

## Amendment 44 Marijuana Possession

1     **Amendment 44 proposes a change to the Colorado statutes that:**

- 2             ◆ legalizes the possession of up to one ounce of marijuana for adults 21 years  
3             of age or older.

### 4     **Summary and Analysis**

5             Individuals who grow, transfer, possess, sell, or consume marijuana violate federal,  
6     state and, in some cases, local laws. Amendment 44 addresses state law for possession  
7     only; enforcement of other marijuana laws would not change.

8             ***State possession law.*** Under state law, any person who possesses one ounce or less  
9     of marijuana commits a Class 2 petty offense, which is punishable by a fine of up to \$100.  
10    State courts convicted 3,700 adults for possession of one ounce or less of marijuana in the  
11    2005 state budget year, the most recent data available. This number does not include  
12    convictions in municipal courts, which also hear some marijuana possession cases.

13            Amendment 44 allows adults 21 years of age or older to possess up to one ounce  
14    of marijuana. Possession would include consumption or use, as long as it does not occur  
15    in public. It also would include transferring up to one ounce of marijuana to another  
16    individual 15 years of age or older as long as there is no compensation, although  
17    possession for those under 21 years of age would remain illegal.

18            ***Other marijuana offenses.*** The following marijuana offenses will continue to be  
19    illegal under state law if Amendment 44 passes:

- 20            • for individuals under 21 years of age, possessing any amount of  
21            marijuana;
- 22            • possessing more than one ounce of marijuana;
- 23            • for individuals 18 years of age and older, transferring any amount  
24            of marijuana to a person under 15 years of age;
- 25            • growing or selling marijuana;
- 26            • open and public display, use, or consumption of marijuana; and

- 1                   • driving under the influence of marijuana.

2       **Arguments For**

3                   1) Amendment 44 strikes a balance between individual choice and public safety.  
4 State law allows adults 21 years of age and older to possess and consume alcohol, but  
5 prohibits the possession and use of marijuana. To the extent that some adults believe that  
6 using marijuana is a safer alternative to consuming alcohol, possession of a small quantity  
7 of marijuana should be a personal and legal choice for adults.

8                   2) Amendment 44 presents a sensible change in priorities without jeopardizing  
9 public safety. The proposal could free overburdened state and local criminal justice  
10 systems from expending public resources on petty offenders, and allow these systems to  
11 target their resources on the manufacturers, distributors, and traffickers of illegal drugs.  
12 At a time when government budgets for law enforcement and court systems are strained,  
13 focusing resources on more serious offenses is logical for taxpayers.

14       **Arguments Against**

15                   1) Marijuana use may lead a person to use or possess other illegal drugs. Under  
16 Amendment 44 overall drug use in the state may rise, and legalizing the possession of  
17 marijuana will increase not only the availability and acceptability of marijuana, but also  
18 the likelihood that minors will have access to the drug. Colorado does not want to become  
19 a magnet for illicit drug users.

20                   2) Policy discussions should not focus on whether alcohol or marijuana is a safer  
21 drug, because the only safe alternative to alcohol or drug intoxication is sobriety. Colorado  
22 should enforce, not repeal, drug laws. State and local drug enforcement costs are minimal  
23 compared to the social costs of drug abuse and addiction. Public safety and health  
24 concerns, along with the fact that marijuana will remain illegal under federal law, make  
25 legalizing marijuana at the state level an unwise public policy decision.

26       **Estimate of Fiscal Impact**

27                   Amendment 44 may reduce state and local government revenues because fines  
28 would no longer be assessed for adult marijuana possession of one ounce or less. The  
29 amount of the revenue reduction cannot be quantified because the total number of  
30 individuals convicted annually for possessing one ounce or less of marijuana is not known.  
31 The state collects data for convictions in state courts but not municipal courts. In addition,  
32 judges have discretion when assessing fines, and the maximum fine is not levied against  
33 all offenders. Also, some fines cannot be collected from the person convicted.