

The People of the State of Colorado do enact as follows:

Article XVIII of the Constitution of the State of Colorado is amended **BY THE ADDITION OF A NEW SECTION** to read:

Section 16. Equalization of Cannabis Laws for Safer Communities.

(1) **Purpose and Findings.** The People of the State of Colorado hereby find and declare:

- (a) **CANNABIS PROHIBITION HAS FAILED AND HAS RESULTED IN AN ENORMOUS UNREGULATED MARKET, FACILITATING WIDESPREAD USE BY MINORS, UNTAXED PROFITS BY CRIMINAL ENTERPRISES, AND THE EXPANSION OF CRIME.**
- (b) **ENDING CANNABIS PROHIBITION WILL MITIGATE ILLICIT SALES AND REDUCE FISCAL BURDENS ON STATE AND LOCAL GOVERNMENTS.**
- (c) **REGULATING CANNABIS IN THE SAME MANNER AS TOBACCO IS RATIONAL AS CANNABIS IS SAFER THAN ALCOHOL, CULTIVATED, PROCESSED AND CONSUMED LIKE TOBACCO, AND STATE TOBACCO REGULATIONS PROHIBIT SALES TO AND USE BY MINORS.**
- (d) **THE CANNABIS INDUSTRY WILL CREATE NEW JOBS AND GENERATE MILLIONS IN TAX REVENUE, WHICH CAN HELP SUPPORT SAFER COMMUNITIES IN PART BY FUNDING PUBLIC SCHOOLS, HEALTH CARE AND DRUG REHABILITATION PROGRAMS.**
- (f) **PROVIDING ALL COLORADANS EQUAL ACCESS TO ECONOMIC AND EMPLOYMENT OPPORTUNITIES IN THE CANNABIS INDUSTRY BENEFITS COLORADO COMMUNITIES AND CREATES NEW AGRICULTURAL OPPORTUNITIES FOR COLORADO FARMERS.**

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

- (a) **“CANNABIS” MEANS ALL SPECIES OF NATURALLY OCCURRING AND SUSTAINABLY PRODUCED PLANTS OF THE GENUS CANNABIS SATIVA L INCLUDING ANY DERIVATIVE, CONCENTRATE, EXTRACT, FLOWER, LEAF, PARTICLE, PREPARATION, RESIN, ROOT, SALT, SEED, STALK, STEM, OR ANY PRODUCT THEREOF. HOW EVER THERE IS A LEGAL DISTINCTION BETWEEN CANNABIS PRODUCTS AND HEMP PRODUCTS.**
- (b) **“PARAPHERNALIA” MEANS EQUIPMENT, PRODUCTS AND MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE, IN PLANTING, PROPAGATING, CULTIVATING, HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, LABELING, STORING, CONCEALING, CONTAINING, INGESTING, INHALING, AND OR OTHERWISE INTRODUCING INTO THE HUMAN BODY CANNABIS PRODUCTS.**
- (c) **“THC” MEANS ONLY ACTIVE DELTA-9-TETRAHYDROCANNABINOL AND ITS 11-HYDROXY METABOLITE, BUT WILL NOT INCLUDE ANY OTHER PRECURSOR ACIDS AND OR METABOLITES.**
- (d) **“MSA” MEANS THE MASTER SETTLEMENT AGREEMENT, THE SMOKELESS TOBACCO MASTER SETTLEMENT AGREEMENT, AND THE CONSENT DECREE APPROVED AND ENTERED BY THE COURT IN THE CASE DENOMINATED STATE OF COLORADO, EX REL. GALE A. NORTON, ATTORNEY GENERAL V. R.J. REYNOLDS TOBACCO Co.; AMERICAN TOBACCO Co., INC.; BROWN & WILLIAMSON TOBACCO CORP.; LIGGETT & MYERS, INC.; LORILLARD TOBACCO Co., INC.; PHILIP MORRIS, INC.; UNITED STATES TOBACCO Co.; B.A.T. INDUSTRIES, P.L.C.; THE COUNCIL FOR TOBACCO RESEARCH--U.S.A., INC.; AND TOBACCO INSTITUTE, INC., CASE No. 97 CV 3432, IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER.**
- (e) **“CANNABIS BUSINESSES” MEANS THE CANNABIS EQUIVALENT TO PRE-EXISTING COLORADO STATE LEVEL TOBACCO BUSINESS LICENSES AND STATE LEVEL CIGAR AND PIPE TOBACCO LAW AND REGULATIONS. I.E CANNABIS RETAILER, CANNABIS PRODUCTS DISTRIBUTOR, CANNABIS SUBCONTRACTOR. CANNABIS BUSINESSES WILL BE EXEMPT FROM THE MSA.**
- (f) **“MEDICAL MARIJUANA BUSINESSES” MEANS ANY MEDICAL MARIJUANA BUSINESS ENTITY LICENSED BY THE STATE AND LOCAL AUTHORITY TO SELL MEDICAL MARIJUANA AND OR INFUSED PRODUCTS PURSUANT THE COLORADO MEDICAL MARIJUANA CODE ARTICLE 43.3 OF TITLE 12, COLORADO REVISED STATUTES.**

- (g) **“CANNABIS PRODUCTS” MEANS ANY PRODUCT THAT CONTAINS 1% THC OR MORE THAT IS DERIVED FROM CANNABIS AND IS INTENDED TO BE INGESTED, INHALED, OR APPLIED TO THE SKIN OF AN ADULT 21 YEARS OF AGE OR OLDER; OR ANY ELECTRONIC DEVICE THAT CAN BE USED TO DELIVER 1% THC OR MORE TO AN ADULT INHALING FROM A DEVICE, INCLUDING BUT NOT LIMITED TO AN ELECTRONIC CIGARETTE, CIGAR, CIGARILLO, OR PIPE THAT CAN INDUCE EUPHORIA. CANNABIS PRODUCTS DO NOT INCLUDE CULTIVATION BY-PRODUCTS SUCH AS NON-CONSUMABLE PLANT MATERIAL, SOIL AND SEEDS. CANNABIS PRODUCTS ARE EXEMPT FROM THE MSA.**
- (h) **“HEMP PRODUCTS” MEANS ANY PRODUCT THAT IS DERIVED FROM CANNABIS THAT IS INTENDED TO BE USED ONLY FOR INDUSTRIAL AND COMMERCIAL PURPOSES SUCH AS FOOD MATERIALS, SEED, SEED CAKE, OIL, STALK, LEAF, PULP, FIBER, POLYMERS, CELL FLUID, BIOFUELS ETC... BUT WILL NOT INCLUDE ANY PRODUCTS OR EXTRACTS THAT CAN INDUCE EUPHORIA. HEMP PRODUCTS ARE EXEMPT FROM THE MSA.**
- (i) **“REASONABLE” MEANS THAT NO STATE OR LOCAL GOVERNMENT WILL ENACT OR ENFORCE AN ORDINANCE, RESOLUTION OR REGULATION THAT REQUIRES AN INVESTMENT OF MONEY, TIME, RISK, OR ANY OTHER RESOURCE OR ASSETS OR VIOLATION OF PRIVACY OR RESTRICTIONS THAT WOULD DETER OR DENY AN AVERAGE COLORADAN FROM OPERATING A CANNABIS BUSINESS.**

(3) Repeal of marijuana laws. ALL SPECIES OF THE GENUS CANNABIS SATIVA L, MARIJUANA, MARIHUANA, HEMP PLANT AND IT'S DERIVATIVES, PRODUCTS AND PARAPHERNALIA ARE HEREBY IMMEDIATELY REPEALED AND REMOVED FROM TITLE 18 OF THE COLORADO REVISED STATUTES AND FROM ANY AND ALL EXISTING STATE, COUNTY OR MUNICIPAL LAWS THAT CRIMINALIZE CANNABIS AND OTHERWISE CONFLICT WITH THE PROVISIONS OF THIS SECTION, AND FROM ANY OTHER LAWS OF THE STATE THAT CRIMINALIZE CANNABIS AS POSSESSED OR USED WITHIN THE TERMS OF THIS SECTION.

(4) Responsible Adult Use. PERSONAL CULTIVATION AND USE OF CANNABIS PRODUCTS WILL BE A CONSTITUTIONAL RIGHT AND NO COLORADAN 21 YEARS OF AGE OR OLDER WILL BE PUNISHED, HAVE THEIR PRIVACY OR INDIVIDUAL LIBERTY VIOLATED IN ANY MANNER, BE DENIED ANY RIGHT OR PRIVILEGE FOR THE:

- (a) **POSSESSION, PURCHASE, TRADING, GIFTING, TRANSPORTATION, CONSUMPTION OR LIMITED UNTAXED CULTIVATION OF CANNABIS IN AN ENCLOSED OR RESTRICTED SPACE OF 8 PLANTS; FOUR VEGETATIVE, FOUR FLOWERING AND 4 OUNCES OF CONSUMABLE RAW CANNABIS PRODUCTS PER MONTH IF THERE IS ONLY ONE ADULT RESIDING IN THE HOUSEHOLD, OR 16 PLANTS; 8 VEGETATIVE, 8 FLOWERING AND 8 OUNCES OF CONSUMABLE RAW CANNABIS PRODUCTS PER MONTH IF THERE ARE TWO OR MORE ADULTS RESIDING IN THE HOUSEHOLD.**
- (b) **PRIVATELY CULTIVATED AMOUNTS EXCEEDING THESE LIMITS SHALL REQUIRE REMITTANCE OF TAX TO THE COLORADO DEPARTMENT OF REVENUE. THE SALE OF ANY AMOUNT OF CANNABIS OR CANNABIS PRODUCTS SHALL REQUIRE THE APPROPRIATE LICENSES.**

(5) Lawful Business Operation. NO BUSINESS, CORPORATE ENTITY OR IT'S AGENTS WILL BE PROSECUTED, DENIED ANY RIGHT OR PRIVILEGE, NOR BE SUBJECT TO ANY SEIZURE, ASSET FORFEITURE, AND OR ANY CRIMINAL OR CIVIL PENALTY OR SANCTION FOR THE STATE LICENSED MANUFACTURE, POSSESSION, RESEARCH, TESTING, ANALYZING, TRANSPORTATION, DISTRIBUTION, PURCHASE, SALE, DISPLAY, DISPENSING OR SERVING OF CANNABIS PRODUCTS AND OR CANNABIS.

(6) Licensing and Regulation. THE LEGISLATURE WILL AUTHORIZE THE DEPARTMENT OF REVENUE ALCOHOL, CANNABIS AND TOBACCO ENFORCEMENT DIVISION AS THE SOLE AGENCY TO ENACT REASONABLE LICENSING AND REGULATIONS FOR CANNABIS BUSINESSES NO LATER THAN THE FIRST LEGISLATIVE SESSION AFTER THIS SECTION IS ADOPTED. CANNABIS BUSINESSES AND CANNABIS PRODUCTS ARE TO BE REGULATED AND LICENSED IN THE SAME MANNER AS AND NO MORE EXCESSIVE OR COST PROHIBITIVE THAN THE EQUIVALENT STATE LEVEL CIGAR AND PIPE TOBACCO PRODUCTS LAWS AS EXISTED PRIOR TO JANUARY 1ST 2012, ALLOWING FOR REASONABLE LICENSE FEE ADJUSTMENTS OVER TIME. WITH THE FOLLOWING CAVEATS:

- (a) **WITH THE EXCEPTION OF CANNABIS PRODUCT SALES BEING RESTRICTED TO COLORADANS 21 YEARS OF AGE OR OLDER, SALES OF CANNABIS PRODUCTS WILL BE GOVERNED BY THE SAME RULES AS**

ESTABLISHED IN 18-13-121 CRS FOR TOBACCO SALES.

(b) CANNABIS PRODUCT RETAIL SALES TAX SHALL NOT EXCEED THE GENERAL RETAIL SALES TAX OF THE STATE, COUNTY OR MUNICIPALITY WHERE IT IS SOLD. CANNABIS PRODUCT SALES TO REGISTERED MEDICAL MARIJUANA PATIENTS SHALL BE TAX EXEMPT.

(c) ALL CANNABIS BUSINESS LICENSEES, SHAREHOLDERS AND INVESTORS SHALL BE US CITIZENS AND PRIMARY RESIDENTS OF COLORADO FOR AT LEAST ONE YEAR, AND SHALL NOT BE A LAW OFFICER AND OR EMPLOYEE OF THE STATE OR LOCAL LICENSING AUTHORITY.

(d) IN THE INTEREST OF SAFER COMMUNITIES, CANNABIS PRODUCTS WILL NOT BE SOLD, CONSUMED OR ADVERTISED IN ESTABLISHMENTS THAT SELL ALCOHOL, SERVE ANY ONE UNDER 21 OR AT GAS STATIONS.

(e) LOCAL AUTHORITIES SHALL ENACT REASONABLE ZONING LAWS AND PER CAPITA CAP ON CANNABIS BUSINESSES.

(f) WITH RESPECT TO LICENSING AND ZONING CANNABIS BUSINESSES SHALL NOT BE WITHIN 1000 FEET OF, THE REAL PROPERTY COMPRISING A PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL OR A PUBLIC OR PRIVATE COLLEGE, JUNIOR COLLEGE, OR UNIVERSITY, OR A PLAYGROUND, OR HOUSING FACILITY OWNED BY A PUBLIC HOUSING AUTHORITY, OR WITHIN 100 FEET OF A PUBLIC OR PRIVATE YOUTH CENTER, PUBLIC SWIMMING POOL, OR VIDEO ARCADE FACILITY. THE LOCAL LICENSING AUTHORITY MAY VARY THE DISTANCE RESTRICTIONS IMPOSED BY THIS SUBPARAGRAPH (F) FOR A LICENSE OR MAY ELIMINATE ONE OR MORE TYPES OF SCHOOLS, CAMPUSES OR FACILITIES FROM THE APPLICATION OF A DISTANCE RESTRICTION ESTABLISHED BY OR PURSUANT TO THIS SUBPARAGRAPH (F).

(g) A MEDICAL MARIJUANA BUSINESS THAT HAS AN APPLICATION ON FILE OR IS LICENSED AT THE TIME THIS SECTION IS ADOPTED AND THAT CHOOSES TO APPLY FOR A CANNABIS BUSINESS LICENSE SHALL BE GIVEN PRIMARY CONSIDERATION WITH RESPECT TO LICENSING.

(h) IF VOTERS APPROVE TO ENACT AN EXCISE TAX ON CANNABIS PRODUCTS, THE TAX WILL NOT EXCEED 10% OF MANUFACTURES LIST PRICE OR APPLY TO HEMP PRODUCTS OR SEEDS AND WILL BE EXEMPT FROM THE MSA.

(i) 10% OF ALL RETAIL SALES TAX REVENUE COLLECTED FROM THE SALE OF CANNABIS PRODUCTS WILL BE APPROPRIATED TO FUND K - 12 PUBLIC SCHOOLS, 10% FOR STATE FUNDED HEALTH CARE PROGRAMS, 3% FOR STATE FUNDED SUBSTANCE ABUSE AND TREATMENT PROGRAMS, AND 2% FOR STATE FUNDED PRISONER REHABILITATION PROGRAMS. SUCH EXISTING REVENUE AND THEIR DISTRIBUTION WILL NOT BE REPEALED OR REDUCED BY THE GENERAL ASSEMBLY. THE REMAINDER SHALL BE ALLOCATED TO THE GENERAL FUND.

(j) THE LEGISLATURE WILL AUTHORIZE THE DEPARTMENT OF AGRICULTURE TO ENACT REGULATIONS FOR INDUSTRIAL HEMP FARMING NO LATER THAN THE FIRST LEGISLATIVE SESSION AFTER THIS SECTION IS ADOPTED, THAT WILL BE THE SAME AS AND NO MORE EXCESSIVE OR COST PROHIBITIVE THAN ANY OTHER AGRICULTURAL CROP. HEMP PRODUCTS WILL BE TAXED NO MORE THAN OTHER AGRICULTURAL OR RETAIL PRODUCTS AND WILL BE AUTHORIZED FOR RETAIL SALES.

(7) Enforcement of the law. ALL CANNABIS OR CANNABIS PRODUCTS PRODUCED OR MANUFACTURED, WHETHER COMMERCIALY OR PRIVATELY, WITHIN THE BOUNDARIES OF THIS STATE THAT ARE WHOLLY HELD, MAINTAINED, OR RETAINED WITHIN THE BOUNDARIES OF THIS STATE WILL BE DEEMED LAWFUL. NO STATE, COUNTY OR MUNICIPAL FUNDS, LAWS, RULES OR REGULATIONS WILL BE USED TO ASSIST OR AID AND ABET IN THE ENFORCEMENT OF FEDERAL MARIJUANA LAWS AGAINST COLORADANS IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION:

(a) ANY PUBLIC OFFICER OR EMPLOYEE ACTING IN HIS OR HER OFFICIAL CAPACITY, IN VIOLATION OF THIS SECTION IS GUILTY OF A CLASS 1 MISDEMEANOR AND SUBJECT TO BE SUED FOR DAMAGES. ANY DEFENSE OF SOVEREIGN IMMUNITY TO SUCH LIABILITY IS HEREBY WAIVED.

(b) THE GENERAL ASSEMBLY NO LATER THAN THE FIRST LEGISLATIVE SESSION AFTER THIS SECTION IS ADOPTED, WILL ENACT LAWS REGARDING PENALTIES FOR UNLICENSED COMMERCIAL MANUFACTURE, DISTRIBUTION, SALE OR SERVING OF CANNABIS PRODUCTS AND POSSESSION OF CANNABIS PRODUCTS BY THOSE UNDER 21 YEARS OF AGE. THE PENALTIES WILL BE NO MORE SEVERE THAN THE EXISTING EQUIVALENT TOBACCO LAWS. INTERSTATE TRAFFICKING OF ANY AMOUNT OF CANNABIS OR CANNABIS PRODUCTS WILL BE A CRIMINAL OFFENSE UNDER STATE LAW.

- (c) **DRIVING WHILE THC IMPAIRED WILL BE SUBJECT TO STATE LAWS, BUT WILL REQUIRE A BURDEN OF PROOF BEYOND A REASONABLE DOUBT. LAWFUL MEDICAL MARIJUANA USE SHALL CONSTITUTE AN AFFIRMATIVE DEFENSE WITH RESPECT TO DUI PER SE LIMITS.**
- (d) **THE GENERAL ASSEMBLY WILL HAVE THE AUTHORITY TO CHANGE THE LEGAL AGE OF ADULT USERS FROM 21 TO 18.**
- (e) **IF THE GENERAL ASSEMBLY FAILS TO ENACT LICENSING AND REGULATIONS FOR CANNABIS BUSINESSES, THE PRE-EXISTING STATE LEVEL CIGAR AND PIPE TOBACCO LICENSING AND REGULATIONS AND THIS SECTION WILL BE USED FOR THE IMPLEMENTATION OF COMMERCE, NO LATER THAN THE END OF THE NEXT LEGISLATIVE SESSION AFTER THIS SECTION IS ADOPTED.**

(8) Sever-ability. IF ANY OF THESE PROVISIONS BE HELD INVALID BY ANY STATE COURT, THE REMAINDER TO THE EXTENT IT CAN BE GIVEN EFFECT, SHALL NOT BE AFFECTED THEREBY, AND TO THIS END THE PROVISIONS OF THIS SECTION ARE SEVERABLE:

- (a) **NO PROVISION IN THIS SECTION WILL AFFECT, REPEAL, MODIFY, OR CHANGE ANY PROTECTIONS GRANTED TO MEDICAL MARIJUANA PATIENTS, CAREGIVERS OR THEIR DOCTORS UNDER SECTION 14 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.**
- (b) **IF AND WHEN FEDERAL LAW REGARDING CANNABIS OR CANNABIS PRODUCTS CHANGES AS TO ALLOW INTERSTATE COMMERCE OF CANNABIS AND OR CANNABIS PRODUCTS THE RESIDENCY REQUIREMENTS, COLORADO ID REQUIREMENT TO PURCHASE CANNABIS PRODUCTS AND THE INTERSTATE TRAFFICKING CRIMINAL LAWS SHALL BE REPEALED.**

(9) Conflicting Measures. IF THIS AMENDMENT IS APPROVED BY THE VOTERS BUT SUPERSEDED BY ANY OTHER CONSTITUTIONAL PROVISION AND THE CONFLICTING PROVISION IS LATER HELD INVALID, THIS AMENDMENT SHALL BE SELF-EXECUTING AND GIVEN THE FULL FORCE OF LAW.

(10) Safer Communities. THE PEOPLE OF COLORADO HEREBY FINDS, DETERMINES, AND DECLARES THAT THIS ACT IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH AND SAFETY.



Initiative #70

Rico Colibri to: lcs.ga
Cc: chippi one brown mouse

03/09/2012 02:28 PM

History: This message has been replied to.

Rico Colibri
191 University #140
Denver CO 80206
[303-258-1200](tel:303-258-1200)

Kathleen Chippi
po box 1794
Nederland, Colorado
80466
[303-258-0633](tel:303-258-0633)

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