Assembly, is Driving Under the Influence of Drugs (DUID) for persons under 21 years of age. Task Force members disagreed in their final meeting as to whether (1) driving with any amount of marijuana in the body should be considered as a *per se* DUID charge for this age group, given their lack of legal access to the drug and the similar policy in place in Colorado for driving under the influence of alcohol, or whether (2) there should be a less punitive response based on presumption or permissible inference, because the *per se* proposal could capture non-impaired drivers and drivers with small amounts of THC in their bodies from second-hand smoke, and would result in the onerous penalty of losing driving privileges. The Colorado General Assembly may wish to revisit this issue in its further discussions regarding statutory changes related to the implementation of Amendment 64.

The following criminal law issues remained unresolved within the Criminal Law Working Group at the close of the Task Force's work and so were not forwarded to the Task Force for consideration, but they may be of concern to the Colorado General Assembly in its forthcoming debates. These include:

1. Section 42-4-1301(1), C.R.S.: Separate DUI and DUID offenses, which are currently combined.
2. Section 42-4-1301 (6)(a)(I), C.R.S.: Consider repealing this clause, given that alcohol is no longer the only legal intoxicant, and given the synergistic effects between alcohol and marijuana that result in an increased level of impairment, such that the presumption of innocence with a BAC level of 0.05 is no longer valid.
3. Section 42-3-1304, C.R.S. - Samples of blood or other bodily substance: Expand the statute to require sampling of all drivers, deceased or otherwise, involved in both fatal collisions and collisions where transport to hospital is required.
4. Section 42-4-1301.1, C.R.S. - Expressed consent for the taking of blood, urine, or saliva sample: The choice of a breath or blood test is no longer consistent with public safety. The law should be changed to allow and encourage blood testing as the default sample, given that only a blood test can detect drugs other than alcohol.

5. Section 42-4-1301.1(6)(a), C.R.S.: Consider augmenting the number of medical personnel to permit trained peace officers to collect blood samples, to reduce the delay between the time a DUID suspect is apprehended and the blood sample is drawn.
6. Social clubs: If and when social marijuana clubs are to be allowed by statute, ensure that alcohol is not served there, given the increased impairment that occurs when the two drugs are used together.
7. Define "a plant" in Amendment 64, versus a clone, clipping, or cutting of marijuana.
8. Change public nuisance forfeiture statutes to bring them into alignment with Amendment 64.
9. Section 25-14-103.5, C.R.S. - Prohibition against the Use of Tobacco Products on School Property.: Expand to include marijuana.
10. Section 18-18-406, C.R.S.: Consider revisions to address possession of marijuana in amounts over 2 ounces outside the room where cultivation occurs, and possession of more than 6 plants per adult.
11. Establish guidelines for Colorado law enforcement agencies regarding what can legally be done with plants seized in excess of the 6-plant limit per person.

Appendix A – Amendment 64

Amendment 64
Use and Regulation of Marijuana

Ballot Title: Shall there be an amendment to the Colorado constitution concerning marijuana, and, in connection therewith, providing for the regulation of marijuana; permitting a person twenty-one years of age or older to consume or possess limited amounts of marijuana; providing for the licensing of cultivation facilities, product manufacturing facilities, testing facilities, and retail stores; permitting local governments to regulate or prohibit such facilities; requiring the general assembly to enact an excise tax to be levied upon wholesale sales of marijuana; requiring that the first $40 million in revenue raised annually by such tax be credited to the public school capital construction assistance fund; and requiring the general assembly to enact legislation governing the cultivation, processing, and sale of industrial hemp?

Text of Measure:

Be it Enacted by the People of the State of Colorado:

Article XVIII of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 16. Personal use and regulation of marijuana

(1) Purpose and findings.

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARSOF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

(I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;

(II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;

(III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;

(IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

(V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND ANDDECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

(2) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR

ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

(3) Personal use of marijuana. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

(4) Lawful operation of marijuana-related facilities. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VAILD LICENSE TO OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA

PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED,OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

(5) Regulation of marijuana.

(a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION;

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUESTBY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g). NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

(6) Employers, driving, minors, and control of property.

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE, OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

(7) Medical marijuana provisions unaffected. NOTHING IN THIS SECTION SHALL BE CONSTRUED:

(a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

(b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

(c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE COLORADO MEDICAL MARIJUANA CODE;

(d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE; OR

(e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH, OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

(8) Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

(9) Effective date. UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR, PURSUANT TO SECTION 1(4) OF ARTICLE V.

Appendix B – Executive Order B 2012-004

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
Phone(303)866-2471
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John W. Hickenlooper
Governor

B 2012-004

EXECUTIVE ORDER

Creating a Task Force on the Implementation of Amendment 64

Pursuant to the authority vested in me under Article IV, Section 2, of the Colorado Constitution and the laws of the state of Colorado, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order creating a Task Force on the Implementation of Amendment 64 - Use and Regulation of Marijuana.

I. Background and Purpose

On November 6, 2012, the voters of the State of Colorado endorsed Amendment 64 - an amendment to Article XVIII of the Colorado constitution providing for the regulation of marijuana like alcohol - by a vote of approximately 55% of the electorate. Amendment 64 makes the personal use, possession, and limited home-growing of marijuana legal under Colorado law for adults 21 years of age and older. Additionally, it allows for the lawful operation of marijuana-related facilities. Amendment 64 presents issues of first impression in Colorado and in the United States, as no state previously has legalized marijuana for recreational use in the face of federal legal restrictions.

Amendment 64 requires state and local governments to act with speed and efficiency. The voters approved very short timelines for the implementation of this new law. It is prudent that the General Assembly enact enabling legislation to implement Amendment 64. Amendment 64 directs the General Assembly to enact an excise tax on the sale of marijuana and requires the Colorado Department of Revenue to adopt necessary regulations by July 1, 2013. The Department of Revenue must begin accepting and processing applications for licenses to operate a marijuana establishment on October 1, 2013 and the Department must begin issuing licenses by January 1, 2014 or cede regulatory authority to local government if it fails to do so. Amendment 64 also permits local governments to enact ordinances that are compatible with the new state laws to regulate the time, place, manner, and number of marijuana establishment operations.

Colorado state and local governments must consider and resolve a number of legal, policy and procedural issues, involving various interests and stakeholders, in order to implement this new law. All stakeholders share an interest in creating efficient and effective regulations that provide for the responsible development of the new marijuana laws. As such, there is a need to create a task force through which we can coordinate and create a regulatory structure that promotes the health and safety of the people of Colorado.

The incoming majority and minority leaders of the General Assembly support this Task Force.

The Amendment 64 Implementation Task Force is hereby established with the following mission and scope.

II. Mission and Scope

The Task Force's mission shall be to identify the legal, policy, and procedural issues that need to be resolved, and to offer suggestions and proposals for legislative, regulatory and executive actions that need to be taken, for the effective and efficient implementation of Amendment 64. The Task Force is encouraged to develop a comprehensive framework and timeline for legislation and regulations needed to implement Amendment 64. The Task Force shall report its recommendations and findings to the Governor, to the General Assembly and to the Attorney General.

Task Force members are charged with finding practical and pragmatic solutions to the challenges of implementing Amendment 64 while at all times respecting the diverse perspectives that each member will bring to the work of the task force. The Task Force shall respect the will of the voters of Colorado and shall not engage in a debate of the merits of marijuana legalization or Amendment 64.

The issues that the Task Force shall address include, but are not limited to:

1. The need to amend current state and local laws regarding the possession, sale, distribution or transfer of marijuana and marijuana products to conform them to Amendment 64's decriminalization provisions, including, but not limited to, laws related to:
    a. Possession of drug paraphernalia;
    b. Possession of marijuana; and
    c. Marijuana cultivation.
2. The possible need for new statutes, including, but not limited to, laws related to:
    a. Marijuana testing facilities;
    b. Marijuana product manufacturing facilities;
    c. Marijuana retail facilities;
    d. Time, place, and manner restrictions for marijuana consumption, including conforming to existing non-smoking laws;
    e. Industrial hemp cultivation, processing, and sale; and
    f. Driving while under the influence of and/or impaired by marijuana.
3. Amendment 64's directive to the General Assembly that it enact an excise tax on the sale or other transfer of marijuana.
4. The need for new regulations including, but not limited to, those related to:
    a. Procedures for issuing, renewing, suspending, and revoking a license to operate a marijuana establishment;

b. A schedule of application, licensing and renewal fees;
c. Qualifications for a license that are related to operating a marijuana establishment;
d. Security requirements for marijuana establishments;
e. Labeling requirements;
f. Health and safety standards for the manufacture of marijuana products, including food, and the cultivation of marijuana;
g. Restrictions on advertising and display of marijuana and marijuana products; and
h. Penalties for noncompliance with regulations.

5. Education regarding long-term health effects of marijuana use and harmful effects of marijuana use by those under the age of 18.
6. Reconciliation of Colorado and Federal laws such that the new laws and regulations do not subject Colorado state and local governments and state and local government employees to prosecution by the federal government.
7. The impact of Amendment 64 on employers and employees and the Colorado economy.

The Task Force shall explore any and all options that address the preceding issues and help clarify and/or better coordinate state and local government implementation of Amendment 64. Such options examined shall include, but are not limited to:

- memorandums of agreement, intergovernmental agreements, and letters of cooperation and consent between the state and any other jurisdiction;
- changes to existing laws or regulations; and
- new laws and regulations.

III. Membership

The Task Force shall be co-chaired by the Governor's Chief Legal Counsel and the Executive Director of the Colorado Department of Revenue. The Task Force co-chairs will have the ability to issue guidelines for operation of the Task Force and amend those guidelines as needed. The Task Force co-chairs will form and appoint working groups, chaired by one or more members of the Task Force and comprised of persons with subject matter expertise, to aid it in its work. The Task Force co-chairs will identify and approve the scope of work and issues for the Task Force and working groups.

In addition to the co-chairs, Task Force membership shall also include the following:

- One member of the General Assembly appointed by the incoming Speaker of the House;
- One member of the General Assembly appointed by the incoming President of the Senate;
- One member of the General Assembly appointed by the incoming House Minority Leader;
- One member of the General Assembly appointed by the incoming Senate Minority Leader;
- The Colorado Attorney General, or his designee;
- A representative of the Colorado Municipal League;
- A representative of Colorado Counties, Inc.;
- The Executive Director of the Colorado Department of Public Health and Environment, or his designee;
- The Executive Director of the Colorado Department of Public Safety, or his designee;
- The Colorado Commissioner of Agriculture, or his designee;

- The Senior Director responsible for the Colorado Medical Marijuana Enforcement Division, or his designee;
- A representative of the campaign to pass Amendment 64;
- A representative of the medical marijuana dispensary and cultivation industry;
- A representative of marijuana consumers;
- A person with expertise in legal issues related to the legalization of marijuana;
- A person with expertise in the treatment of marijuana addiction;
- A representative of the Colorado Commission on Criminal & Juvenile Justice;
- The Executive Director of the Colorado District Attorney's Council, or his designee;
- The Colorado State Public Defender, or his designee;
- A person representing the interests of employers;
- A person representing the interests of employees; and
- One at-large member who is not a resident of the Denver-metro area.

IV. Open Meetings

All meetings of the Task Force and any working groups of the Task Force shall be open to the public and the Task Force shall endeavor to solicit public comment as part of its consideration of the policy, legal and procedural issues that need to be resolved to implement Amendment 64. To the extent it deems appropriate, the Task Force shall incorporate the public input it receives into its recommendations and findings.

V. Duration

This Executive Order shall continue in existence until the Task Force reports its recommendations and findings to the Governor, the General Assembly and the Attorney General but no later than February 28, 2013, unless it is either earlier terminated or extended beyond that date by further executive order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this tenth day of December, 2012.

John W. Hickenlooper
Governor

Appendix C – Task Force Members and Contributors

Task Force Members

Name	Affiliation	Interests Represented
Jack Finlaw, Co-Chair	Office of the Governor, Chief Legal Counsel	Office of the Governor
Barbara Brohl, Co-Chair	Colorado Department of Revenue, Executive Director	Colorado Department of Revenue
Larry Abrahamson	Colorado District Attorneys' Council	District Attorneys
Kristal L. Bernert	KLB Services, LLC	At-Large Task Force Member
Eric Bergman	Colorado Counties Inc.	Local Government
David Blake	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Kevin Bommer	Colorado Municipal League	Local Government
Ron Carleton	Colorado Department of Agriculture, Deputy Commissioner	Agriculture
Mike Cerbo	AFL-CIO	Colorado Employees
Brian Connors	Office of the Colorado State Public Defender, Chief Deputy Public Defender	Public Defenders
Charles Garcia	Colorado Criminal and Juvenile Justice Commission (CCJJ)	CCJJ
John Jackson	Greenwood Village, Police Chief	Law Enforcement
Senator Cheri Jahn	State Senator	Colorado General Assembly
Dr. Sam Kamin	University of Denver, Law Professor	Legal expertise
Ron Kammerzell	Colorado Department of Revenue	Enforcement, including MMED
Senator Vicki Marble	State Senator Appointed by Senate Minority Leader	Colorado General Assembly
Representative Dan Nordberg	State Legislator Appointed by House Minority Leader	Colorado General Assembly
Representative Dan Pabon	State House Representative	Colorado General Assembly
Meg Sanders	Medical marijuana industry	Medical marijuana industry
Christian Sederberg	Amendment 64 Campaign	Amendment 64 Campaign
Craig Small	Marijuana consumers	Marijuana consumers
Dr. Christian Thurstone	University of Colorado Denver and Denver Health, Child Psychiatrist	Physician with addictions treatment experience
Dr. Chris Urbina	Colorado Department of Public Health & Environment (CDPHE)	CDPHE
Tamra Ward	Colorado Concern	Colorado Business Community

Support to the Task Force

Name	Affiliation	Role
Ro Silva	Colorado Department of Revenue, Public Information Officer	Task Force Public Information Officer
Brandon Friede	Office of the Governor's Legal Counsel, Attorney	Task Force Secretary
Lindsay Cox	Office of Governor's Legal Counsel, Staff Assistant	Administrative Support
Mia Tsuchimoto	Colorado Department of Revenue, Executive Assistant	Administrative Support
Laura Jane Weimer	Attorney General's Office, Executive Assistant	Administrative Support
William Browning	Rebound Solutions, President and CEO	Strategic Facilitation of the Task Force Process
Michael Niyompong	Rebound Solutions, Vice President	Task Force Report Graphic Design
Lorii Rabinowitz	Rebound Solutions, Vice President	Facilitation of the Task Force Process
Dr. Lisa McCann	Rebound Solutions, Senior Analyst	Task Force Report Writer
Hilary Gustave	Rebound Solutions, Senior Analyst	Technical Editor

Appendix D – Working Group Members

Regulatory Framework Working Group

Name	Affiliation	Interests Represented
Ron Kammerzell - Co-Chair and Task Force Member	Colorado Department of Revenue	Enforcement, including MMED
Representative Dan Pabon, Co-Chair and Task Force Member	State House Representative	Colorado General Assembly
David Blake, Task Force Member	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Dr. Sam Kamin, Task Force Member	University of Denver, Law Professor	Legal expertise
Meg Sanders, Task Force Member	Medical marijuana industry	Medical marijuana industry
Betty Aldworth	Self-employed	Amendment 64 Campaign
Norton Arbelaez	RiverRock LLC, Compliance Officer	Medical marijuana industry
Donald Burmania	Colorado Department of Revenue	Liquor Enforcement
Robert Dill	Attorney	Experience in medical marijuana law
Laura Harris	Colorado Department of Revenue	MMED Enforcement
Cally King	Governor's Office	Governor's Office
Dr. Jeremy Nemeth	University of Colorado Denver, Assistant Professor, Planning and Design	Policy expertise
Chris Nevitt	Denver City Councilman	Local Government
James Shpall	Applejack Associates, President	Alcohol industry
Mary Beth Susman	Denver City Council, President	Local Government

Local Authority and Control Working Group

Name	Affiliation	Interests Represented
Kevin Bommer, Co-Chair and Task Force Member	Colorado Municipal League	Local Government
Eric Bergman, Co-Chair and Task Force Memebr	Colorado Counties Inc.	Local Government
Senator Vicki Marble, Task Force Member	State Senator Appointed by Senate Minority Leader	Colorado General Assembly
David Baumgarten	Gunnison County Attorney	Local Government
Wayne Cauthen	Citizen	Citizen concerned with local government impact
Gina Fenton-Carbone	Citizen	Citizen concerned with youth impact
Mishawn Cook	City of Boulder, Tax & License Manager	Local Government
Tom Downey	Denver Division of Excise & License, Director	Local Government
James Eklund	Governor's Office of Legal Counsel, Senior Deputy Legal Counsel	Governor's Office
Lew Gaiter	Larimer County Commissioner	Local Government
Cheri Hackett	Cannabis Trade for Colorado	Medical marijuana industry
Andy Hill	Colorado Department of Local Affairs (DOLA), Community Development Office	DOLA
Wanda James	Simply Pure	Medical marijuana industry
Harris Kenny	Reason Foundation, Policy Analyst	Policy Interests
Lewis Koski	Colorado Department of Revenue, Medical Marijuana Enforcement Division (MMED)	MMED
Adam Paul	Lakewood City Councilman	Local Government
Mike Rozycki	San Miguel County Planning Director	Local Government
Bryan Treu	Eagle County Attorney	Local Government
Jason Warf	Colorado Springs Medical Cannabis Council	Marijuana consumers

Tax, Funding, and Civil Law Working Group

Name	Affiliation	Interests Represented
David Blake, Co-Chair and Task Force Member	Attorney General's Office, Deputy Attorney General for Legal Policy and Governmental Affairs	Attorney General's Office
Senator Cheri Jahn, Co-Chair and Task Force Member	State Senator	Colorado General Assembly
Kristal L. Bernert, JD, CPA, Task Force Member	KLB Services, LLC	At-Large Task Force Member
Mike Cerbo, Task Force Member	AFL-CIO	Colorado Employees
Tamra Ward, Task Force Member	Colorado Concern	Colorado Business Community
Bill Callison	Faegre, Baker, Daniels LLP, Attorney	Tax and corporate law
Don Childears	Colorado Bankers Association	Banking industry
Michael Elliott	Medical Marijuana Industry Group, Executive Director	Medical marijuana industry
Dorinda Floyd	Colorado Department of Revenue, CFO	Colorado Department of Revenue
Holli Hartman	Baker & Hosteller LLP, Attorney	Employee law
Dan Krug	Office of State Planning and Budget (OSPB)	OSPB
Mary Jo McGuire	Conspire2Hire, Compliance Director	Drug and alcohol testing
Adrienne Russman	Governor's Office	Governor's Office
Kimberlie Ryan	Ryan Law Firm, LLC, Attorney	Civil Rights Employment Law/Employee Rights
Alexis Senger	Office of State Planning and Budget (OSPB)	OSPB
John Vecchiarelli	Colorado Department of Revenue	Tax administration

Consumer Safety and Social Issues Working Group

Name	Affiliation	Interests Represented
Dr. Chris Urbina, Co-Chair and Task Force Member	Colorado Department of Public Health & Environment (CDPHE)	CDPHE
Christian Sederberg, Co-Chair and Task Force Member	Amendment 64 Campaign	Amendment 64 Campaign
Ron Carleton, Task Force Member	Colorado Department of Agriculture, Deputy Commissioner	Agriculture
Craig Small, Task Force Member	Marijuana consumers	Marijuana consumers
Dr. Christian Thurstone, Task Force Member	University of Colorado Denver and Denver Health, Child Psychiatrist	Physician with addictions treatment experience
Ian Barringer	Rm3 Labs Colorado LLC, President	Medical marijuana industry, testing labs
Dr. Laura Borgelt	University of Colorado, Assoc. Professor, Pharmacy	Pharmacy and family medicine
Frank Cornelia	Behavioral Healthcare Council	Treatment provider
Kenneth Finn	Springs Rehabilitation, PC	Medicine
Kevin Fisher	RK Enterprises, Owner	Industry
Dr. Kari Franson	University of Colorado, Associate Dean, Pharmacy	Pharmacy
Brandon Friede	Governor's Office	Governor's Office
Laura Harris	Colorado Department of Revenue, MMED	MMED
Ashley Kasprzak	Team Fort Collins, Executive Director	Concerned with youth impact
Aaron Kennedy	State of Colorado, Chief Marketing Officer	Advertising Specialist
Lisa Morzel	Boulder City Council Member	Local Government
Wade Troxell	Fort Collins City Councilman	Local Government
Chris Wiant	Care Colorado	Care Colorado
Katharine (Jade) Woodard	Alliance for Drug Endangered Children	Concerned with youth impact

Criminal Law Working Group

Name	Affiliation	Interests Represented
John Jackson, Co-Chair and Task Force Member	Greenwood Village, Police Chief	Law Enforcement
Brian Connors, Co-Chair and Task Force Member	Office of the Colorado State Public Defender, Chief Deputy Public Defender	Public Defenders
Larry Abrahamson, Task Force Member	Colorado District Attorneys' Council	District Attorneys
Charles Garcia, Task Force Member	Colorado Criminal and Juvenile Justice Commission (CCJJ)	CCJJ
Representative Dan Nordberg, Task Force Member	State Legislator Appointed by House Minority Leader	Colorado General Assembly
David Blair	Denver Family Therapy, Director	Social workers
Lauren Davis	Hoban & Feola LLC, Attorney	Marijuana consumers
Stephanie Donner	Governor's Office of Legal Counsel, Senior Deputy Legal Counsel	Governor's Office
Darrell Lingk	CDOT Highway Safety Office, Director	CDOT
Genifer Murray	CannLabs	Medical marijuana industry, testing labs
Rachel O'Bryan	Attorney, self-employed	Concerned with youth impact
J. Grayson Robinson	Arapahoe County Sheriff	Law enforcement
Marco Vasquez	Colorado Department of Revenue, MMED	MMED
Ed Wood	Retired	DUID interest

Appendix E – Issues and Questions Considered by the Working Groups

Regulatory Framework

1. Identify a regulatory framework and classifications for other uses besides consumption (e.g., hemp).
2. Identify the extent of the Colorado Department of Revenue's enforcement and regulatory powers.
3. Consider whether tracking mechanisms are needed for recreational purchasers and users.
4. Do we need a temporary regulatory scheme between now and January 2014?
5. Consider establishing state operated recreational marijuana dispensaries.
6. Establish rules and regulations for the transportation of marijuana by growers, retail operations and purchasers.
7. Pre-emption should be considered here, more relevant than criminal context
8. The issue of financial banking is a component that should be address as part of the regulatory framework.
9. Licensing model impacts and how it impacts local authority
10. Identify framework for all types of consumption
11. Understand and assess the environmental impact of the industry
12. Set the ground rules for determining if there is a pre-emption issue
13. Will insurance companies determine if they will cover Medical marijuana in their prescription policies?
14. What are the impacts of Amendment 64 on means-tested programs such as Medicaid?
15. How does the state address gray market issues?
16. What is the funding model for regulation and enforcement?
17. What are the tracking mechanisms (number 3 above) and are they relevant in the framework?
18. How does the state regulate personal growth?
19. There needs to be a definition for "growing openly or publicly."
20. Sunset and policy review – ability to assess and adjust policy after a set time.
21. Who will regulate growers?
22. Can the state harmonize medical marijuana and A64 policies and rules? This would be a single regulatory framework.
23. Can the state develop emergency funding for program implementation?

Local Authority and Control

1. What type of licensing regime is appropriate – consider alcohol and medical marijuana models?
2. Can local authorities act independently in use and consumption regulations under a state framework?
3. Should there be different classes of state and local licensing depending on type of operation (consumption, retail, grow, etc.)?
4. What can local jurisdictions regulate?
5. What will be the local controls regarding advertising (locally)?
6. What are the local funding models?
7. What is the local authority over fines and licensing?
8. How do we ensure municipal codes are aligned / consistent with state policies and rules?
9. Is there consideration for longer timeline for the implementation of local rules and regulation?
10. Does local authority regulate quasi-criminal civil penalties?
11. Can state and local licensing / regulator model allow for each jurisdiction to oversee different aspects? Is there a way to eliminate duplication?

Tax, Funding, and Civil Law

1. Must the Colorado General Assembly enact an excise tax on recreational marijuana and, if so, is it bound by the terms of Amendment 64 since the new tax would be subject to a vote of the people? Must a tax referred measure go to the voters in November 2013?
2. How do state regulatory agencies fund the regulatory and enforcement tools needed to oversee the regulation of recreational marijuana in light of lack of funding for MMED?
3. Address the industry's banking issues – consider creating a state financial institution for the industry?
4. Address employment issues such as rules related to drug-free work places, issues related to hiring and termination for legal use outside of the workplace, testing issues, federal rules and contract requirement and questions related to unemployment and workers' comp insurance.
5. How does Colorado address the 280E tax issue at the state level?
6. What are the effects on contract and family law?
7. What is the interaction between recreational users and family law?
8. What is the interaction between recreational users and means-tested programs?
9. What are the effects on student loans, aid, public benefits, and means-tested benefit programs?
10. Where do the financial resources go – how are they allocated?
11. How is excise tax defined?
    a. How will it be collected?
    b. How is it defined across municipalities?
    c. Where in the supply chain will the excise tax be collected?

12. A clear employee/employer contract is necessary.

Consumer Safety and Social Issues

1. Define what it means to "sell, distribute, or transfer marijuana to minors." Does this include a prohibition of advertisements for marijuana to minors?
2. Recommending to social worker in marijuana around kids
3. DUID – what does it mean to drive under the influence?
4. How does this impact drug free schools?
5. Recommendations for social services and programs for parenting, marijuana use, 2nd and 3rd hand smoke exposure, giving children marijuana, leaving marijuana in reach of children, raising children in or near grow operations.
6. Responsible vendor program requirements
7. Packing requirements: labeling (to prevent child consumption)
8. Science based approach for setting regulation
9. Potency levels and issues
10. Growing standards – such as using pesticides
11. Organic labeling
12. Best practices for endorsing anti-use campaigns (children and minors)
13. What agency would regulate potency levels?
14. Should there be host laws (an example is if parents host a party)?
15. Rules / policies on pregnant women – including warning labels
16. Propose restrictions on sales to minors
17. Local governments should be allowed to social policy
18. Identification of testing standards. If product testing is required, how would this is done? Who would regulate testing?
19. Who should provide consumer advocacy to protect consumers to report bad business practices?
20. Stores and advertising near schools, substance abuse treatment centers, mental health clinics, and community colleges
21. How does Hashish fit into marijuana identification and labeling?
22. How can campaigns be provided that educate the public on do's and don'ts regarding marijuana?
23. Can excise tax funding be used for education programs?

Criminal Law

1. Interim issues related to fact that possession and use is now lawful but no legal purchases and sales will occur until January 2014
2. DUID – per se vs. permissive inference concept endorsed by the CCJJ, "open container" rules and testing issues
3. Need to clarify when and where consumption of marijuana is "open" and "public" and therefore not permitted.
4. How do we define use of marijuana "in a manner that endangers others," which is not permitted by Amendment 64.
5. Probable cause and reasonable suspicion issues related to permissive search and seizure under the Fourth Amendment, both in homes and automobiles.

6. How might legalization of recreational use/possession and home grow impact human services' determinations in child abuse and neglect cases?
7. Identify possible interstate outcomes with the possession, sale and transportation of marijuana.
8. Look at potential outcomes if/when the Department of Justice intervenes. Juvenile law and court jurisdiction – how will cases be managed and processed?
9. DUI and DUID
    a. Standards for DUID with respect to employees
10. How will Colorado amend the Controlled Substance Act?
11. What defines probable cause?
12. How local businesses can protect themselves from number 7 above?
13. There needs to be a definition of legitimate criminal actor regarding sellers
14. What is the impact on minors?
15. The Taskforce should review the Gaming as a potential model.

Appendix F – Recommendation Template

Amendment 64 Implementation Task Force Working Group Recommendation Template

1. Working Group Name:

2. Individual Sponsor(s):

3. Describe the Recommendation:

4. What provision of Amendment 64 does the recommendation apply? If there is no provision within Amendment 64, please justify why this recommendation is necessary?

5. Which guiding principle does this recommendation support (underline all those that apply)?
    a. Promote the health, safety, and well-being of Colorado's youth
    b. Be responsive to consumer needs and issues
    c. Propose efficient and effective regulation that is clear and reasonable and not unduly burdensome
    d. Create sufficient and predictable funding mechanisms to support the regulatory and enforcement scheme
    e. Create a balanced regulatory scheme that is complementary, not duplicative, and clearly defined between state and local licensing authorities
    f. Establish tools that are clear and practical, so that interactions between law enforcement, consumers, and licensees are predictable and understandable
    g. Ensure that our streets, schools, and communities remain safe
    h. Develop clear and transparent rules and guidance for certain relationships, such as between employers and employees, landlords and tenants, and students and educational institutions
    i. Take action that is faithful to the text of Amendment 64

6. Please summarize the rationale for the recommendation – why is it important?

7. What issue or issues does your recommendation resolve? (Please identify the issues)

8. Is there a dissent about this recommendation? If yes, please provide a summary of the dissenting opinion about this recommendation.

9. Which of the following does the recommendation impact (underline those that apply):
    a. Statute (legislation)
    b. Policy
    c. Rules and Regulations
    d. Other: (*please describe)*

10. Who owns implementation of the recommendation (underline those that apply):
    a. Governor

b. State Legislature
c. Attorney General
d. Colorado Department of Revenue
e. Colorado Department of Public Safety
f. Colorado Department of Public Health and Environment
g. Local Government
h. Other: (*please describe)*

11. Is the recommendation dependent on another decision or action: If yes – specifically what actions or decisions are required before this recommendation can be implemented?

12. Will the recommendation have a cost to implement? If yes, what is the reason for the cost? If yes, give an estimate of the cost.

13. Give an estimate of how long it would take to implement the recommendation.

Appendix G – List of Acronyms

Acronym	Full Name
ARIDE	Advanced Roadside Impaired Driving Enforcement Program
BRFS	Behavioral Risk Factor Surveys
CCJJ	Colorado Commission on Criminal and Juvenile Justice
CDPHE	Colorado Department of Public Health and Environment
CDHS	Colorado Department of Human Services
CDOT	Colorado Department of Transportation
CRS	Colorado Revised Statutes
CSA	Controlled Substances Act
DEA	U.S. Drug Enforcement Administration
DEC	Drug Evaluation and Classification Program
DOLA	Colorado Department of Local Affairs
DOR	Colorado Department of Revenue
DPS	Colorado Department of Public Safety
EO	Executive order
FDA	U.S. Food and Drug Administration
FTE	Full-time equivalent
GA	Colorado General Assembly
GCHP	Good cultivation, handling, and practices
IACP	International Association of Chiefs of Police
IRC	Internal Revenue Code
MCF	Marijuana Cultivation Facility (adult-use marijuana)
MIP	Marijuana-infused Product (medical marijuana)
MMC	Medical Marijuana Center (medical marijuana)
MMED	Colorado Medical Marijuana Enforcement Division
MMJ	Medical marijuana
MPMF	Marijuana Product Manufacturing Facility (adult-use marijuana)
NHTSA	National Highway Traffic Safety Administration
OEM	Original Equipment Manufacturer
OPC	Optional Premises Cultivation (medical marijuana)
OSPB	Office of State Planning and Budget
POST	Peace Officer Standards and Training
PPPA	Poison Prevention Packaging Act
RMS	Retail Marijuana Store (adult-use marijuana)
SFST	Standardized Field Sobriety Testing
TAP	Technical Advisory Panel

Appendix H – Summary List of Recommendations

Category	ID	Title	Recommendation
Regulatory Structure	**1.1**	**Vertical Integration**	The Task Force recommends that the General Assembly adopt the current 70/30 "vertical integration" model, as contained within the Medical Marijuana Code, for adult-use marijuana. Under this model, cultivation, processing and manufacturing, and retail sales must be a common enterprise under common ownership. The Task Force recommends that the General Assembly enact the following additional requirements: • Add a requirement that all licensees file a monthly report with the state licensing authority, which documents all sales/transfers of marijuana during the month outside of the licensee's common ownership structure pursuant to the 30% allowance. This monthly report shall detail all such transactions including the amount of product transferred, the licensee the product was transferred to, and the calculation of the percentage of on-hand inventory transferred outside of the common ownership structure expressed as a percentage of the total on-hand inventory for the month. • Provide the ability for the state licensing authority to issue conditional licenses for a series of license applications submitted under a vertically integrated common ownership structure and to restrict the operation of any license contingent on local approval or other conditions that may be required. • Add statewide restrictions on the number of licenses a vertically integrated common ownership structure can hold statewide. The General Assembly could obtain guidance from other industries for which a license is required, such as gaming and liquor. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number. • Add statewide restrictions on the size of marijuana cultivation facilities. This restriction could be based on square footage of the facility, the number of plants cultivated, energy use, or any combination thereof. This statutory limitation can be further restricted by local governments under their constitutional authority to restrict time, place, manner, and number. Provide for a grace period of one (1) year that would limit new applications for adult-use marijuana licenses to medical marijuana license holders in good standing, or applicants that had an application pending with the Medical Marijuana Enforcement Division prior to December 10, 2012. This proposed framework would be subject to a sunset review, to be conducted three (3) years after the enactment of the statute establishing the vertical integration model, at which time the General Assembly should consider de-coupling the manufacturing and retail licenses and proposing an "open integration" model.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			

Category	ID	Title	Recommendation
Regulatory Structure	**1.2**	**State Run Model (Not Recommended)**	The Task Force was encouraged to recommend that adult-use marijuana be sold only through state-owned and operated stores. The Task Force rejected this model because it is not consistent with the text or the spirit of Amendment 64.
Implementing Authorities • Governor • Colorado General Assembly			
Regulatory Structure	**1.3**	**State and Local Licensing**	The Task Force recommends that the General Assembly enact a statute that provides that a state license for an adult-use marijuana establishment shall be issued conditionally and shall not become operational unless and until local requirements have been met and local authorization to operate is granted, in those jurisdictions that have elected to enact local authorization requirements. This statute should recognize the authority of local governments to require local authorization requirements for any adult-use marijuana establishment as a legitimate type of "time, place, manner, and number" regulation at the local level, by which a local county or municipality may: 1. Defer to state standards; 2. Choose to adopt their own standards; or 3. Ban adult-use marijuana establishments within their jurisdictions. The statute should further provide that if a local government authority chooses not to enact specific local authorization requirements, a state-issued conditional license shall not become operational unless and until the local government authority affirmatively authorizes the activity for which the state license was issued. Local counties and municipalities should neither be required to adopt, nor be prohibited from adopting, additional local standards. Similarly, they should neither be required to conduct, nor be prohibited from conducting, hearings prior to allowing adult-use marijuana establishments to operate in their jurisdictions.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Regulatory Structure	**1.4**	**Single Marijuana Enforcement Division**	The Task Force recommends that the General Assembly convert the Medical Marijuana Enforcement Division into a new Marijuana Enforcement Division and enact legislation to provide this agency with statutory powers to regulate medical marijuana and adult-use marijuana as the principal state licensing and regulatory authority.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue			

Category	ID	Title	Recommendation
Regulatory Financing	**2.1**	**Financing Plan**	The Task Force recommends using the General Fund to support the spending authority for a new Marijuana Enforcement Division for five years, through FY 2017-18, after which this arrangement should be reviewed by the General Assembly. The new division should be responsible for the enforcement and regulation of both adult-use and medical marijuana. Revenue from all sales taxes, application and license fees, and other fees generated from adult-use marijuana and medical marijuana should be deposited in the General Fund. The fund balance from the Medical Marijuana Licensing Cash Fund should be used as a funding source for the Marijuana Enforcement Division in FY 2013-14. The Colorado Department of Revenue should provide to the Joint Budget Committee, Senate Finance Committee, House Finance Committee, and the Governor, no later than September 30 of each year beginning with September 30, 2014, a report detailing the amount of revenue generated from adult-use marijuana and medical marijuana including excise taxes, sales taxes, application and license fees, and other fees. The fund balance from the Medical Marijuana Licensing Cash Fund should also be used to fund a portion of the spending authority for the new Marijuana Enforcement Division, when created upon the Governor's signature of the enabling legislation, to finance costs incurred in FY 2012-13 for activities associated with Amendment 64.
Implementing Authorities • Governor • Colorado General Assembly • Colorado Department of Revenue			
Regulatory Financing	**2.2**	**Application Fees**	The Task Force recommends that the General Assembly adopt legislation that directs the Colorado Department of Revenue to confer with local jurisdictions when considering whether to raise the $5,000 cap on application fees to reflect the actual costs of reviewing applications for local approval. The Task Force further requests that the General Assembly clarify how application fees greater than the initial $5,000 amount are to be shared between the state and local jurisdictions.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			

Category	ID	Title	Recommendation
Regulatory Financing	**2.3**	**Licensing Fees**	The Task Force recommends that the General Assembly give statutory authority to the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, the Colorado Department of Law, the Colorado Department of Agriculture, and any other agency charged with responsibilities under Amendment 64, to promulgate rules to set application, licensing, and renewal fees and any other fees or costs directly related to fully funding the implementation of Amendment 64. All revenue generated by these fees should be sent to the General Fund for a period of at least five (5) years.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Colorado Department of Law • Colorado Department of Agriculture			
Regulatory Financing	**2.4**	**Operating Fees**	The Task Force recommends that the General Assembly adopt legislation that defines "operating fees," as referred to in Section 5(f) of Amendment 64, to mean "fees that may be charged by a local government for costs including but not limited to inspection, administration and enforcement of businesses authorized pursuant to this section."
Implementing Authorities • Colorado General Assembly • Local Governments			
Taxation	**3.1**	**Tax Clarification**	The Task Force affirms that: 1. Amendment 64 (5)(d) is facially constitutional; 2. The language of Amendment 64(5)(d) did not comply with TABOR; 3. Voter approval of Amendment 64(5)(d) was not a vote for a tax increase that can be implemented and collected with the simple enactment of a tax statute by the General Assembly; and 4. Another vote of the majority of the people of the State of Colorado is required, through a TABOR-compliant referendum or citizen initiative, to impose specific taxes on adult-use marijuana.
Implementing Authorities • N/A			

Category	ID	Title	Recommendation
Taxation	**3.2**	**Sales Tax**	The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with TABOR, asking the voters to amend Title 39 of the Colorado Revised Statutes to provide for a new Article entitled "Marijuana Products Sales Tax." The General Assembly should make use of expertise and research available at the Office of State Planning and Budgeting, the Colorado Department of Revenue, the Colorado Legislative Council, and possibly a private firm with specific expertise in economic and/or dynamic modeling, to develop a reasonable sales tax rate and a robust new sales tax structure for marijuana products, to submit to Colorado voters for their consideration in the November 2013 state-wide election and to be effective on January 1, 2014 if approved by the voters.
Implementing Authorities • Colorado General Assembly • Office of State Planning and Budgeting • Colorado Department of Revenue • Colorado Legislative Council • Private consulting firm with expertise in economic and/or dynamic modeling			
Taxation	**3.3**	**Excise Tax and Escalator**	The Task Force recommends that the General Assembly consider and introduce a statutory referendum consistent with Amendment 64 (5)(d) and TABOR that should be voted on during the November 2013 state-wide election and be effective on January 1, 2014 if passed. The referendum should give the voters the opportunity to approve a 15% excise tax, calculated at the transaction point that a marijuana cultivation facility transfers any product to a marijuana production facility or retail store. As per Amendment 64, the referendum should further direct the first $40 million in revenue raised annually to the Building Excellent Schools Today (BEST) program for school capital construction. The excise tax should be measured by an average market rate to be determined by the Colorado Department of Revenue on a bi-annual basis. The Task Force further recommends that any referendum considered and introduced by the General Assembly in 2013 for an excise tax on marijuana should include a reasonable escalation clause that would take effect after 2017.
Implementing Authorities • Colorado General Assembly			

Category	ID	Title	Recommendation
Licensee Requirements	**4.1**	**Residency Requirements for Owners and Employees**	The Task Force recommends that the General Assembly adopt Colorado residency requirements for adult-use marijuana licensees similar to those contained in the Medical Marijuana Code. Colorado law should require that an owner of a licensed, adult-use marijuana establishment shall have been a resident of Colorado for at least two years prior to the date of the owner's application (Section 12-43.3-710(1)(m), C.R.S.). All officers, managers, and employees of a licensed, adult-use marijuana establishment shall be residents of Colorado upon the date of their license application (Section 12-43.3-310 (6), C.R.S).
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Licensee Requirements	**4.2**	**Review of Suitability Requirements for Licensees**	The Task Force recommends that the General Assembly adopt laws identifying persons prohibited as licensees conforming to Section 12-43.3-307, C.R.S., and removing those prohibitions that are not directly and demonstrably related to the operation of an adult-use marijuana establishment.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Licensee Requirements	**4.3**	**Responsible Retailers Program and Statewide Advisory Group**	The Task Force recommends that the Colorado Department of Revenue be authorized to establish a voluntary Responsible Marijuana Retailers program for owners of adult-use marijuana retail businesses and their employees, similar to the voluntary Liquor Responsible Vendor program currently in place for alcohol retailers. It further recommends that the Colorado Department of Revenue facilitate the formation of a statewide Advisory Group of adult-use marijuana retail owners and their employees. The advisory group should write bylaws, determine leadership, write a code of ethics, promote ongoing education, and support training efforts.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	**5.1**	**Complete Transition from Medical to Adult-Use Marijuana**	The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to surrender their Medical Marijuana Center (MMC) license or Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation License(s) (OPC) simultaneously upon receiving their Retail Marijuana Store (RMS) license or Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s). To effectuate this transition, the Marijuana Enforcement Division shall, beginning October 1, 2013, accept applications from state licensed medical marijuana businesses for (1) RMS licenses, (2) MPMF licenses, and (3) corresponding MCF license(s), provided that the applicant: A. Is a medical marijuana licensee in good standing on the date of application for the RMS, MPMF, and corresponding MCF license(s) for each of the medical marijuana facilities that desire to surrender their MMC, MIP, and corresponding OPC licenses. B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs, MPMFs, or MCFs. Upon application for an RMS license or an MPMF license and corresponding MCF license(s) and prior to the issuance of the RMS license or MPMF license and corresponding MCF license(s), the medical marijuana business shall continue operating under the privileges of its medical marijuana licenses. The Department of Revenue shall approve or deny the RMS, MPMF, and corresponding MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application. Upon the approval and issuance of a state RMS or MPMF license and simultaneous surrender of the MMC or MIP license, all medical marijuana inventory located at the facility shall become the marijuana inventory of the RMS or MPMF. Upon the approval and issuance of the state MCF license and simultaneous surrender of the OPC license, all medical marijuana plants and inventory located at the facility shall become the marijuana plants and inventory of the RMS or MPMF that owns and controls the MCF.

Implementing Authorities
- Colorado General Assembly
- Colorado Department of Revenue
- Local Governments

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	**5.2**	**Partial Transition for Cultivation and Manufacturing**	The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their medical Marijuana-infused Products (MIP) license and corresponding Optional Premises Cultivation (OPC) license(s), if any, and apply for a Marijuana Product Manufacturing Facility (MPMF) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MIP and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MIP and corresponding OPCs, if any) for (1) MPMF licenses, and (2) corresponding MCF license(s), provided that the applicant: A. Is a medical marijuana licensee in good standing on the date of application for the MPMF and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their MPMF and corresponding MCF licenses; B. Is operating in a jurisdiction that has not prohibited the licensing of MPMF or MCF; and C. The relevant local jurisdiction(s) permit(s) the operation of both an MIP and MPMF at the same location and the operation of an OPC and RMF at the same location in accordance with regulations relating to such operation. Upon application for the MPMF license and corresponding MCF license(s) and prior to the issuance of the MPMF and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the MPMF and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application. Upon the approval and issuance of a state MPMF, all medical marijuana plants located at the MCF facility that were identified as the plants for transfer shall become the marijuana plant inventory of the MPMF that owns and controls the MCF. Upon the approval and issuance of a state MPMF license, the company may produce and sell medical marijuana-infused products and marijuana products in accordance with applicable laws and regulations relating to the operation of such facilities.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	**5.3**	**Partial Transition for Cultivation and Retail**	The Task Force recommends that the General Assembly enact statutes that allow for the transition of current medical marijuana licensees who desire to keep their Medical Marijuana Center (MMC) license and corresponding Optional Premises Cultivation (OPC) license(s) and apply for a Retail Marijuana Store (RMS) license and corresponding Marijuana Cultivation Facility (MCF) license(s) at the same locations as their existing MMC and OPC(s). To effectuate this application process, the Marijuana Enforcement Division shall, beginning on October 1, 2013, accept applications from state licensed medical marijuana businesses (both MMCs and corresponding OPCs) for (1) RMS licenses, and (2) corresponding MCF license(s), provided that the applicant: A. Is a medical marijuana licensee in good standing on the date of application for the RMS and corresponding MCF license(s) for each of the medical marijuana facilities where they desire to locate their RMS and corresponding MCF licenses; B. Is operating in a jurisdiction that has not prohibited the licensing of RMSs or MCFs; and C. The relevant local jurisdiction(s) permit(s) the operation of both an MMC and RMS at the same location and the operation of an OPC and RMF at the same location. Upon application for the RMS license and corresponding MCF license(s) and prior to the issuance of the RMS and corresponding MCF license(s), the medical marijuana business shall identify the plants located at the OPC that shall become the property of the MCF at the time of licensure. The medical marijuana business shall otherwise continue to operate under the privileges of its medical marijuana licenses. The Department shall approve or deny the RMS and MCF license applications no sooner than forty-five (45) days and no later than ninety (90) days after the date of application. Upon the approval and issuance of a state RMS license, all medical marijuana plant inventory located at the MCF facility that was identified as the plants for transfer shall become the marijuana plant inventory of the RMS that owns and controls the MCF.

Implementing Authorities

- Colorado General Assembly
- Colorado Department of Revenue
- Local Governments

Category	ID	Title	Recommendation
Transition to the Amendment 64 Regulatory Environment	**5.4**	**Separation of Inventories in Dual-Use Cultivation and Manufacturing**	The Task Force recommends that the General Assembly should enact legislation permitting the operation of an Optional Premises Cultivation Facility (OPC), licensed under the medical marijuana regulations, and a Marijuana Cultivation Facility (MCF), licensed pursuant to Amendment 64, on the same premises. The General Assembly also enact legislation permitting the operation of a Marijuana-infused Products Facility (MIP), licensed under the medical marijuana regulations, and a Marijuana Manufacturing Facility (MMF), licensed pursuant to Amendment 64, on the same premises. Either sort of dual use facility should be required to maintain a separation, either physical or virtual, between the two facilities being operated in the same location, to ensure that inventories are kept separate and distinct between the two license types.
Implementing Authorities • Governor • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Transition to the Amendment 64 Regulatory Environment	**5.5**	**Complete Separation in Dual-Use Medical and Retail**	The Task Force recommends that the General Assembly should enact legislation to define "licensed premises" and to establish regulations for the operation of a licensed Medical Marijuana Center (MMC) and a licensed Retail Marijuana Store (RMS) within one location. Such regulations should include appropriate restrictions such as separate and distinct ingress/egress, inventory control, point of sale, and recordkeeping, given that the products for medical and adult-use marijuana facilities cannot be co-mingled, as per Amendment 64. This legislation should also clarify the ability of a local government authority to prohibit multiple licensed premises involving a medical and adult-use marijuana license within one location, based on its authority to regulate time, place, manner, and number.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			

Category	ID	Title	Recommendation
Operational Requirements	**6.1**	**Commercial Transport of Marijuana**	The Task Force recommends that the General Assembly enact a requirement that the Colorado Department of Revenue develop rules and regulations that ensure the safe transport of marijuana and marijuana products among and between licensed businesses and labs.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Operational Requirements	**6.2**	**Disposal of Marijuana, Products, and Waste**	The Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) develop a mechanism to track, measure, and properly destroy marijuana and marijuana products that cannot be legally sold, as well as marijuana waste material. The mechanism should also cover destruction of marijuana lawfully subject to destruction at the conclusion of any law enforcement action. The cost of such destruction shall be covered by a reasonable fee, to be paid by the party requesting the service. The Task Force further recommends that CDPHE develop a mechanism that ensures that private citizens can legally dispose of marijuana, marijuana products, and marijuana waste material, including stalks, stems, roots, and leaves, without being subject to criminal prosecution or civil penalties.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Interaction with Consumer	**7.1**	**Purchase of Marijuana by Residents and Visitors**	Amendment 64 authorizes persons in Colorado to possess up to one ounce of marijuana. The Task Force therefore recommends that the General Assembly clarify that all persons aged twenty-one years or older – resident or a visitor – shall be permitted to purchase marijuana for personal use. However, the Task Force recommends that the General Assembly consider imposing a reasonable per-transaction limit of less than one ounce of marijuana and marijuana-infused products for both Colorado residents and visitors. The Task Force further recommends that the General Assembly consider setting per-transaction purchase limits that are more restrictive for non-residents than for residents.
Implementing Authorities • Governor • Colorado General Assembly • Colorado Department of Revenue			

Category	ID	Title	Recommendation
Interaction with Consumer	**7.2**	**Automated Dispensing Machines**	The Task Force recommends that the General Assembly enact no statute either prohibiting or requiring the use of marijuana secured automated dispensing systems within licensed retail marijuana stores. Specific statutory provisions permitting or prohibiting secured automated dispensing systems are not necessary, because the use of a secured automated dispensing system should be a business decision on the part of retail marijuana stores, provided that security measures are in place to verify the age and the residency of the consumer. Such security measures surrounding secured automated dispensing systems should be established in regulation.
Implementing Authorities • Governor • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Consumer Safety	**8.1**	**Signage, Marketing, and Advertising**	The Task Force recommends that the General Assembly enact legislation that allows both state and local governments to have a role in establishing rules and regulations to govern the signage, marketing, and advertising of marijuana and associated products. The legislation should require certain guidelines at the state level, and also allow for further limitations at the local level. Guidelines at the state level for packaging, signage, and marketing should include the following: 1. Prohibit all mass-market campaigns that have a high likelihood of reaching minors (billboards, television, radio, direct mail, etc.). Advertising in adult-oriented newspapers and magazines would be allowed. 2. Allow branding on product packaging and consumption accessories. 3. Allow only marijuana products and marijuana-related accessories to be offered in retail marijuana stores. Prohibit the sale of traditional (non-marijuana) food, beverage, personal care items (lotions, lip balms) so there is no confusion that all products sold in an adult-use marijuana retail establishment do include marijuana. 4. Prohibit health or physical benefit claims in advertising, merchandising, and packaging. 5. Allow edible product labels to list ingredients, cannabinoid content (including but not limited to THC), and compatibility with dietary practices (such as gluten-free, contains nuts, vegan, etc.). 6. Allow opt-in marketing on the web and location-based devices (mobile) as long as there is an easy and permanent opt-out feature. No unsolicited pop-up advertising is allowed. Banner ads would only be allowed on adult-oriented sites like Westword (not Facebook or mass market sites). Marijuana retailers will be allowed to host their own websites. 7. Allow opt-in marketing programs such as email clubs (as long as opt-out feature is provided).
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Local Governments			

Category	ID	Title	Recommendation
Consumer Safety	**8.2**	**Packaging Requirements**	The Task Force recommends that the General Assembly pass appropriate legislation: (1) indicating that all types of marijuana sold from regulated retail facilities should be regulated (including packaging and labeling) in a manner similar to the Poison Prevention Packaging Act of 1970 (the "PPPA"), 15 U.S.C. §§ 1471-1476, and the corresponding regulations promulgated by the Consumer Product Safety Commission, and (2) granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment (CDPHE), to promulgate appropriate regulations of packaging of both medical and non-medical Marijuana-infused Products (collectively "MIP") AND any other medical marijuana and non-medical marijuana items on any licensed premises ("Other Marijuana Consumer Items"). The Task Force further recommends that the rules promulgated by the Colorado Department of Revenue related to packaging should require that both MIPs and Other Marijuana Consumer Items leave a licensed Medical Marijuana Center (MMC) or Retail Marijuana Store (RMS) in packaging that meets the regulatory standards (the "Standards") as defined by CDPHE. This would be accomplished by allowing three separate and distinct processes to achieve compliance where all MIPs and Other Marijuana Consumer Items that leave an MMC or RMS in possession of a consumer are EITHER: (1) packaged by the manufacturer in packaging that meets the Standards, (2) packaged by the operator of the MMC or RMS prior to the point-of-sale in a package or container that meets the Standards, OR (3) placed in a "exit package / container " that meets the Standards at the point-of-sale prior to exiting the store, with the compliance expectation and burden placed upon the operator of an MMC or RMS. In addition to meeting the Standards, the operator of the MMC or RMS shall also be required to place all MIPs and Other Marijuana Consumer Items in a sealed, non-transparent or opaque package, container or other receptacle (including, but not limited to, a brown paper bag that is stapled shut) at the point-of-sale. This requirement shall not apply to MIPs and Other Marijuana Consumer Items that are already packaged by the manufacturer in a sealed, non-transparent, or opaque package, container, or other receptacle that meets the Standards.

Implementing Authorities

- Colorado General Assembly
- Colorado Department of Revenue
- Colorado Department of Public Health and Environment

Category	ID	Title	Recommendation
Consumer Safety	**8.3**	**Labeling Requirements**	The Task Force recommends that the General Assembly: (1) authorize the Colorado Department of Revenue to adopt comprehensive labeling requirements for saleable products containing cannabis; and (2) determine appropriate enforcement agencies for labeling and packaging violations.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Consumer Safety	**8.4**	**THC Potency Labeling**	The Task Force recommends that the General Assembly require that all adult-use marijuana products be labeled to indicate either: 1. Total THC content as % by weight; OR 2. Total mg dose for activated THC or TOTAL THC.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue			
Consumer Safety	**8.5**	**THC Potency Limits on Infused Products**	The Task Force recommends that the General Assembly pass appropriate legislation granting regulatory authority to the Colorado Department of Revenue, with appropriate assistance from the Colorado Department of Public Health and Environment, to promulgate rules relating to edible forms of marijuana products. Those rules should initially establish that a "serving" of marijuana in edible form (not including concentrates, topicals, or similar products) shall have no more than 10 mg of active THC. The product labels shall clearly provide the total number of servings in any single product package and identify the "serving size" for items that are packaged together. The General Assembly should also grant authority to the Colorado Department of Revenue to create labeling guidelines concerning the total content of THC per unit of weight, similar to the "proofing" of alcohol, namely milligrams of THC divided by total gram weight of the edible product. The General Assembly should also grant authority to the Colorado Department of Revenue to create regulations establishing appropriate limitations on the total THC content that can be contained in a single package containing multiple servings of an edible food-type marijuana product, with any such limitation to be established at no less than 200mg of total active THC per package. These limitations on the number of servings should only apply to non-medical food-type products that are infused with activated forms of THC that are also packaged in smaller serving sizes and therefore have a reasonable possibility of being over-consumed accidentally. These limitations should NOT apply to marijuana concentrates, tinctures, topicals, or products that are sold in pill, capsule or similar form, it being the intention of this recommendation to prevent accidental overconsumption of a single food-type product or products contained in one package. This recommendation specifically contemplates that larger multi-serving food-type products shall be permitted if labeled in accordance with applicable regulations.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment			

Category	ID	Title	Recommendation
Consumer Safety	**8.6**	**Regulation of Additives in Marijuana Products**	The Task Force recommends that the General Assembly pass appropriate legislation to direct the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or the appropriate regulatory body to prohibit or regulate additives to any marijuana product including, but not limited to, combustible, vaporized, and edible products, that in the view of the regulatory body are: 1) toxic, 2) designed to make the product more addictive, 3) designed to make the product more appealing to children, or 4) misleading to consumers. The following definition of an additive is derived from the Food and Drug Administration's (FDA) guidance for the tobacco industry and adapted for application to the marijuana industry: "Additive" means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of a marijuana product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include marijuana or a pesticide chemical residue in or on raw marijuana or a pesticide chemical. It should be noted that, for purposes of regulating additives in marijuana products, an additive does not include common baking and cooking items.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Consumer Safety	**8.7**	**Prohibiting Adulterants – Nicotine**	The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of any marijuana products that contain nicotine.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Consumer Safety	**8.8**	**Prohibiting Adulterants – Alcohol**	The Task Force recommends that the General Assembly pass appropriate legislation to prohibit the sale of products that combine marijuana and any alcohol that requires a liquor license to be sold.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue			

Category	ID	Title	Recommendation
Good Cultivation	**9.1**	**Cultivation and Handling Standards**	To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that: 1. An appropriate governmental agency, either the Colorado Department of Agriculture, the Colorado Department of Revenue, the Colorado Department of Public Health and Environment, or a combination of these agencies, shall be authorized by statute to create a list of substances banned for use in the cultivation or processing of marijuana based upon that in current Rule 14.100(E) for medical marijuana; 2. Labeling of all products shall include a list of all pesticides, herbicides, fungicides, and solvents that were used in its cultivation or processing. It should be noted that the regulation should not address whether the products used are appropriate or legal under applicable agricultural laws or regulations.
Implementing Authorities • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Good Cultivation	**9.2**	**Good Cultivation and Handling Practices Advisory Group**	To help ensure the safety and consistency of plant products sold to Colorado consumers, the Task Force recommends that: 1. The Colorado Department of Agriculture, the Department of Revenue, the Colorado Department of Public Health and Environment, and any other relevant agency should be authorized by statute to work with any private advisory group that may be established to develop Good Cultivation and Handling Practices (GCHP) for the marijuana industry. These agencies should strongly urge the industry to form such a group. 2. Participation by producers in such a GCHP advisory group shall be voluntary, but labeling may include certification of compliance with GCHP by an independent third party authorized under the provisions of the GCHP advisory group.
Implementing Authorities • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment • Private Industry			

Category	ID	Title	Recommendation
Good Cultivation	**9.3**	**Good Laboratory Practices Advisory Group**	To help ensure the safety and consistency of marijuana products sold to Colorado consumers, the Task Force recommends that the adult-use marijuana industry be urged to establish a private advisory group by January 1, 2014, to develop Good Laboratory Practices ("GLP") for marijuana testing laboratories, and that the Colorado Department of Public Health and Environment, the Colorado Department of Agriculture, the Department of Revenue, and any other relevant agency be authorized by statute to work with such group in the development of GLP.
Implementing Authorities • Colorado General Assembly • Colorado Department of Agriculture • Colorado Department of Revenue • Colorado Department of Public Health and Environment			
Marijuana Education and Studies	**10.1**	**Education Oversight Committee**	To help ensure the adequate education of consumers, retailers, and the public about marijuana and Amendment 64, the Task Force recommends that an appropriate governmental agency, such as the Colorado Department of Public Health and Environment (CDPHE), the Colorado Department of Human Services (CDHS), the Colorado Department of Public Safety (DPS), local law enforcement agencies, and local governments, shall be authorized by the General Assembly in statute to establish an Educational Oversight Committee composed of those familiar with relevant issues. The Committee will develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and additional issues as they arise.
Implementing Authorities • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Health and Environment • Colorado Department of Public Safety • Local Law Enforcement Agencies, Local Government			

Category	ID	Title	Recommendation
Marijuana Education and Studies	**10.2**	**Marijuana Education for Professionals**	The Task Force recommends that the appropriate governing body or group encourage that marijuana education (on impairment, paraphernalia, risks, home cultivation, etc.) be made available for continuing education credit in the following professions in Colorado: • Medical (doctors/nurses/pharmacists): Colorado Medical Society, Colorado Pharmacists Society • First Responders (firefighters & EMTs): Colorado State Firefighters Association, Emergency Medical Services Association of Colorado • Legal: Colorado Bar Association • Law Enforcement: police academies, state patrol, Peace Officer Standards and Training (POST), Colorado Association of School Resource Officers • K-12 Educators/Counselors: Colorado Education Association and Colorado Department of Education • Microbiologists: American Society for Microbiologists • Prevention Specialists: Co Office of Behavioral Health • Coroners: Colorado Coroners Association • University Staff/Professors: Colorado Commission on Higher Education, BACCHUS Network • Counselors, Social Workers, Psychologists: Colorado Health Partnerships, Colorado Counseling Association, Mental Health America and Marijuana Anonymous; Certified Addictions Counselors; Colorado Society of National Association of Social Workers • Child Welfare Workers: Co Department of Human Services • Veterinarians: Colorado Veterinary Medical Association, Colorado Association of Certified Veterinary Technicians • Home Growers: Colorado Independent Marijuana Growers Association, Cannabis Therapy Institute, Cannabis Trade Council • Insurers: Colorado Group Insurance Association, Colorado Insurance Guaranty Association, and Professional Independent Insurance Agents of Colorado • Bankers: Department of Regulatory Agencies Division of Banking, Banking and Securities Commission • Tour Companies/Tour Providers: Colorado Tourism, Co Outfitters Association, Co River Outfitters Association • Transportation Providers (bus services and airlines providing inter-state travel and beyond): Each private company and Colorado Department of Transportation • Bar Owners/ Liquor Store Owners: Colorado Liquor Enforcement Division and trainers such as Training for Intervention Procedures (TIPS) (revisions coming due to introduction of marijuana) • Others as applicable

Implementing Authorities

- Colorado General Assembly
- Colorado Department of Public Health and Environment

Category	ID	Title	Recommendation
Marijuana Education and Studies	**10.3**	**Marijuana Education for the Public**	The Task Force recommends that the General Assembly authorize funding for the development of educational materials for: 1. The citizens of Colorado on smart use of marijuana • Establish an unbiased, fact-based web site/informational center regarding all aspects of marijuana, including: the various types of marijuana products, their differences, effects, concentrations, spectrum of methodologies to ingest marijuana, the pros/cons of using marijuana, health & safety concerns, impairment issues that may affect driving, parenting, etc. • The General Assembly should determine who should operate the site and manage content • Brochures should be made available at the time of purchase 2. Marijuana use prevention for those under age 21 • Target markets include parents, students, and educators • Materials can include websites, brochures, billboards, public service announcements, etc. The Task force further recommends that the state leverage available resources by integrating these educational efforts with existing educational efforts to prevent the abuse of alcohol, tobacco, prescription drugs, and illegal drugs. These efforts will require oversight by an appropriate state agency or department, such as the Colorado Department of Human Services (CDHS) and/or the Colorado Department of Public Health and Environment (CDPHE).
Implementing Authorities • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Health and Environment			

Category	ID	Title	Recommendation
Marijuana Education and Studies	**10.4**	**Studies of the Health Effects of Marijuana**	To protect public health and safety, the Task Force recommends that the Colorado Department of Public Health and Environment (CDPHE) be given statutory responsibility for monitoring the emerging science relevant to the study of health effects associated with marijuana use. This review function would be conducted periodically by a panel of health care professionals with an understanding of cannabinoid physiology, appointed by the State Board of Health. The panel would be required to report to the Board of Health, the Department of Revenue, and the General Assembly every two years. The panel would be charged with establishing criteria for studies to be reviewed, reviewing studies and other data, and making recommendations, as appropriate, for policies intended to protect consumers of marijuana products and the general public. CDPHE would be authorized to collect Colorado-specific data that reports adverse health events involving marijuana use. Sources of data may include, but not be limited to, the All Payer Claims Database, hospital discharge data, and Behavioral Risk Factor Surveys (BRFS). The results of the Panel's work would be made available on the CDPHE website. An additional 2-3 staff members are projected to be needed at CDPHE to coordinate this effort, support the panel, gather, review, and analyze data, and provide administrative support.

Implementing Authorities

- Colorado General Assembly
- Colorado Department of Public Health and Environment
- Independent experts

Category	ID	Title	Recommendation
Marijuana Education and Studies	**10.5**	**Study of Law Enforcement Activity**	The Task Force recommends that the General Assembly grant authority to the Colorado Department of Public Safety or an authorized independent entity to gather data and undertake a scientific study of law enforcement's activity and costs related to Amendment 64 over a two-year period, beginning in January 2013. *Topics of study should include:* • Marijuana-related contacts by law enforcement, broken down by race and ethnicity • Drug use, broken down into age categories and specific drugs, to include marijuana • School data, to include suspensions, expulsions, and police referrals related to drug use and sales, broken down by specific drug categories • Marijuana arrest data, including amounts of marijuana with each arrest and broken down by race and ethnicity • Traffic accidents, to include fatalities and serious injuries related to being under the influence of marijuana • Diversion of marijuana to persons under the age of 21 • Diversion of marijuana out of Colorado • Crime occurring in and around marijuana establishments • Parcel services, to include US Postal Service, UPS and FedEx • Data related to drug-endangered children, specifically for marijuana • Treatment information • Probation data • Impact on tourism • Emergency room data, including information from Colorado Poison Control Center • Outdoor marijuana cultivation facilities • Money laundering The goal of the study is to obtain objective information on criminal activity related to the passage of Amendment 64. As such, it should be based on facts and evidence, and be conducted according to rigorous standards of scientific inquiry. The study should be coordinated with the work of the CDPHE study panel concurrently recommended by this Task Force (see recommendation 10.4) to review the health effects associated with marijuana use, to avoid any potential overlap and duplication of efforts.

Implementing Authorities

- Colorado General Assembly
- Colorado Department of Public Safety
- Colorado Department of Public Health and Environment

Category	ID	Title	Recommendation
Child Care Facilities	**11.1**	**Child Care Licensing Consequences**	The Task Force recommends that the General Assembly establish consequences for any child care facility or individual licensee for using or being under the influence of marijuana, or whose employees or affiliates on the premises are using or under the influence of marijuana, at a child care facility during operating hours. The Task Force further recommends that Section 26-6-108(c), C.R.S. - Denial of license – suspension, be amended to include statutory language providing for the use of, or being under the influence of, marijuana during operating hours as subject to licensing consequences, as for alcohol, if it is consumed at the facility or if any affiliate, individual employed by, person who resides at the facility, or the licensee themselves are under the influence of marijuana during the operating hours of the facility.
Implementing Authorities • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Safety • Colorado Department of Public Health and Environment			
Child Care Facilities	**11.2**	**Excluding Cultivation in a Child Care Family Home**	The Task Force recommends that Section 26-6-102(4), C.R.S. be amended to include statutory language explicitly excluding the practice of home marijuana cultivation in a "Family Child Care Home," in light of the passage of Amendment 64.
Implementing Authorities • Colorado General Assembly • Colorado Department of Human Services • Colorado Department of Public Health and Environment			
Criminal Law	**12.1**	**Support for HB 13-1114 Regarding Penalties for DUID**	The Task Force recommends that the General Assembly enact House Bill 13-1114, Concerning Penalties for Persons Who Drive While Under the Influence of Alcohol or Drugs.
Implementing Authorities • Governor • Colorado General Assembly • Colorado Department of Public Safety • Colorado Department of Public Health and Environment • Local Governments			

Category	ID	Title	Recommendation
Criminal Law	**12.2**	**ARIDE Training for Colorado Law Enforcement Officers**	The Task Force recommends that the General Assembly require Advanced Roadside Impaired Driving Enforcement (ARIDE) training as a mandatory training element in future Colorado Peace Officer Standards and Training (POST) certification, and encourage local law enforcement agencies to have their peace officers trained in ARIDE, to increase and enhance the ability of law enforcement officers to detect impaired driving. ARIDE is a program developed by the National Highway Traffic Safety Administration (NHTSA) with input from the International Association of Chiefs of Police (IACP) Technical Advisory Panel (TAP). It was created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation and Classification (DEC) Program.
Implementing Authorities • Colorado Attorney General • Colorado Department of Public Safety • Local Governments • Local Law Enforcement Agencies			

Category	ID	Title	Recommendation
Criminal Law	**12.3**	**Revisions to the Criminal Code**	The Task Force recommends the following revisions to Title 18, C.R.S. (The Criminal Code) as follows: 1. Add to Section 18-18-102: (35.5) "Transfer" means to deliver or convey. 2. Add to Section 18-18-406 (1.1): Any adult under 21 years of age who possesses one ounce of marijuana or less shall upon the first offense be subject to a civil charge of not more than $100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may be referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions. 3. Modify Section 18-18-406 (5) to read: Transferring more than one ounce but not more than two ounces of marijuana from one person twenty-one years of age or over to another person twenty-one years of age or over for no consideration is a class 2 petty offense and shall not be deemed dispensing or sale thereof. Revise Section 18-18-425 as follows: This statute does not recite a substantive chargeable offense, but rather clarifies legislative intent behind enactment of statutes criminalizing possession, manufacture, sale, delivery, and advertisement drug paraphernalia. The General Assembly should revise this legislative declaration in light of Article 18, Section 16 of the Colorado Constitution, given that a person 21 or over now has a constitutional right to possess accessories for the purpose of using marijuana. 4. Modify Section 18-18-426 (opening statement) to read: Except as authorized in Article 18, Sections 14 and 16 of the Colorado Constitution, as used in Sections 18-18-425 to 18-18-430, unless the context otherwise requires: 5. Add to Section 18-18-428(3): Any person under 21 years of age who possesses drug paraphernalia used, designed, or intended for use in consuming marijuana shall upon the first offense be subject to a civil charge of not more than $100 as well as treatment and conditions as may be established by a court or magistrate. Failure to comply with the terms and conditions of such civil order shall subject the person cited to contempt of court or the matter may referred back to the citing law enforcement agency and may be re-filed as a class 2 petty offense under this title. Any re-filing must occur within one year from the date of said civil court order establishing terms and conditions. "First offense" is defined in this context as any marijuana offense under Section 18-18-406, C.R.S. that involves any official action, which shall include: conviction, adjudication, non-judicial diversion, deferred prosecution, deferred sentence or civil citation. Said first offense must occur within 3 years of any subsequent offense.
Implementing Authorities • Governor • Colorado General Assembly			

Category	ID	Title	Recommendation
Criminal Law	**12.4**	**Consequences for Transfer of Marijuana to 18- to 20-Year-Olds**	The Task Force recommends that the General Assembly amend Section 18-18-406(7), C.R.S. to establish consequences for the transfer of marijuana by any person 21 years of age or over to any person 18 to 20 years of age.
Implementing Authorities • Colorado General Assembly			
Criminal Law	**12.5**	**Consequences for Juvenile Possession**	The Task Force recommends that the General Assembly establish consequences for persons under age eighteen for possession of less than one ounce of marijuana first offense. Amend Section 18-13-122, C.R.S. - Minor in Possession of Alcohol to add Section 18-13-122.1, C.R.S. - Minor in Possession of Marijuana. Amend Section 18-18-406(1), C.R.S - Possession of less than two ounces of marijuana to add a new statute – Possession of less than one ounce of marijuana first offense by a juvenile. Establish in the statutory language a definition of first offense (see recommendation 12.3 for suggested language). Amend these two statutes to provide for education and treatment for juveniles in possession of less than one ounce of marijuana first offense without the consequences of a conviction in municipal court because of a petty offense, as per current law, or an adjudication under juvenile law, which could eventually result in detention or commitment to the Division of Youth Corrections. Limit the consequences of possession of less than one ounce of marijuana first offense by a juvenile to education and treatment as ordered by the juvenile court, without the collateral consequences of a juvenile adjudication, by providing a civil summons to juvenile court. The consequences of the civil violation should include but not be limited to education and/or treatment as determined by the juvenile court.
Implementing Authorities • Governor • Colorado General Assembly			

Category	ID	Title	Recommendation
Criminal Law	**12.6**	**Personal Transport of Marijuana**	The Task Force recommends that the General Assembly amend existing motor vehicle statutes to reflect the care required of consumers transporting marijuana in motor vehicles. The legislature should consider introducing a bill based on Section 42-4-1305, C.R.S (Open alcoholic beverage container – motor vehicle – prohibited) that would prohibit marijuana in motor vehicles in a manner similar to how alcoholic beverage containers that have been previously opened and resealed by a licensed alcohol beverage retailer are prohibited. The legislature should consider, but not be limited to, the following issues: accessibility to occupants; differences in containment and sealing of commercial versus home grown marijuana; and differences in containment and sealing of marijuana and marijuana products versus alcoholic beverages.
Implementing Authorities • Colorado General Assembly • Colorado Department of Revenue • Local Governments			
Local Civil Offenses	**13.1**	**Amendments to the Colorado Clean Indoor Air Act**	The Task Force recommends that the General Assembly enact legislation revising the Colorado Clean Indoor Air Act, Section 25-14-201-209, C.R.S. to incorporate marijuana smoke. The following changes are proposed: Section 25-14-202: Change "tobacco smoke" to "tobacco and marijuana smoke"; change "tobacco products" to "tobacco products and combustible marijuana". Section 25-14-203: Insert definition "(11.5) "Marijuana" as defined in the Colorado Constitution, Article XVIII, Section 16(2)(f). Section 25-14-203(16): Delete the words "medical" and "as defined by section 12-43.3-104(7), C.R.S." from the definition of "Smoking". Section 25-14-204(1): Change "tobacco smoke" to "tobacco and marijuana smoke". The Task Force further recommends that there should be no exemption that would allow the smoking of marijuana in "cigar bars," smoking clubs, or similar establishments where tobacco smoking is allowed.
Implementing Authorities • Colorado General Assembly			

Category	ID	Title	Recommendation
Local Civil Offenses **Implementing Authorities** • Colorado General Assembly • Local Governments	**13.2**	**Clarification of an Offense**	The Task Force recommends that the General Assembly adopt legislation to define "offense" under Amendment 64 as a criminal violation and not a civil violation. Such definitional clarification will allow local jurisdictions to enforce marijuana laws and regulations through civil actions such as injunctive relief and civil fines.
Home Cultivation and Processing of Marijuana **Implementing Authorities** • Colorado General Assembly	**14.1**	**Enclosed, Locked Space and Not Growing Openly or Publicly**	The Task Force recommends that the General Assembly adopt statutes defining the following terms as they relate to the cultivation of adult-use marijuana in Amendment 64, Section (3)(b): "ENCLOSED, LOCKED SPACE": ENCLOSED SPACE means: A permanent or semi-permanent area, covered from above and surrounded on all sides. See Section 42-4-201, C.R.S. The temporary opening of windows or doors or the temporary removal of wall or ceiling panels, does not convert the area into an unenclosed space. See Section 25-14-203, C.R.S. Some examples include, but are not limited to the following: a shed, a greenhouse, a trailer, a residence, a building, a room inside a building. An indoor area can include any enclosed area or portion thereof. LOCKED SPACE means: The area where cultivation occurs must be secured at all points of ingress and egress with a locking mechanism designed to limit access, such as a key or combination lock. Reasonable time shall be allowed for ingress and egress from the enclosed, locked space. If the cultivation area is located in a residence and a person under twenty-one years of age lives at that residence, the cultivation area within the residence must itself be enclosed and locked. If no person under twenty-one years of age lives at a residence where cultivation occurs, the external locks of the residence are sufficient to meet the definition of "enclosed, locked space". If someone under twenty-one years of age temporarily enters such a residence, the owner must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence. "GROWING IS NOT CONDUCTED OPENLY OR PUBLICLY": OPENLY means: Not protected from unaided observations lawfully made from outside its perimeter not involving physical intrusion. PUBLICLY means: The area is open to general access without restriction.

Category	ID	Title	Recommendation
Home Cultivation and Processing of Marijuana	**14.2**	**Prohibiting the Use of Flammable Gases**	The Task Force recommends that the Attorney General, the General Assembly, and local governments review current statutes and ordinances relating to the residential use of compressed, flammable gases including, but not limited to, butane, propane, and hexane. State and/or local governments should clearly establish in applicable law and/or ordinances that the use of these compressed, flammable gasses as solvents in the extraction of THC and other cannabinoids in residential settings is unlawful.
Implementing Authorities • Colorado General Assembly • Attorney General • Local Governments			
Requests for Federal Assistance	**15.1**	**Banking Solutions for Legal Marijuana Businesses**	The Task Force recommends that the General Assembly consider all lawful alternatives to assist marijuana businesses to access the banking system, which includes banks, credit unions, and other financial institutions. One such alternative would be to consider a joint resolution calling on the federal government to take action by excepting marijuana businesses in states with legalized marijuana industries from relevant federal regulations. Another alternative would be to authorize and fund a study by an independent policy institute with experience in banking laws and regulations, to develop a proposal for a financial institution not subject to federal regulation. An independent policy institute could also be authorized to survey other states with legal marijuana industries for alternative models that would avoid to the greatest extent possible any federal regulatory or criminal nexus.
Implementing Authorities • Colorado General Assembly			

Category	ID	Title	Recommendation
Requests for Federal Assistance	**15.2**	**Business Deductions for Legal Marijuana Businesses**	The Task Force recommends the following actions geared at securing the right of legal marijuana businesses in Colorado to claim business expenses on their federal and state tax returns: 1. The General Assembly should allow legal marijuana businesses to claim state income tax deductions for expenditures that would be eligible to be claimed as federal income tax deductions, but are disallowed by the federal Internal Revenue Code (IRC), Section 280E – Expenditures in connection to the illegal sale of drugs - because of the status of marijuana as a controlled substance under the Controlled Substances Act (CSA). 2. The General Assembly should pass a resolution requesting that the federal government reform IRC, Section 280E, not to be applicable to legal marijuana businesses in Colorado. 3. The Governor of Colorado should contact and attempt to create a bi-partisan coalition of state governors to advocate for reform of IRC, Section 280E. 4. The Governor should contact and attempt to create a bi-partisan coalition of the Colorado congressional delegation to advocate for reform of IRC, Section 280E.
Implementing Authorities • Governor • Colorado General Assembly • Coalition of State Governors • Coalition of the Colorado Congressional Delegation			
General Recommendations	**16.1**	**Maintaining the Status Quo for Employers and Employees**	The Task Force affirms that the plain language of Amendment 64, Section 6(a) makes it clear that the intent of the voters was to maintain the status quo for employers and employees, and that employers may maintain, create new, or modify existing policies in response to the passage of the measure. The Task Force recommends that employers should be encouraged to review current drug-free workplace policies, including but not limited to hiring, sanctioning, termination, and drug testing, in response to passage of the measure.
Implementing Authorities • Governor • Employers • Local Governments			

Category	ID	Title	Recommendation
General Recommendations	**16.2**	**Maintaining the Status Quo for Property Owners**	The plain language of Amendment 64 Section 6(d) makes it clear that the intent of the voters was to maintain the status quo for Colorado property owners. The Task Force therefore recommends that the General Assembly adopt no new statutes or regulations modifying existing Colorado property law related to adult-use marijuana. The Task Force also recommends that violations of a real property owner's policies regarding possession or consumption of marijuana on said property be treated similarly to the violation for possession or consumption of alcohol on the premises, including any civil or criminal consequences.
Implementing Authorities • Colorado General Assembly			
General Recommendations	**16.3**	**Enforcement of Contracts**	The Task Force recommends that the General Assembly clarify in statute that it is the public policy of Colorado that contracts shall not be void or voidable on the basis that the subject matter of the contract pertains to or the parties are, or are associated with, individuals or businesses that are operating pursuant to Colorado's marijuana laws.
Implementing Authorities • Colorado General Assembly			
General Recommendations	**16.4**	**Legislation on Industrial Hemp**	The Task Force recommends that the General Assembly adopt legislation during the 2013 session authorizing the cultivation, processing, and sale of industrial hemp. Such legislation should delegate to the Commissioner of Agriculture authority to establish regulatory requirements for registration and inspection for those wanting to grow or process industrial hemp. The Commissioner should work with stakeholders to address relevant issues, and should promulgate a final rule no later than December 31, 2013.
Implementing Authorities • Colorado General Assembly • Colorado Department of Agriculture			
Follow-Up to the Work of this Task Force	**17.1**	**Formation of a Follow-Up Task Force in Three Years**	The Task Force recommends that the Governor form a new task force in December 2015, three years from the declaration of the vote on Amendment 64 and from the formation of the present Task Force. The new task force should review these recommendations in light of the actual implementation of Amendment 64 and make recommendations for improving the regulation of adult-use marijuana in Colorado, including providing advice in advance the sunset review to be conducted in 2016 for the Vertical Integration model proposed in recommendation 1.1.
Implementing Authorities • Governor			